

COURT CASE MANAGEMENT PROGRAM

JUDICIAL SUB-COMMITTEE

Dated: October 26, 2009

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Court Case Management Program
Judicial Sub-committee

A. GENERAL INFORMATION

I. BACKGROUND

a) Introduction

Statistics indicate that since 2003-2004 there has been a significant drop in confidence levels in Alberta's Justice system. Our Provincial Courts (particularly in Calgary and Edmonton) are hearing a growing number of increasingly complex, lengthy cases that places greater demands on judicial resources. In addition, "lead times" have increased significantly because of last minute agreements and plea bargains that result in "unused" valuable Court time that could be allocated to other matters awaiting trial. Provincial Court Judges are currently appearing in Court to address many administrative functions which reduces available judicial time for meaningful judicial functions. It is also apparent that there are a large number of inefficiencies and duplication in Court administration that exacerbates the problem of delay and unused judicial capacity.

The Provincial Crown (Criminal Justice) has also recognized extreme inefficiencies in their available time because of multiple prosecutors reviewing the same file and an increase in Court time to deal with administrative matters. As a result, the Crown embarked on a "file ownership" project based on a model from Manitoba Provincial Court which will result in a vertical file management concept for their office whereby a file is assigned to one Crown Prosecutor who is then responsible for that file from the time the file enters the system until it is concluded. This should ultimately result in more efficient assignment of cases; reduce the duplication of work; facilitate earlier communication between the Crown and Defence; and promote earlier case resolution and generally assist in better utilization of court time.

In February 2008 a Steering Committee was formed to attempt to co-ordinate the interests of all the stakeholders into one encompassing project. Extensive consultation took place among the Judiciary; the Crown; Court Administration and the Defence Bar and in July 2008 the decision was made by the Steering Committee that the project should be led by the Provincial Court of Alberta. In August 2008, the **Project Implementation Committee (P.I.C.)** was established with Deputy Chief Judge Lefever as Chair and the project was officially named the **Court Case Management Program (C.C.M.)**.

CCM recognized at the onset that a number of initiatives have been pursued by the Provincial Court, all with the objective of improving the use of scarce judicial resources, making better use of our physical facilities, reducing lead times, and generally improving the efficiency of the Provincial Court. It is important to recognize the valuable contributions those initiatives have made to

this shared objective when considering the Recommendations that follow which change some of those initiatives.

b) Project Implementation Committee (P.I.C.)

The P.I.C. is ultimately responsible for decisions relating to C.C.M. and is chaired by Deputy Chief Judge Lefever. The other members of the Committee are the Chairpersons of five other established Sub-committees:

- | | |
|-------------------------------------|----------------------------------------|
| i) Judicial Sub-Committee | Assistant Chief Judge Wilkins |
| ii) Court Services Sub-Committee | Assistant Deputy Minister B. Hookenson |
| iii) Criminal Justice Sub-Committee | Assistant Deputy Minister G. Lepp |
| iv) Defence Bar Sub-Committee | Mike Dinkel |
| v) JIMS Sub-Committee | Steven Bull |

These sub-committees have been meeting separately and with one another on an ongoing basis to assess C.C.M. from their own perspective and then report back to P.I.C. All of the sub-committees have been assisted by a professional Project Support Team throughout their deliberations. P.I.C. itself meets every other week and has been doing so since September 2008. At these regular bi-monthly meetings the members (assisted by the professional project team) review the status of the project and receive reports from each of the five sub-committees.

c) The Judicial Sub-Committee

The Judicial Sub-Committee is composed as follows:

Assistant Chief Judge Bob Wilkins – Chair
Assistant Chief Judge Jim Wheatley
Provincial Court Judge Shelagh Creagh
Provincial Court Judge Terry Matchett
Provincial Court Judge Dave McNab
Provincial Court Judge Catherine Skene
Deputy Chief Judge Allan Lefever – Ad hoc.

Each sub-committee has a subject matter expert (S.M.E.) who meets as required with the other sub-committee experts and the project team to keep apprised of the progress and the project in general. Judge Matchett has been the Judicial Sub-committee S.M.E.

II COURT CASE MANAGEMENT PROGRAM

a) Overarching Principle

The P.I.C. has recognized and adopted an overarching principle that must apply to and be respected in any proposed initiative that results from the C.C.M. Program. The Overarching Principle is stated as follows (excerpt from the Project Charter):

“To recognize and protect judicial independence and the management of its judicial resources, the Provincial Court has jurisdiction over, and responsibility for, the scheduling and disposition of matters within its Provincial Court. Within this jurisdiction and responsibility, the Provincial Court seeks to:

- Ensure the solicitor-client relationship between a person accused of a crime and their counsel is assiduously fostered and supported.
- Recognize the public is entitled to proper and competent representation from the Crown by encouraging early and consistent contact between Crown and defence counsel or the accused, victims, witnesses, and police through a variety of measures including support for vertical file management within the Crown offices.
- Ensure a level playing field by treating the Crown and the accused equally with respect to any changes concerning how matters are scheduled and disposed in the Provincial Court.
- Achieve consistent approaches to case management processes in the Provincial Court (Calgary and Edmonton locations only).”

b) Court Case Management Program Process

The aim of the C.C.M. Program is to more effectively manage criminal cases in Edmonton and Calgary adult Provincial Court, and in turn, increase public confidence in the justice system and improve access to justice. This program will address new and innovative methods by which matters are scheduled and disposed of in the Provincial Court which will streamline criminal justice processes, reduce the length of time required to conclude cases, reduce the number of appearances per case and ultimately reduce lead times.

To date, hundreds of hours of staff planning have been dedicated by key justice staff and the project support team to this project. Costs associated with this project are in excess of one million dollars. There has been input through the various sub-committees by representatives of the Judiciary, Court Services, Criminal Justice, Public Prosecution Services, Defence Counsel (including Legal Aid) and JIMS to determine the focus and goals of the program.

The Project Plan execution follows an integrated approach with each area interdependent on all other areas in relation to program success with final approval being required by P.I.C. before implementation.

Organizational Change Management (O.C.M.) teams have been established in Calgary and Edmonton Criminal Justice and Court Services to help manage the people side of change in all areas. To help facilitate the execution of the project plan, comprehensive plans have been developed with the O.C.M. teams to assist with communication, coaching, training and sponsorship needs.

III C.C.M. PROGRAM AS IT AFFECTS THE JUDICIARY

a) Generally

As indicated, the primary focus of C.C.M. is to more effectively manage criminal cases which will increase public confidence in the justice system and improve access to justice.

One of the basic tenets of C.C.M. involves adopting a “day of” method of scheduling so that all available Courtrooms and scheduled Judges are actually sitting for the entire day. The goal is also to ensure that Provincial Court Judges appear in Court to deal with matters when some meaningful (non-administrative) activity will occur.

A large number of discussions / recommendations / suggestions / proposals etc. have very little impact on the Judiciary. For example, significant internal re-organization in Court Services will occur to deal with inefficiencies; duplication and new innovations that are of little or no concern to the Judiciary. One such change is the installation of electronic signage in the Law Courts in Edmonton comparable to that in use in the Calgary Court Centre, which signage lists all cases and courtrooms each day in real time. Likewise, the Crown will re-organize its office as it determines necessary, provided it is able to meet the obligations of the system ultimately approved by the Judiciary.

The ongoing JIMS Project (Justice Innovation & Modernization of Services) input has been extensive as it will have a significant impact on the area of “remote scheduling” which is discussed later.

b) Purpose of Discussion Paper

The Judicial Sub-Committee has reviewed and discussed in detail all of the information and recommendations from the other P.I.C. sub-committees (particularly Court Services; Defence Counsel and the Crown). The Sub-committee has analyzed this information and extracted and categorized the issues that are likely to have an impact on the Judiciary in order that the Judiciary may review the issues and provide “feed back” to the Judicial Sub-committee. Once the comments of the Judiciary are received the Judicial Sub-committee will consider this information and prepare a final position and present that final document to P.I.C. It is a goal of P.I.C. to implement the details of the C.C.M. Program in Edmonton and Calgary on 1 February 2010.

It should be noted that all of these topics have been discussed by Court Services; Defence; Crown and JIMS and there is a general consensus that what is proposed is “workable”. It is also important to realize that all individuals on the Judicial Sub-committee are not “*ad idem*” on all proposals and ultimately there may be differences in procedure between Edmonton and Calgary. It is the goal of the Judicial Sub-committee to limit these differences as much as practicable.

c) Proposals That May Impact the Judiciary

There are six specific proposals that may impact the Judiciary in various degrees. These are as follows:

1. Justice of the Peace Counter
2. Assignment Courts
3. Required Appearance Court (R.A.C.)
4. Low Complexity Courts
5. Scheduled Disposition Courts
6. Remote Scheduling

Each of these proposals will now be presented for discussion purposes.

1. JUSTICE OF THE PEACE COUNTER

a) The Proposal

It is proposed that a Justice of the Peace Counter staffed by non-presiding Justices of the Peace be established in both Calgary and Edmonton. In Calgary, the counter will be located at the current Case Management Office and at the counter on the main floor in Edmonton . The hours of operation in Calgary will be 8:00 a.m. to 2:00 p.m. and in Edmonton 8:15 a.m. to 2:00 p.m.

b) Details

- i) The J.P. counter will deal with all out of custody matters or where a Designation of Counsel is filed; and uncontested brought forward matters (except scheduled trial matters). The J.P.s will also handle Mental Health Diversion matters and Alternative Measures Program matters provided there is notification from the Crown.
- ii) Domestic Violence Court matters will not be heard at the J.P. Counter.
- iii) Documents compelling an accused to appear in court (Appearance Notice, Promise to Appear, remand from the Hearing Office) will stipulate that the accused may appear at any time during the hours of operation of the JP Counter.
- iv) There will be a maximum of three adjournments within an eight week period before a matter is sent to a required appearance court (R.A.C.)
- v) Guidelines will be established by the Judicial Sub-committee to specify expectations of counsel and self-represented accused within the eight week period.
- vi) There will be an express line for Defence Counsel.
- vii) On matters where an accused fails to appear at the J.P. Counter files will be brought before a Provincial Court Judge (in Court) for further process (warrant; summons applications).
- viii) On matters where an accused is before a J.P. on an indictable matter requiring an election the accused or counsel, on behalf of the accused, may be required to sign a form indicating the accused's election (legal opinion pending).
- ix) **J.P.s will have discretion to send any matter to a required appearance court at any point in time.**

c) Conclusion

The J.P. Counter will reduce docket Court lists by dealing with administrative / non-contested matters outside of a Courtroom. This concept is not too dissimilar to the current situation in both Edmonton and Calgary. Opening the J.P. Counter early affords defence counsel the flexibility to deal with matters prior to courtrooms opening and provides the unrepresented accused the flexibility of appearing in court at their convenience within a six-hour period without having to wait in a courtroom until their matter is called. Closing the counter at 2:00 p.m. will provide time for non-appearance matters to be sent before a sitting Judge to be dealt with in a timely fashion (eg. warrants, etc.).

The J.P. functions and trial scheduling by the trial schedulers will be handled at the J.P. Counter. This provides the advantage of “one stop shopping” for defence counsel and unrepresented accused by being able to deal with all adjournment applications and trial scheduling at one counter. It also provides more flexibility for Court Services staff in completing other required administrative duties when there is “down time” at the counter. “Down time” during Court adjournments in a courtroom currently is totally unproductive time.

A Crown representative will be available to the Counter upon request. Legal Aid Duty Counsel will also be available upon request.

2. ASSIGNMENT COURTS

a) The Proposal

Two Assignment Courts in both Calgary and Edmonton will be created that will initially handle all trials scheduled for ½ day or longer; all “show cause” hearings scheduled for ½ day or longer; all dispositions scheduled for ½ day or longer; and all Fatality Inquiries scheduled for a ½ day or longer.

b) Details

- i) Two Assignment Courts will be created in Edmonton:
354 (which will feed 357; 358; 359)
355 (which will feed 445; 448; 360)
- ii) Two Assignment courts will be created in Calgary:
1005 (which will feed 1006; 1007; 1008)
1106 (which will feed 1105; 1107; 1108)
(These Courtroom allocations may change but the concept is to have two Assignment Courts in both Calgary and Edmonton feeding three Courtrooms each).
- iii) The Assignment Courts (i.e. #354 and #355 in Edmonton and #1005 and #1106 in Calgary) will commence at 9:00 a.m. and 1:30 p.m. daily.
- iv) Recognizing that matters will continue to collapse for legitimate reasons, the inventory for each trial courtroom will continue to be overbooked as is currently the situation.
- v) The trial courtrooms (i.e. 357; 358; 359; 445; 228; 360 in Edmonton; 1006; 1007; 1008; 1105; 1107; 1108 in Calgary) will commence at 9:30 a.m. and 2:00 p.m. daily.
- vi) Witnesses will be subpoenaed to the Assignment Courts for the 9:00 a.m. and 1:30 p.m. start times. Once a matter is ready to proceed it will be moved to a trial courtroom (when the matter is moved to a trial courtroom, electronic signage (as noted on page 5) will be updated immediately to ensure witnesses are aware of the file movement).
- vii) In custody accused will not appear in the Assignment Court, but will be moved to the appropriate trial court when the matter proceeds.
- viii) Guilty pleas will be heard and disposed of by the Assignment Court Judge.
- ix) Once a matter is assigned to a trial court Judge, that Judge is seized with the matter and it cannot be returned to the Assignment Court Judge. The matter must be disposed of by that Judge.
- x) The names of the Judges will not be published in the Assignment Courts or the trial courts to which matters are assigned.

c) Conclusions

This proposal is an attempt to maximize the usage of available Court time. Under the proposal, files of a half day or more will be assigned to and remain with a specific Crown prosecutor (unlike the current practice where trials generally remain in a courtroom once set down in that courtroom).

The proposal seeks to balance maximizing usage of available Court time through overbooking on the one hand with trial files being assigned to specific Crown prosecutors on the other hand. Part of the Project includes ongoing measurement to determine if the objectives have been realized. If the proposal does not achieve those objectives, the amount of overbooking as well as the 9:30 and 2:00 trial times would be revisited to determine if other changes should be considered including, but not limited to, continuous and virtual courtrooms.

A matter will not be sent to a trial courtroom under this regime until it is ready to proceed. Once the matter is sent to the trial court that Judge is seized. If the assigned matter results in a guilty plea then another matter may be assigned to that courtroom (time permitting).

Only matters of ½ day or longer will be scheduled into the Assignment Court (this includes Federal and Domestic Violence matters and includes trial; show causes and scheduled dispositions). Scheduling morning and afternoon sessions will provide greater flexibility for Crown / Defence to schedule up to two matters per day. The earlier start times for Assignment Courts (9:00 a.m. and 1:30 p.m.) allows for distribution of cases that are ready for trial to the trial courts for 9:30 a.m. and 2:00 p.m. commencement times.

As indicated, the Assignment Court Judges will hear guilty pleas. This will maximize the use of the Assignment Court and will limit the movement of files by Court Services to only those files that are proceeding to trial (trials; show causes or dispositions).

Adopting this 'day of' method of scheduling and movement of files will ensure that only the number of courtrooms, Judges and Clerks that are actually required will be used and that Judicial resources are dedicated to meaningful events such as trials, show causes, dispositions, etc.

3. REQUIRED APPEARANCE COURT (R.A.C.)

a) The Proposal

A R.A.C. will be designated in Edmonton #356 and in Calgary #306 which will be a continuous docket court operating from 9:00 a.m. until at least 2:30 p.m. or longer (as required).

b) Details

- i) This Courtroom will hear:
 - unscheduled guilty pleas (from J.P. Counter).
 - scheduled bail hearings (less than ½ day).
 - J.P. Counter referrals (including guideline violations and warrant / summons applications).
- ii) The name of the Judge in this Courtroom will be published (as is currently the case).

c) Conclusion

This continuous docket Court (R.A.C.) (#306 in Calgary and #356 in Edmonton) will allow an opportunity for matters to be moved into this Courtroom on an ongoing basis. The 9:00 a.m. start will allow unrepresented accused or counsel who appear at the J.P. Counter between 8:00 a.m. and 9:00 a.m. to have a guilty plea entered at 9:00 a.m. or soon thereafter.

Operating this Court until at least 2:30 p.m. (or longer as required) will provide the Judge to hear any remaining J.P. Counter matters that require a Judge to intervene including warrants for non-appearance.

Matters that will be heard in R.A.C. may differ slightly between Edmonton and Calgary depending on volume and assigned workloads and Courtroom designations may change.

NOTE: Both Edmonton (#265) and Calgary (#305) will continue to have an In Custody Docket Court which will hear:

- scheduled first (and subsequent) appearances
- unscheduled (brief) show cause hearings
- unscheduled (brief) guilty pleas

Judges' names will not be published for the In-Custody Docket Court.

4. LOW COMPLEXITY TRIAL COURTROOMS

a) The Proposal

Two Courtrooms in both Edmonton and Calgary will be designated as Low Complexity Trial Courtrooms.

b) Details

- i) These Courtrooms (#506 and #507 in Calgary; #353 and 449 in Edmonton) will hear low complexity trial matters which require less than half a day of Court time and will also hear process hearings.
- ii) The Crown will determine which files are considered low complexity matters by screening their files during the Crown file ownership intake process.
- iii) If a trial commences as a low complexity matter and is not completed and requires another ½ day or longer it will be scheduled (with the seized Judge) through the Assignment Court process.
- iv) Two Crown Prosecutors will be assigned to each Low Complexity Trial Courtroom in order to facilitate the hearing of more than one matter per session.
- v) There will be two sittings per Courtroom per day commencing at 9:30 a.m. and 2:00 p.m.
- vi) Judges' names will not be published.

c) Conclusion

These Courtrooms will handle less complicated, low complexity matters of less than ½ day. These files will be identified and allocated by the Crown early in the intake process. It is anticipated that Defence may be able to remotely schedule these cases based on their availability and available Courtroom space.

Each Courtroom will have two Crown prosecutors available in order to facilitate the hearing of multiple matters in each sitting.

NOTE: As part of the Project these Courtrooms will be closely monitored and reviewed to ensure effective use of time in both morning and afternoon sessions. It is intended to complete this review in 2010 following which these Courtrooms may be converted to continuous sittings or converted to trial Courtrooms within the Assignment Court process if the inventory does not justify usage of two of these Low Complexity Trial Courts.

5. SCHEDULED DISPOSITION COURTS

a) The Proposal

Scheduled Disposition Courts to deal with dispositions of less than ½ day will be created in Edmonton and Calgary.

c) Details

- i) The Scheduled Disposition Courts will be dedicated disposition Courts to hear all dispositions of less than ½ day.
- ii) In Edmonton the locations of the Scheduled Disposition Courts will be #446 which will run continuously daily commencing at 9:30 a.m.
- iii) In Calgary the Scheduled Disposition Courts will be #307 (all day) and #308 (afternoon only).
- iv) Morning sessions will commence at 9:30 a.m. and afternoon sessions at 2:00 p.m. in Calgary
- v) The names of the Judges will continue to be published as is currently the practice.

d) Conclusion

This Court is similar to the current practice and will continue to deal with scheduled dispositions of less than ½ day. Dispositions of ½ day or more will be booked into the Assignment Court process.

6. REMOTE SCHEDULING

a) The Proposal

Web-based scheduling software will provide the Crown and Defence counsel with the option to remotely book their cases, subject to approval from the Court Case Management Offices. Traditional counter operations will remain, but will be located at the J.P. counter. Unrepresented accused will book through the J.P. counter. Changes to the scheduling process will be consistent with the JIMS initiative.

b) Details

A Practice Note will be developed by the Judicial Sub-committee defining matters that can be booked remotely.

Remote booking capabilities require that e-mail notification of a confirmed booking date be sent to all counsel. The minimum date range for remote booking trials will be six weeks. Requests for earlier dates must be brought before a Provincial Court Judge. The maximum date range for remote booking trials will be six months. This is subject to change based on lead times and at the discretion of the Assistant Chief Judges in Edmonton and Calgary.

The minimum date range for remote booking dispositions will be 48 hours or two business days. The maximum date range for remote booking dispositions will be 90 days. This is subject to change at the discretion of the Assistant Chief Judges in Edmonton and Calgary.

As in other Court appearances for indictable matters, the Designation of Counsel will be required to remotely book the next Court date.

Case Management Office will still be able to book all matters through their office, as is the case now.

c) Conclusion

The remote booking feature will be extremely beneficial to both Crown and Defence as Court processes change. The new feature will assist the Case Management Office and help alleviate the additional workload associated with including Crown Prosecutor's availability.

Remote booking should have little direct impact on the Judiciary, but it will be of great assistance to Crown, Defence and the public who will have to make fewer visits to Case Management and ultimately fewer Court appearances. It will also assist Court Services for the same reasons and assist the booking system in being more efficient.

C. CONCLUSION

This is a very extensive program that affects all aspects of the administration of justice in the management of adult criminal cases in Calgary and Edmonton and which hopefully will result in increased public confidence in the system and improve access to justice in the Province. The program proposes new and innovative methods by which matters are routinely scheduled and disposed of in our Courts.

It is important to appreciate that the “overarching principle” that must be applied to any initiative in this program embraces the concept of judicial independence. To acknowledge this principle and protect the concept, Deputy Chief Judge Lefever has been appointed Chairperson of the Provincial Implementation Committee which must give final approval to any aspect of the initiative.

Ultimately, public information sessions will be scheduled for all stakeholders (Court Services, Crown, Defence) to which all the Judiciary will be invited to attend.

The Judicial Sub-Committee
Court Case Management Program

Appendix #1

PROPOSED CCM COURTROOMS FOR EDMONTON		
DOCKET COURTS – Continuous		
J.P. Counter	8:00 a.m. to 2:00 p.m.	First Appearance Non-Custody
265	9:00 a.m. to finish	In Custody, RAC, Bail
267	9:00 a.m. to 12 noon	Federal, Special and Regulatory Prosecutions
	2:00 p.m. to finish	Low Complexity Federal (Wednesdays – Drug Court)
268	9:00 a.m. to 12 noon	Domestic Violence Docket and Disposition
	2:00 p.m.	Low Complexity Domestic Violence
DISPOSITION & BAIL COURTS		
446	9:30 a.m. (continuous)	scheduled dispositions
356	9:30 a.m. to 2:30 p.m.	RAC, scheduled bail, unscheduled dispositions (from 265 and J.P. counters)
GENERAL PROSECUTIONS – Low Complexity		
353	9:30 a.m. and 2:00 p.m. start time	Number of cases each a.m. and p.m. to be determined
449		
ASSIGNMENT COURTS – All Services (Provincial and Federal)		
354	Assignment Court starts 9:00 a.m. and 1:30 p.m.	feeds 357, 358, 359 (with 447 by special scheduled child friendly)
355	Trials start at 9:30 a.m. and 2:00 p.m. 9 cases a.m. and p.m. (18 cases total in each assignment court)	feeds 445, 448, 360 (with 266 by special scheduled for complex, large or multi-counsel cases)

Appendix #2

PROPOSED CCM COURTROOMS FOR CALGARY		
DOCKET COURTS – Continuous		
J.P. Counter	8:00 a.m. to 2:00 p.m.	First Appearance Non-Custody (all matters currently scheduled for 308)
305	9:00 a.m. to finish	In-Custody matters
508	9:00 a.m. to finish (Monday, Tuesday, Thursday, Friday)	Domestic Violence Docket
	9:30 a.m. to noon and 2:00 p.m. to finish (Wednesday)	Trials less than ½ day
505	9:00 a.m. to finish (Monday, Tuesday, Wednesday, Friday)	Federal Docket Matters
	9:30 a.m. to noon and 2:00 p.m. to finish (Thursday)	Drug Treatment Court (a.m.) Pre-Preliminary Hearings (p.m.)
DISPOSITION & BAIL COURTS		
306	9:30 a.m. (continuous)	Unscheduled dispositions; Scheduled Bail Hearings; R.A.C.; Matters from J.P. Counter
307	9:30 a.m. to noon 2:00 p.m. to finish	All day scheduled disposition (replaces 1005 p.m.)
308	9:30 a.m. to noon 2:00 p.m. to finish	Short DV and Fed matters a.m.; Scheduled Disposition p.m.
GENERAL PROSECUTIONS – Low Complexity		
506	9:30 a.m. and 2:00 p.m. start time	Low Complexity Matters
507		
ASSIGNMENT COURTS – All Services (Provincial and Federal)		
1005		Feeds (1006, 1007, 1008)
1106		Feeds (1105, 1107, 1108)

¹ Subject to change based on Judicial review