



COURT OF APPEAL  
FOR BRITISH COLUMBIA

CRIMINAL PRACTICE DIRECTIVES & NOTES

2019 April 23

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**British Columbia Court of Appeal  
Practice Note (Civil and Criminal)  
Title: Addressing the Court**

**Issued: 24 October 2014**

**Effective: Immediately**

**Cite as: *Addressing the Court* (Civil & Criminal Practice Note, 24 October, 2014)**

This practice note deals with introducing and addressing either a division of the Court of Appeal, a Justice in chambers, or a Registrar. It is primarily for the benefit of more recently called members of the legal profession who are, or will be, making their first appearances before the Court, but may also be of use to those who are self-represented.

The long-standing practice in the Court is as follows:

- The appellant(s) or their counsel sit on the left side of the courtroom (facing the bench) and the respondent(s) or their counsel sit on the right;
- Parties rise when the Court is called to order and the judges enter the courtroom. Parties bow when the judges bow and then resume sitting;
- After a case is called, the appellant(s) or their counsel stand and make introductions, indicating for whom they act, and then resume sitting;
- If the appellant is represented by more than one counsel, senior/lead counsel introduces himself or herself and then introduces other counsel, who stand while being introduced; senior/lead counsel resume sitting after introductions have been completed.
- If there are separately represented appellants, then the introductions of counsel for each appellant should, in turn, follow, in accordance with the practice set out above;
- The introductions of the respondent(s) or their counsel follow those of the appellant(s), in accordance with the above practice;
- The introductions of the intervenor(s) or their counsel follow those of the respondent(s), in accordance with the above practice;



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- After introductions have been completed, the presiding judge will indicate how the Court wishes to proceed. When called upon, parties should move to the podium to address the Court;
- Only one person should be standing and addressing the Court at any given time.

On motions or applications before the Court or on chambers matters, the foregoing should be read with “applicant” replacing “appellant”, and “respondent” being the respondent on the motion or application.

As in the Supreme Court, Justices of the Court of Appeal are referred to as “my lord” or “my lady” or collectively in plural form. In a Registrar’s hearing, the Registrar is addressed as “your honour.”

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Timothy R. Outerbridge  
Registrar of the Court of Appeal of British Columbia

History:

This is a new practice note.



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**British Columbia Court of Appeal**  
**Practice Note (Civil & Criminal)**  
**Title: Adjournment of Appeals**

**Issued: 19 September 2011**

**Effective: Immediately**

**Cite as: *Adjournment of Appeals (Civil & Criminal Practice Note, 19 September 2011)***

The practice of the Registry is to contact all counsel or self represented litigants approximately three weeks in advance of the hearing of the appeal to confirm the time estimate, to ensure that all materials are filed and to confirm that the appeal will proceed as scheduled. At this time, any concerns with the date, time scheduled or potential adjournments should be communicated to the scheduler.

The scheduler closely manages the hearing list because the time for the hearing of each appeal is set aside specifically for that appeal. There are no other cases waiting to proceed if an appeal is adjourned at the last minute.

Unforeseeable circumstances such as illness of counsel or death of a family member are legitimate reasons for seeking last minute adjournments. However, counsel's lack of preparation, late filings, or personal convenience are not. If you do not have one of these good reasons to adjourn your hearing, you will have to appear before the Court to explain your circumstances, even if you have the consent of the other parties.

In civil appeals, counsel and the parties setting the appeal for hearing must file a certificate of readiness within one year of filing the applicable notice of appeal or notice of application for leave to appeal. A notice of hearing must be filed two months after a certificate of readiness is filed. The present fixed date system for hearing appeals depends on having appeals proceed in a timely way in accordance with the date set in the notice of hearing.

The Court respectfully reminds counsel and self represented litigants of these matters so that sitting dates will not be lost.

“Jennifer L. Jordan”



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Registrar of the Court of Appeal of British Columbia

History:

Replaces the Notice to the Profession titled *Adjournment of Appeals*, dated 22 January 2010 that replaced the Notice to the Profession titled *Lost Court Days*, dated 7 June 2005.



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**British Columbia Court of Appeal  
Practice Directive (Criminal)**

**Title: Applications for a Court-Appointed Lawyer Under Section 684 of  
the Criminal Code**

**Issued: 19 September 2011**

**Effective: Immediately**

**Cite as: *Applications for a Court-Appointed Lawyer Under Section 684 of the Criminal Code* (Criminal Practice Directive, 19 September 2011)**

Application is made by notice of motion and affidavit, according to the forms attached.

Applicants should generally be able to show that:

- They cannot afford to retain counsel for the appeal;
- They applied to the Legal Services Society for legal aid and were refused.

Fill out the **Letter of Authority** (Appendix A) and make three copies. Mail the original to the Legal Services Society.

Applicants must show the Court there is a reasonable possibility the appeal will succeed. To assist the Court in assessing the application, applicants must authorize the Legal Services Society to give the Court all the materials they have on the case, excluding any confidential letters of counsel assessing the merit of the appeal.

Fill out the **Notice of Motion** for Appointment of Counsel (Appendix B). File the original and two copies with the Registry.

Fill out the **Affidavit** for Appointment of Counsel (Appendix C). File the original and two copies with the Registry.

Applicants should include the following details in their affidavit:

1. Why they cannot afford a lawyer.
2. Their education level and their ability to defend themselves.
3. That they applied for legal aid and were refused.



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4. Proof that they authorized Legal Services Society to send the materials on the case to the Registry (copies of the Letter of Authority).
5. The main points to be argued.
6. Why the case is complex.
7. Why the case may succeed.
8. Why they need a lawyer to organize the case and present it.
9. Whether they have already had one level of appeal.

See ***Re Baig and the Queen*** (1990), 58 C.C.C. (3d) 156 (B.C.C.A.) and ***R. v. Redlick*** (1996), 75 B.C.A.C. 241.

“The Honourable Chief Justice Finch”

On behalf of the Court of Appeal for British Columbia

History:

Replaces the criminal Practice Directive titled *Applications for a Court-Appointed Lawyer Under Section 684 of the Criminal Code* dated 12 December 2005 and amended 8 November 2010.





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**Exhibit A**

**Letter of Authority**

Legal Services Society  
400 – 510 Burrard Street  
Vancouver, B.C.  
V6C 3A8

**Attention: Appeals Division**

I intend to apply under section 684 of the ***Criminal Code*** for assignment of counsel in my appeal [*describe the conviction and/or sentence you are appealing*]

Please send your letter to the Court of Appeal Registry, 400 - 800 Hornby Street, Vancouver, B.C., V6Z 2C5. Your letter should state:

1. Whether you have refused me legal aid for my appeal.
2. Whether the refusal was for financial reasons.
3. The grounds of appeal you considered.
4. The materials from the trial record that you reviewed (enclosing a copy of those materials).

\_\_\_\_\_  
*[your signature]*

\_\_\_\_\_  
*[please print your name]*

Dated at \_\_\_\_\_ on \_\_\_\_\_.  
*[place]* *[day, month, year]*



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**EXHIBIT B**

Court of Appeal File No.

\_\_\_\_\_  
Court of Appeal Registry  
\_\_\_\_\_

**COURT OF APPEAL**

BETWEEN:

**REGINA**

Respondent

AND:

\_\_\_\_\_

Appellant

**NOTICE OF MOTION FOR APPOINTMENT OF COUNSEL**

TAKE NOTICE that an application will be made by \_\_\_\_\_, the Appellant, to the Presiding Judge in Chambers at the Courthouse at 800 Smithe Street, in the City of Vancouver, in the Province of British Columbia, at 9:30 in the forenoon, or soon thereafter as the Appellant may be heard, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ for an Order that counsel be assigned to act on behalf of the Appellant, pursuant to Section 684 of the **Criminal Code**.

AND TAKE NOTICE that in support of the application will be read the affidavit of \_\_\_\_\_, the Appellant, sworn the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

DATED at the \_\_\_\_\_ of \_\_\_\_\_ in the Province of British Columbia, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
APPELLANT



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TO: The Registrar, Court of Appeal  
400 - 800 Hornby Street, Vancouver, B.C. V6Z 2C5

AND TO: Criminal Appeals and Special Prosecutions  
Crown Counsel  
6<sup>th</sup> floor, 865 Hornby Street, Vancouver, B.C. V6Z 2E6

OR TO: Federal Prosecution Service  
British Columbia  
Department of Justice  
Suite 900, 840 Howe Street, Vancouver, B.C. V6Z 2S9

This NOTICE OF MOTION is filed by \_\_\_\_\_,  
Appellant, of \_\_\_\_\_, whose address for service is  
\_\_\_\_\_



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**EXHIBIT C**  
**Instructions**

Use the same registry number as on your Notice of Appeal

Court No. \_\_\_\_\_  
Registry \_\_\_\_\_

**COURT OF APPEAL**

BETWEEN

**REGINA**

Respondent

AND

\_\_\_\_\_

Appellant

You are the appellant. Print your name on the line.

**AFFIDAVIT FOR APPOINTMENT OF COUNSEL**

Print your name. Give the name of the prison. Then say where it is located. First say if it is a city/town/village, then give its name.

I, \_\_\_\_\_, presently incarcerated at \_\_\_\_\_, in the \_\_\_\_\_ of \_\_\_\_\_, in the province of British Columbia,

**MAKE OATH AND SAY AS FOLLOWS:**

1. I am the Appellant and personally know about the matters referred to in this Affidavit, except where they are based on information and belief, in which case I believe them to be true.
2. I cannot afford a lawyer because of my financial circumstances.



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Fill in the amounts as accurately as you can.

- a) my income is \$ \_\_\_\_\_
- b) my expenses are \$ \_\_\_\_\_
- c) my debts total \$ \_\_\_\_\_
- d) all the things that I own have a value of \$ \_\_\_\_\_

Put down the highest grade you went to.

3. I am not able to present the appeal myself. I have no legal training and my education level is:

Give the date you were refused legal aid.

4. I have been refused legal aid. I applied for legal aid but was refused on: \_\_\_\_\_ (day, month, year).

Attach three copies of the "Letter of Authority". Label them "Exhibit A". List the errors in the decision under appeal.

5. On \_\_\_\_\_ (day/month/year) I sent a letter to the Legal Services Society authorizing the release of the materials on my appeal to the Registry. A copy of this letter is attached. It is marked "Exhibit A".

6. At the appeal I will be arguing the following points:

Give reasons why you think your case is complex.

7. I need a lawyer to argue my case because I do not have the necessary skills to organize the facts, research the law, and present the case myself.

8. I believe my case is complex because:

Give reasons why you think your case may succeed

9. I believe my case may succeed because:



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If you have appealed at a lower court, give the place and name of the court, and the date you appealed.

10. I have/have not appealed at a lower court.

At: \_\_\_\_\_

On: \_\_\_\_\_ (day/month/year)

I swear this Affidavit in support of an application that the Court of Appeal or a Judge of that Court assign counsel to act on my behalf.

You sign in front of the lawyer or notary. You are the appellant.

SWORN BEFORE ME at the city of \_\_\_\_\_, in the Province of British Columbia, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature of Appellant

The lawyer or notary fills out the date and place, and signs.

\_\_\_\_\_  
A Commissioner for Taking Affidavits Within British Columbia



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**British Columbia Court of Appeal  
Practice Directive (Civil & Criminal)**

**Title: Chambers Applications by Telephone or Videoconference**

**Issued: 19 September 2011**

**Effective: Immediately**

**Cite as: *Chambers Applications by Telephone or Videoconference (Civil & Criminal Practice Directive, 19 September 2011)***

From time to time, counsel ask that an application in chambers be heard on the conference telephone or by videoconference. These have been utilized successfully to minimize expense. An alternate way of saving the cost of counsel coming to Vancouver is to direct that argument be submitted in writing.

Telephone or videoconference calls are arranged ahead of time; sometimes the lawyers are in one office; sometimes they are in different offices. The registry court clerk puts the call through from the courtroom.

1. All telephone or videoconference hearings are to be scheduled at the discretion of the judge hearing the matter.
2. The person making the request for a telephone or video conference shall file a written request and all motion material at least 7 days before the matter is scheduled to be heard. The applicant must make it clear in the request why the matter needs to be heard remotely.
3. The judge who will be hearing the matter will review the filed material and decide whether or not the matter is to proceed by telephone or videoconference.
4. If the matter is to proceed by personal appearance in chambers, the applicant will be informed as soon as is possible in order that travel arrangements can be made.
5. The judge will indicate the time that a telephone or videoconference will take place.
6. The scheduler will contact counsel, indicating the decision of the judge on the request for a remote hearing.



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“The Honourable Chief Justice Finch”  
for the Court of Appeal of British Columbia

History:

Replaces the civil Practice Directive titled *Chambers Application by Telephone* dated 12 December 2005 and the civil and the criminal Practice Notes titled *Request for Telephone/Videoconference Hearing - Court of Appeal Chambers (Civil and Criminal Matters)* dated May 2006.





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**British Columbia Court of Appeal  
Practice Directive (Civil & Criminal)  
Title: Citation of Authorities**

**Issued: 30 May 2013**

**Effective: Immediately**

**Cite as: *Citation of Authorities* (Civil & Criminal Practice Directive, 30 May 2013)**

Parties preparing factums or submissions to the Court of Appeal are asked to observe the following:

**I. Citation of Authorities**

1. The Court requires the use of the citation standards in the *Canadian Guide to Uniform Legal Citation* (7th Edition), known as the *McGill Guide*. Where there is an inconsistency between this practice directive and the *McGill Guide*, this practice directive prevails.
2. Always use periods within citations where omitted by the *McGill Guide*. Cite as precisely as possible to all authorities, for example, to paragraph or section numbers rather than pages or chapters. Never cite to court summaries or headnotes, as they do not form part of a court's judgment.
3. Cite Canadian cases to their neutral citation first. Where no neutral citation is available, cite to a printed reporter or electronic service first. Additional (parallel) citations are optional. Use no more than two.
  - ✓ *Green v. Red*, 2013 BCCA 212 at para. 10
  - ✓ *Green v. Red* (1977), 3 B.C.L.R. 20 at 21 (Co. Ct.)
  - ✓ *Green v. Red*, 2011 BCSC 212 at para. 10, [2011] 2 W.W.R. 212
  - x *Green v. Red*, [2001] S.C.R. 3, 2001 SCC 1
4. If a case is from outside Canada or is not easily found or available at all electronically, provide at least one parallel citation.
  - ✓ *Green v. Red*, [1996] SGCA 78, 1 S.L.R.(R) 212 at 213
  - ✓ *Green v. Red*, [1925] 4 D.L.R. 212, 31 W.L.R. 212 at 213 (B.C.C.A.)



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5. Omit the term “(available on...)” when using only a neutral citation, contrary to the *McGill Guide*.
  - ✓ *Green v. Red*, 2011 BCSC 2012
  - x *Green v. Red*, 2011 BCSC 212 at para. 10 (available on WL Can)
6. Omit abbreviated publisher information from the citation when citing Canadian authorities to commonly used electronic services such as CanLII, Quicklaw, or Westlaw Canada.
  - ✓ *Red v. Green*, 2007 CarswellBC 212 (C.A.)
  - x *Red v. Green*, 2007 CarswellBC 212 (C.A.) (WL Can)
7. When relying on an authority cited by another party, always cite to the version within that party’s factum or book of authorities and omit it from your book of authorities. To eliminate unnecessary flipping between books, the Court strongly prefers joint books of authority and/or joint appeal books.
8. Ensure any version of an authority included in a book of authorities matches the format of the version cited in the parties’ factums, particularly with respect to pagination and paragraph numbers.
9. Use the following format for unreported judgments.
  - ✓ *Green v. Red* (30 April 1981), Victoria 79/0123 (B.C.S.C.)
10. When citing a case decided in chambers, include the term “Chambers” or “in Chambers” at the end of the citation within any bracketed information.
  - ✓ *Green v. Red* (1986), 1 B.C.L.R. (2d) 190 (C.A. Chambers)
  - ✓ *Green v. Red*, 2010 BCCA 212 (in Chambers)
11. Add the name of the judge at the end of the citation only when relevant.
  - ✓ *Green v. Red* (1986), 1 B.C.L.R. (2d) 212 (C.A.), Purple J.A., dissenting
12. Do not give the full citation to the rules of the various courts in British Columbia.
  - ✓ *Supreme Court Civil Rules*, R. 15-1
  - ✓ *Supreme Court Family Rules*, R. 15-1



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- ✓ *Court of Appeal Rules*, R. 5
  - ✓ *British Columbia Court of Appeal Criminal Appeal Rules, 1986*, R. 5
  - x *Supreme Court Civil Rules*, B.C. Reg. 168/2009, R. 15-1
13. Use the following format for books that are continually updated, such as loose-leaf services. Do not provide the “date of consultation,” contrary to the *McGill Guide*. Include the last revision update instead.
- ✓ J.D. Green, *The Law of Tort* (Toronto: Thomson Reuters, 2011) (loose-leaf updated 2013, release 20), ch. 5 at 71.

## **II. Stylistic Considerations**

14. Use 12-point Arial font for all text, including citations and footnotes. With the exception of quotations from authorities or enactments, all submissions to the Court, including footnotes (when used), must be one-and-a-half spaced. Do not use endnotes.
15. Do not capitalize the names of documents, the titles of pleadings, or the status of litigation parties unless required in a court form.
- ✓ “The appellant’s notice of civil claim states a power of attorney...”
  - x “The Appellant’s Notice of Civil Claim states a Power of Attorney...”
16. Capitalize “court” only when it refers to a specific court.
- ✓ “The British Columbia Supreme Court held in *Green* that ...”
  - ✓ “The Court in *Green* ...”
  - ✓ “The case before this Court is about ...”
  - x “There is no Court in Canada except the supreme court of Canada...”
  - x “No Courts have yet adopted...”
17. Capitalize “judge” or “justice” only when naming a particular judge or justice. Do not capitalize “judge” or “justice” in descriptive phrases.
- ✓ “Justice Smith wrote in *Green v. Red* that...”
  - ✓ “The trial judge...”
  - x “The Chambers Judge ...”
18. When including citations within paragraphs, do not use *supra*, *ibid.*, hereinafter or similar terms. When referring to an authority several times, use a short form in brackets, but only when the authority must be



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distinguished from other, similarly named authorities. Otherwise, just use a shortened form in subsequent references.

- ✓ *The Red Act of British Columbia*, R.S.B.C. 1995, c. 22, is referred to in both *Green v. Red*, 2007 BCSC 543 (“*Green #1*”) and *Green v. Red*, 2007 BCSC 212 (“*Green #2*”). In both *Green #1* and *Green #2*, the *Red Act* was upheld as constitutional.

19. Avoid overly formalistic language, such as “this Honourable Court,” “hereinafter,” “heretofore,” “aforesaid,” or “learned”. Use Latin phrases only when necessary.
20. When printing or copying authorities, provide legible and/or enlarged authorities of at least 12-point font, printed on both sides of the page.
21. The Court encourages the use of hyperlinks in electronic versions of factums. Hyperlink Supreme Court of British Columbia or Court of Appeal for British Columbia case citations to [the Superior Courts judgment database](#) or [CanLII](#). Hyperlink Supreme Court of Canada case citations to the [LexUM website](#).
22. When referring to a practice directive or practice note, follow the citation style prescribed on each directive or note.

“The Honourable Chief Justice Finch”  
for the Court of Appeal of British Columbia

History:

Replaces *Citation of Authorities* (Civil & Criminal Practice Directive, 19 September 2011) which replaced the civil and criminal Practice Directives titled *Citation of Authorities*, both dated 18 June 2007.



COURT OF APPEAL  
FOR BRITISH COLUMBIA

**British Columbia Court of Appeal  
Practice Directive (Civil & Criminal)  
Title: Condensed Books**

**Issued: 19 September 2011**

**Effective: Immediately**

**Cite as: *Condensed Books* (Civil & Criminal Practice Directive, 19 September 2011)**

Counsel may prepare in any appeal a Condensed Book, to assist the Court of Appeal during the oral hearing of the appeal.

The Condensed Book may contain documents essential to the hearing, including those excerpts from the evidence, exhibits and authorities to be referred to by the party in its argument. It should be indexed in a way that permits the Court to locate the documents referred to in the party's factum.

Counsel shall prepare a sufficient number of copies of the Condensed Book for the division hearing the appeal and for all parties to the appeal. The Condensed Books for the division shall not be filed in the Registry but handed to the court clerk at the commencement of the appeal.

Any extracts of transcripts, affidavits, exhibits or authorities included in a Condensed Book shall include only as much material as is required to understand the context of the key portions of the extract.

The covers of the condensed book of the appellant shall be buff in colour, those of the respondent green, and those of an intervenor shall be yellow.

“The Honourable Chief Justice Finch”  
for the Court of Appeal of British Columbia

History:

Replaces the civil Practice Directive titled *Condensed Books*, dated 26 March 2007.



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## **British Columbia Court of Appeal**

### **Practice Note (Civil & Criminal)**

#### **Title: Correction of Books Filed with Court**

**Issued: 2 August 2013**

**Effective: Immediately**

**Cite as: Correction of Books Filed with Court (Civil & Criminal Practice Note, 2 August 2013)**

An inordinate amount of staff time is currently being expended in accommodating requests of counsel to amend documents or books filed with the Court.

The Court will no longer allow parties to make changes to filed documents or books by substituting pages or making amendments.

If there are changes or amendments to filed documents or books that require the Court's attention, use the following methods:

1. Copying all parties, forward a letter to the Court of Appeal registry drawing the Court's attention to any significant errors made; or
2. By consent or by order of a Justice, file and serve an amended document or book; or
3. If consent cannot be obtained, seek leave to adduce amended documents or books at the appeal or in chambers.

If there is a change in counsel and new counsel would like to file a new factum, this may also be done by consent or by order of a justice. The original filed factum will be returned.

This Practice Note does not apply to delivering a lower court order to the registry for inclusion in an Appeal Record that has already been filed.

"Jennifer L. Jordan", Registrar

History: This is a new Practice Note



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**British Columbia Court of Appeal  
Practice Directive (Civil & Criminal)  
Title: Court of Appeal Practice Directives**

**Issued: 19 September 2011**

**Effective: Immediately**

**Cite as: *Court of Appeal Practice Directives (Civil & Criminal Practice Directive, 19 September 2011)***

The Court of Appeal issues Practice Directives pursuant to Rule 58(1) of the *Court of Appeal Rules* and Rule 2(2) of the *British Columbia Court of Appeal Criminal Appeal Rules, 1986*.

Practice Directives are intended to provide guidance in the conduct of an appeal. Practice Directives do not have the same force of law as the formal enactments in the *Court of Appeal Act, Criminal Code, and Court of Appeal Rules and British Columbia Court of Appeal Criminal Appeal Rules, 1986*, but they express the view of the Court regarding matters of practice and procedure. Litigants and practitioners are expected to comply with them or show good reason for doing otherwise.

“The Honourable Chief Justice Finch”  
for the Court of Appeal of British Columbia

History:

Replaces the untitled civil Practice Directive, dated 6 December 2007 and the untitled criminal Practice Directive, dated 21 March 2007.



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**British Columbia Court of Appeal**

**Practice Note (Civil & Criminal)**

**Title: Court Sittings in Kamloops and Kelowna**

**Issued: 27 June 2014**

**Effective: Immediately**

**Cite as: *Court Sittings in Kamloops and Kelowna* (Civil & Criminal Practice Note, 27 June 2014)**

The Court of Appeal has for some years scheduled sittings in Kamloops and Kelowna. For the last two years hearings were scheduled in these communities when requested by counsel.

Because appeals are frequently of significance to the local community, the Court is of the view that appeals originating from Kamloops, Kelowna, Vernon, Penticton and Salmon Arm will be heard at either Kamloops or Kelowna, unless the Registrar directs the appeal to be heard in Vancouver.

Parties requesting a Vancouver hearing should do so by letter to the Registrar outlining reasons that outweigh the interest of the local community in hearing the appeal. If other parties disagree, they should provide a brief letter outlining their position.

When an appeal originating in one of these locations is ready for hearing, the appellant should contact the Court Scheduler (604-660-2865) to schedule the appeal. If the parties wish to adjourn or reschedule a hearing, they should immediately notify the Court Scheduler with at least one week's notice.

Parties in other locations in British Columbia may also request a local hearing following the procedures listed above. Those hearings shall be conducted in Kamloops, Kelowna, or Prince George.

Any comments on the procedure should be addressed to the Registrar.

---

Jennifer L. Jordan,  
Registrar of the Court of Appeal of British Columbia

History:

Replaces *Court Sittings in Kamloops, Kelowna and Prince George* (Civil & Criminal Practice Note, 17 April 2012), which replaced the practice note titled *Court Sittings in Kamloops, Kelowna and Prince George* dated 8 September 2010.





COURT OF APPEAL  
FOR BRITISH COLUMBIA

**British Columbia Court of Appeal  
Practice Directive (Criminal)**

**Title: Criminal Conviction/Acquittal Appeals Timeline**

**Issued: January 13, 2014**

**Effective: Immediately**

**Cite as: *Criminal Conviction/Acquittal Appeals Timeline (Criminal Practice Directive, 13 January 2014)***

**1. Introduction and Purpose**

The Court has been testing the effectiveness of new proposed time limits for filings in all criminal conviction and acquittal appeals by way of a Pilot Project, which ran from September 7, 2010 to December 31, 2013.

The aim of the Pilot Project was to reduce unnecessary delays and to ensure that appeals were heard in a timely manner.

During the Pilot Project, the Court has significantly reduced delay at every step in the preparation of the appeal, from the ordering and filing of transcripts to the scheduling of the appeal hearing.

The continued aim of the Court is to have all conviction and acquittal appeals heard within one year from the filing of the Notice of Appeal.

To continue the time periods until the Criminal Rules can be amended, the Court has agreed to incorporate the Pilot Project timelines into this revised Practice Directive.

**2. Standard Deadlines**

When an appeal subject to this Practice Directive is commenced by the filing of the Notice of Appeal, the registry will prepare and send a “Criminal Appeal Filing Schedule Advisory Letter” (Appendix A) to the parties or their counsel. This letter will set out the standard deadlines that will govern the case.

The specific dates for filing will be set out in each letter, as applicable to each individual appeal. The appellant and respondent will be required to meet those stated deadlines. The Registrar will be monitoring the filing dates and will contact counsel if a filing date is missed.

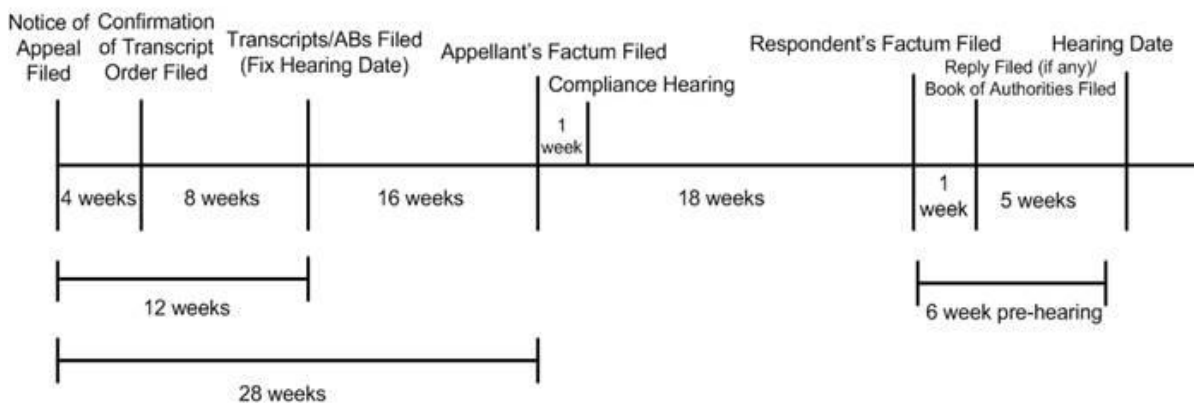


COURT OF APPEAL  
FOR BRITISH COLUMBIA

This letter will set out the standard deadlines that will govern the case. These deadlines are:

- a. File Confirmation that transcripts ordered 4 weeks after notice of appeal filed
- b. Transcripts due 8 weeks after the transcript order was confirmed
- c. Hearing Date fixed by Registrar, in consultation with counsel, once transcripts filed
- d. Appellant’s Factum due 16 weeks after transcripts filed (28 weeks after Notice of Appeal filed)
- e. Compliance Hearing scheduled for 1 week after Appellant’s Factum due (in event that the factum filing date is missed)
- f. Respondent’s Factum due 18 weeks after Appellant’s Factum filed (6 weeks before appeal scheduled to be heard)

Timeline for Criminal Conviction Appeal  
Notice of Appeal to Hearing Date = 1 year



### 3. Setting Hearing Dates

When the Transcripts and Appeal Books are filed (according to the schedule set out in the Criminal Appeal Filing Schedule Advisory Letter), the Registrar will contact counsel to arrange for an agreed hearing date which falls within one year of the date the Notice of Appeal was filed. Once a date is agreed upon, counsel will confirm the hearing by letter.

### 4. If Problems with the Schedule Arise

If at any time counsel foresee or encounter any difficulties in adhering to the dates set out in the Criminal Appeal Filing Schedule Advisory Letter, or with the proposed



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appeal hearing date, then they are to contact the registry immediately, and in advance of any applicable filing deadline, so that the matter can be addressed by the Registrar or set before a justice in chambers expeditiously.

#### 5. Compliance Hearing Date

The Criminal Appeal Filing Schedule Advisory Letter will include a date for a “Compliance Hearing”, set for one week after the due date for the appellant’s factum. If the appellant misses the deadline for filing the appellant’s factum counsel will be notified by the registry that they are expected to appear on the “Compliance Hearing” date scheduled. At that hearing, counsel will be required to provide an agreed revised filing schedule and be prepared to tell the court the reason for the delay, what steps have been taken to overcome the delay and how they propose to meet the scheduled hearing date. New hearing dates will only be set in exceptional circumstances.

If the appellant’s factum is filed on time (before the Compliance Hearing date), then the registry will automatically cancel the Compliance Hearing and counsel need not attend.

#### 6. Expedited Hearings – Agreed Filing Schedule

Notwithstanding the schedule outlined in this Practice Directive, counsel may agree to expedite an appeal. Counsel shall contact the Registrar with this request and may be asked to file a revised filing schedule.

#### 7. Request for Case Management Judge

After receiving the Criminal Appeal Filing Schedule Advisory Letter, if the timeline appears to be unrealistic for a specific appeal, or if the timeline would work a hardship on a party, or for any other reason, counsel may contact the registry immediately to request a case management judge.

#### 8. Case Management Assignment

If there is consistent delay which is not resolved through an appearance in chambers, or for any other reason, the Registrar may refer a matter to case management.



COURT OF APPEAL  
FOR BRITISH COLUMBIA

“The Honourable Chief Justice Bauman”  
for the Court of Appeal of British Columbia

History:

Replaces the Practice Directive titled Pilot Project Regarding Criminal  
Conviction/Acquittal Appeals, dated 14 May 2010, March 28, 2012.  
Revised January, 2014



COURT OF APPEAL  
FOR BRITISH COLUMBIA

## APPENDIX A

### Criminal Appeal Filing Schedule Advisory Letter

Date:

To: Appellant' Counsel

Re: R. v. A.B., CAxxxxx

#### ***Criminal Appeal Filing Schedule Advisory Letter***

The event which triggered the filing schedule for the above-captioned appeal took place on (DATE). This letter is being sent pursuant to the Practice Directive dated January 13, 2014: "Pilot Project regarding Criminal Conviction/Acquittal Appeals"

Appellant's Counsel should abide by the following schedule:

Hearing Date of Appeal - this appeal should be heard before (DATE)

The Appellant's Factum shall be filed before (DATE)

If the Appellant's Factum is not filed before this date, there will be a Compliance Hearing in Chambers (DATE)

In accordance with the Practice Directive, these other time limits apply:

Appellant to file and serve written confirmation that Transcript has been ordered by (DATE)

Appellant to file and serve Transcript and Appeal Book by (DATE)

Once the Transcripts and Appeal Books are filed, you will be contacted by the Registry to set a hearing date. Counsel will confirm the hearing date by letter.

Deputy Registrar

cc. Respondent Counsel



COURT OF APPEAL  
FOR BRITISH COLUMBIA

**British Columbia Court of Appeal**  
**Practice Note (Criminal)**  
**Title: Criminal Transcripts**

**Issued: 30 May 2013**

**Effective: Immediately**

**Cite as: *Criminal Transcripts* (Criminal Practice Note, 30 May 2013)**

1. In addition to the paper copies of transcripts filed with the Court pursuant to the *British Columbia Court of Appeal Criminal Appeal Rules, 1986*, R. 7, the appellant must file at the same time an electronic copy of the transcript.
2. The appellant shall deliver an electronic copy of the transcript to the respondent on request.

“Jennifer L. Jordan”  
Registrar

History:

This is a new practice note.



COURT OF APPEAL  
FOR BRITISH COLUMBIA

**British Columbia Court of Appeal  
Practice Note (Criminal)  
Title: Double-Siding of Appeal Materials**

**Issued: 9 February 2016**

**Effective: Immediately**

**Cite as: *Double-Siding of Appeal Materials* (Criminal Practice Note, February 9, 2016)**

The Court directs that all books filed in criminal appeals be double-sided, except for factums and statements.

“Timothy R. Outerbridge”  
Registrar of the Court of Appeal for British Columbia

History:

This is a new Practice Note.



COURT OF APPEAL  
FOR BRITISH COLUMBIA

**British Columbia Court of Appeal  
Practice Directive (Civil & Criminal)  
Title: Electronic Media in Appeal Books**

**Issued: 13 May 2016**

**Effective: Immediately**

**Cite as: *Electronic Media in Appeal Books* (Civil & Criminal Practice Directive, 13 May 2016)**

The Court is seeing an increase in appeal book contents filed on CDs, DVDs, or flash drives. Discs are often enclosed in paper sleeves within the appeal book and are poorly labeled, creating a risk of loss or damage. As appeal books are archival, the Court must provide directions regarding the use of electronic media, which can degrade and become unreadable over time. The Chief Justice therefore directs that electronic media accompanying an appeal book must meet the following requirements:

1. Only CDs or DVDs may be used. The exhibits on the disc(s) must be only multimedia that cannot be legibly reproduced in paper (such as video and audio). Other media that can be legibly reproduced on paper, such as documents, photographs, and diagrams, must always be clearly printed or copied, in colour if necessary (see further instructions in [Form 12](#)).
2. Where possible, only one disc should be filed per set of paper appeal books or joint appeal books. The index to the appeal books must list any accompanying CD(s) or DVD(s). At the page in the appeal book where the multimedia item would be located there must be a photocopy of the clearly labelled CD or DVD that contains the item.
3. Files on CD(s) or DVD(s) must be named with the Court of Appeal file number, book, exhibit number(s), and a short description: e.g. "CA12345 - Appellant's Appeal Book - Exhibit 12 - video of interview with appellant.avi".
4. On filing, any CDs or DVDs accompanying a set of paper appeal books must be contained in jewel cases. Both the jewel case(s) and disc(s) must be labeled with the file number, name of the book, exhibit number(s), and disc number: e.g. "CA12345 - Appellant's Appeal Book - Exhibits 2, 3, 12, 28 - DVD 1 of 2". Use only water-based markers and do not apply adhesive labels to any discs.





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FOR BRITISH COLUMBIA

If materials are filed in violation of this practice directive, the Registrar may cancel the filing of the appeal book or require that it be corrected.

“The Honourable Chief Justice Bauman”  
for the Court of Appeal of British Columbia

History: This is a new Practice Directive



COURT OF APPEAL  
FOR BRITISH COLUMBIA

**British Columbia Court of Appeal  
Practice Directive (Civil & Criminal)  
Title: Expedited Appeals**

**Issued: 12 December 2011**

**Effective: Immediately**

**Cite as: *Expedited Appeals* (Civil & Criminal Practice Directive, 12 December 2011)**

The Court of Appeal wishes to reduce unnecessary delays in the hearing of appeals, especially those appeals which may delay the hearing of a trial. Without restricting the power of the Court, or a justice, to give directions for expediting an appeal at any time, the Court adopts the following protocol for expediting appeals.

Any party named in an appeal may request that an appeal be expedited. Where the request is by the consent of all parties, the party making the request shall contact the Registrar by telephone or in writing to arrange for a hearing date and, after being provided with a hearing date, shall provide the Registrar with a proposed schedule for the filing of such materials as are necessary for the hearing of the appeal.

Where the request for an expedited appeal is not by consent, the party making the request shall do so by letter directed to the Registrar, succinctly stating the following:

1. the nature of the appeal;
2. the reason for the request;
3. a list of dates for the proposed hearing and the time required; and
4. the proposed terms for expediting the hearing, including the content of and dates for filing the record, appeals books, transcripts of evidence, factums, and/or such other material as may be necessary for the proper hearing of the appeal.

The request must be copied to the other parties to the appeal who, if they are not consenting to the request, should promptly file a succinct response setting forth their position.



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FOR BRITISH COLUMBIA

The Registrar shall refer the request to a justice who may make such order or give such directions as he or she considers necessary or expedient, with or without an oral hearing.

This Practice Directive does not apply to appeals regarding the international abduction of children, which is the subject of a separate Practice Directive.

“The Honourable Chief Justice Finch”  
for the Court of Appeal of British Columbia

History:

Replaces the civil Practice Directive, *Expediting Interlocutory Appeals* (Civil Practice Directive, 19 September 2011), which replaced the Notice to the Profession titled *Expediting Interlocutory Appeals*, dated 2 February 2000.



COURT OF APPEAL  
FOR BRITISH COLUMBIA

**British Columbia Court of Appeal**  
**Practice Note (Criminal)**  
**Title: Extradition Appeals**

**Issued: 13 May 2016**

**Effective: Immediately**

**Cite as: Extradition Appeals (Civil & Criminal Practice Note, May 13, 2016)**

**The Court has created a model order to reduce the number of appearances required in extradition proceedings. The model order allows bail pending an appeal from committal to continue without a further application in chambers, should the Minister of Justice order the person sought surrendered. Whether such an order will be granted is within the discretion of the judge hearing the application for bail pending an appeal from committal.**

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Timothy R. Outerbridge  
Registrar of the Court of Appeal of British Columbia

History:

Replaces *Extradition Appeals* (Civil & Criminal Practice Note, March 21, 2014)



COURT OF APPEAL  
FOR BRITISH COLUMBIA

Court of Appeal File No. XXXXX  
Supreme Court File No. XXXX DOB:  
XXXX

COURT OF APPEAL  
ORDER

The Attorney General of Canada on behalf of the United States of America  
Respondent

v.

XXXX

Appellant

BEFORE THE HONOURABLE XXXX the XXXX day  
XX JUSTICE XXXX OF XXXX, XXXX

‘IN CHAMBERS’

IT IS ORDERED that the Appellant, unless he is detained for some cause other than the within extradition proceedings, be released from custody pending the determination of his appeal from committal, upon the Appellant entering into a recognizance with XX sureties

in the sum of \$XXXXXX

with the conditions that follow

before a Justice of the Peace at the Courthouse, 800 Smithe Street, Vancouver, British Columbia

without depositing any money or other valuable security

with a Justice of the Peace.

Let the Prisoner be brought, in custody to:

The Law Courts 800 Smithe Street Vancouver,  
British Columbia for the purpose of entering into his  
recognizance.



COURT OF APPEAL  
FOR BRITISH COLUMBIA

Court of Appeal File No. XXXX  
Supreme Court File No. XXXX DOB:  
XXXX

**CONDITIONS OF RECOGNIZANCE**

- a) The Appellant shall keep the peace and be of good behavior.
- b) The Appellant shall report, in person, to the Bail Supervisor, 275 East Cordova Street, Vancouver, British Columbia, forthwith upon his release and thereafter once per week as directed by the bail supervisor.
- c) The Appellant shall remain within the Province of British Columbia.
- d) The Appellant shall reside at XXXX and shall not change his address without the prior written permission of his Bail Supervisor.
- e) The Appellant shall surrender all travel documents including valid or expired passports and visas, if any, to the Registrar of this Court, and shall not apply for any new travel documents.
- f) The Appellant shall [insert optional conditions],
- g) The Appellant shall take all steps necessary to prosecute his appeal in a timely manner, including promptly ordering and paying for the appeal book.
- h) If the Minister of Justice orders the Appellant's surrender, then the Appellant and the Attorney General shall, within 45 days of the Minister's order, file with the Registry a filing schedule for the Appellant's appeal and / or any application brought by him for judicial review of the Minister's order. In the event that no agreement can be reached on a filing schedule, it shall be set by the Registrar.
- i) If the Appellant files an application for judicial review of the Minister's order, then the Appellant shall take all steps necessary to prosecute that application in a timely manner, including promptly ordering and paying for the appeal book.
- j) The Appellant shall surrender himself into custody at the Sheriff's Office, The Law Courts, 800 Smithe Street, Vancouver, British Columbia, at 9:00 A.M., on XXXX, xxxx, xxxx, or on the date set for the hearing of his committal appeal and / or judicial review application, whichever date first occurs.

IT IS FURTHER ORDERED that in the event the Appellant is discharged by the Minister of Justice pursuant to s. 48(1) of the *Extradition Act*, S.C. 1999, c. 18, any recognizance entered into to give effect to this Order shall cease to be binding on the Appellant and the sureties as of the date of that discharge.

Approved as to Form

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Agent for the Attorney General of Canada



COURT OF APPEAL  
FOR BRITISH COLUMBIA

**British Columbia Court of Appeal  
Practice Directive (Criminal)  
Title: Factums in Criminal Appeals**

**Issued: 19 September 2011**

**Effective: Immediately**

**Cite as: *Factums in Criminal Appeals* (Criminal Practice Directive), 19 September 2011**

Factums in criminal appeals must comply with Criminal Appeal Rule 10 and Form 6. In addition to the provisions set out in Form 6, factums, including the electronic copy of the factum filed in the Court of Appeal **shall be printed in 12 point Arial typeface** and shall not exceed 30 pages in length, unless a justice otherwise orders.

“The Honourable Chief Justice Finch”  
for the Court of Appeal of British Columbia

History:

Replaces the Criminal Practice Directive titled *Factums in Criminal Appeals*, dated 21 March 2007.



COURT OF APPEAL  
FOR BRITISH COLUMBIA

**British Columbia Court of Appeal  
Practice Directive (Civil & Criminal)  
Title: Five Justice Divisions**

**Issued: 3 February 2012**

**Effective: Immediately**

**Cite as: *Five Justice Divisions* (Civil & Criminal Practice Directive, 3 February 2012)**

When counsel wish to have a five-justice division convened to hear an appeal, reasons for the request shall be set out in writing, addressed to the Registrar, after the factums have been filed. Opposing counsel shall state their position on the request, also in writing, addressed to the Registrar. This should be done within five business days of the original request. While the Court will always try to accommodate counsel, because of the difficulties in the allocation of judicial resources, requests for a five-justice divisions should be made at least six weeks before the scheduled hearing date of the appeal. The request will be forwarded to the Chief Justice, for consideration by the Chief Justice in consultation with the Court.

“The Honourable Chief Justice Finch”  
for the Court of Appeal of British Columbia

History:

Replaces the civil Practice Directive titled *Five Justice Divisions*, dated 12 December 2005, amended 8 September 2010 and reissued 19 September 2011.





COURT OF APPEAL  
FOR BRITISH COLUMBIA

**British Columbia Court of Appeal  
Practice Directive (Criminal)**

**Title: Forfeiture, Dangerous and Long Term Offender Appeals**

**Issued: 6 September 2013**

**Effective: Immediately**

**Cite as: *Forfeiture, Dangerous and Long Term Offender Appeals (Criminal Practice Directive, 6 September 2013)***

1. Because of the nature and complexity of appeals arising from: (a) forfeiture applications under s. 462.37 of the *Criminal Code* (Proceeds of Crime); (b) forfeiture applications under ss. 16 and 17 of the *Controlled Drugs and Substances Act* (Offence-Related Property); and (c) Dangerous and Long Term-Offender applications under Part XXIV of the *Criminal Code*, the Court has determined that all such matters be treated as full appeals requiring factums, even though some are technically sentence appeals. The schedule below is to be followed for these appeals.
2. Pursuant to the *British Columbia Court of Appeal Criminal Appeal Rules, 1986*, an appellant must file an original and four copies of a Notice of Appeal in Form 1 or 2 (where the appellant is unrepresented) within 30 days after the making of a forfeiture order or a dangerous or long term offender designation, or the dismissal of an application for such an order or designation. The registrar will forward a copy of Form 1 or 2 to the prosecutor.
3. Within 60 days of filing the Notice of Appeal, the appellant shall file six copies of an appeal book and transcript and deliver one filed copy to the respondent.
4. The appellant shall also file one electronic copy of the transcript.
5. At the time the appeal books and transcripts are filed, the appellant shall contact the Registrar and arrange for a hearing date for the appeal.



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6. The represented appellant shall file six copies of a factum (limited to 30 pages) at least 60 days before the hearing of the appeal and deliver a copy to the respondent. The unrepresented appellant is encouraged to follow the same rule, but may instead file a short statement of the issues.
7. The represented appellant shall also file one electronic copy of its factum. An unrepresented appellant is not required to comply with this direction.
8. The respondent shall file six copies of a factum at least 30 days before the hearing of the appeal and deliver a copy to the appellant.
9. The respondent shall also file one electronic copy of its factum.
10. The parties shall file five copies of the authorities at least 30 days before the hearing of the appeal. These authorities shall also be delivered to the appellant/ respondent (as the case may be).
11. This practice directive does not apply to appeals filed on or before the date this practice directive is issued.

“The Honourable Chief Justice Bauman”  
for the Court of Appeal of British Columbia

History: This is a new practice directive.



COURT OF APPEAL  
FOR BRITISH COLUMBIA

**British Columbia Court of Appeal  
Practice Note (Civil & Criminal)  
Title: Frequently Cited Authorities**

**Issued: 28 September 2018**

**Effective: 12 October 2018**

**Cite as: *Frequently Cited Authorities* (Civil & Criminal Practice Directive, 28 September 2018)**

Pursuant to Rule 40(9) of the *Court of Appeal Rules*, the following are lists of authorities that the Court does not require the parties to reproduce fully in the book of authorities. Instead, where one of these authorities is being relied upon, the Court of Appeal requires that the party reproduce only the headnote and the passage relied upon in the book of authorities. The authorities are listed alphabetically.

1. Civil Case List

*Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817

*Benhaim v. St-Germain*, 2016 SCC 48

*Clements v. Clements*, 2012 SCC 32

*Dunsmuir v. New Brunswick*, 2008 SCC 9

*Housen v. Nikolaisen*, 2002 SCC 33

*Hunter v. Southam Inc.*, [1984] 2 S.C.R. 145

*R. v. Imperial Tobacco*, 2011 SCC 42

*Moge v. Moge*, [1992] 3 S.C.R. 813

*Rizzo v. Rizzo Shoes Ltd.*, [1998] 1 S.C.R. 27

*R.J.R. – MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311

*Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53



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## 2. Criminal Case List

*Palmer v. The Queen* (1979), [1980] 1 S.C.R. 759

*R. v. Gagnon*, 2006 SCC 17

*R. v. Gladue*, [1999] 1 S.C.R. 688

*R. v. Grant*, 2009 SCC 32

*R. v. Ipeelee*, 2012 SCC 13

*R. v. Jordan*, 2016 SCC 27

*R. v. Lacasse*, 2015 SCC 64

*R. v. Lohrer*, 2004 SCC 80

*R. v. M. (C.A.)*, [1996] 1 S.C.R. 500

*R v. Oakes*, [1986] 1 S.C.R. 103

*R. v. Proulx*, 2000 SCC 5

*R. v. R.E.M.*, 2008 SCC 51

*R. v. Sheppard*, 2002 SCC 26

*R. v. W.(D.)*, [1991] 1 S.C.R. 742

*R. v. Yebes*, [1987] 2 S.C.R. 168

## 3. Aboriginal Case List

*Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010

*Guerin v. The Queen*, [1984] 2 S.C.R. 335

*Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73



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*R. v. Sparrow*, [1990] 1 S.C.R. 1075

*R. v. Van der Peet*, [1996] 2 S.C.R. 507

*Tsilhqot'in Nation v. British Columbia*, 2014 SCC 44

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The Honourable Chief Justice Bauman  
for the Court of Appeal for British Columbia

History:

Replaces: Frequently Cited Authorities (Civil & Criminal Practice Note, 21 October 2011)



COURT OF APPEAL  
FOR BRITISH COLUMBIA

**British Columbia Court of Appeal  
Practice Directive (Civil & Criminal)**

**Title: Guidelines for Protecting Privacy Interests in Reasons for Judgment**

**Issued: 19 September 2011**

**Effective: Immediately**

**Cite as: *Guidelines for Protecting Privacy Interests in Reasons for Judgment*  
(Civil & Criminal Practice Directive, 19 September 2011)**

1. The principle of open justice is a cornerstone of our judicial system. There are, however, times when the privacy interests of a litigant outweigh the public interest of open justice.
2. The need to protect the privacy of participants in the judicial system has led to statutory and common law restrictions on publication of certain facts or information. Where such restrictions apply, commercial case law reporters have traditionally assumed the task of editing reasons for decision before publication to ensure compliance with the law.
3. Publication of decisions by the courts over the internet has raised new privacy issues that must be addressed by the courts and the judges. Decisions involving family law matters are particularly sensitive. Courts in Canada have developed different solutions for protecting the privacy of the parties and others involved in such litigation. Some courts do not publish family law decisions at all; others publish only headnotes, using initials; while others publish the decisions with full names.
4. In 2002, the Court of Appeal decided to continue to publish family law decisions on our website, using initials to identify the parties in the style of cause and the body of the decision. It soon became apparent that using initials made identifying cases and conducting family law research difficult. In October 2003, the Court unanimously approved the return to the use of full names in family law judgments, except where otherwise precluded by law, with the recommendation that judges be encouraged to edit their decisions by including in the decision only personal information which is relevant to the decision being made. While the preparation of reasons for judgment is a discretionary matter and unique to each judge, some guidance can be



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provided to assist in the task. Four main objectives have been identified for each judge to consider when preparing reasons for judgment:

1. Full compliance with the law;
2. Openness of the judicial system;
3. Privacy interests of the litigant;
4. Cogency of the reasons for judgment;
5. In addition to these principles, the following considerations may also be helpful in editing decisions for privacy concerns:
  - a) The presence of personal data (e.g. address, account numbers) and personal acquaintances' information (e.g. personal data of parents, workplace, school) in a decision represents a high risk of violating privacy concerns;
  - b) With respect to cogency of the reasons for decision, specific factual information (names of communities, accused persons or persons acting in an official capacity) tends to have little or no legal relevance in and of itself, while general factual information (age, occupation, judicial district of residence) tends to be relevant;
  - c) The presence of general factual information in a decision tends to represent a low risk of identification of a person if personal data (e.g. name, address) and personal acquaintances have been removed.
  - d) As indicated, each judge is independent and has complete discretion in preparing their reasons for judgment. These items are presented for guidance purposes only.

“The Honourable Chief Justice Finch”  
for the Court of Appeal of British Columbia

History:



COURT OF APPEAL  
FOR BRITISH COLUMBIA

Replaces the civil Practice Directive titled *Guidelines for Protecting Privacy Interests in Reasons for Judgment*, dated 29 June 2004.





COURT OF APPEAL  
FOR BRITISH COLUMBIA

## British Columbia Court of Appeal

### Practice Directive (Criminal)

#### Title: In Custody Appellants and New Trials

**Issued: 8 May 2012**

**Effective: Immediately**

**Cite as: *In Custody Appellants and New Trials* (Criminal Practice Directive, 8 May 2012)**

**Explanatory Note:** The purpose of this practice directive is to ensure that an appellant who is in custody when a new trial is ordered: (a) is not released from custody until the matter of bail pending the new trial has been dealt with; and (b) appears before the trial court in a timely way.

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When a conviction appeal is allowed and a new trial ordered with respect to a charge or charges on which the appellant is incarcerated, the formal order shall contain the following provision:

AND THIS COURT DIRECTS that the Registrar of this Court or her designate forthwith issue the process necessary to convey, commit, and remand the appellant into the custody of the keeper of *[set out the name and address of the applicable provincial pre-trial services centre or police lock-up]* to be brought before the *[set out the name and address of the court in which the appellant is to appear]* on or before *[set out a date as soon as practicable, if possible no later than seven business days following the date of this order]*, to be dealt with according to law.

“The Honourable Chief Justice Finch”  
for the Court of Appeal of British Columbia

History: This is a new practice directive.



COURT OF APPEAL  
FOR BRITISH COLUMBIA

**British Columbia Court of Appeal**  
**Practice Directive (Criminal)**  
**Title: Ineffective Assistance of Trial Counsel**

**Issued: 12 November 2013**

**Effective: Immediately**

**Cite as: *Ineffective Assistance of Trial Counsel* (Criminal Practice Directive, 12 November 2013)**

*If a party is not represented and makes allegations of ineffective assistance of trial counsel, the appeal will be immediately referred to case management for directions.*

Stage One: Counsel's Duties Where there are allegations that trial counsel was ineffective or incompetent

1. Before advancing an appeal involving grounds of appeal which allege ineffective assistance or incompetence of trial counsel, counsel for the appellant must:
  - a. Take steps necessary to satisfy him or herself that there is some foundation for any allegations that trial counsel was ineffective or incompetent; and
  - b. Informally notify trial counsel of the nature of the allegations bearing on the professional conduct of trial counsel, and give trial counsel a reasonable opportunity to informally respond to the allegations to counsel for the appellant.

Stage Two: Advancing an Appeal Alleging that trial counsel was ineffective

2. Where a Notice of Appeal or amended Notice of Appeal includes grounds of appeal alleging the ineffective assistance of trial counsel:
  - a. The Chief Justice will designate a justice of the Court as a case management judge to make directions with respect to the appeal.
  - b. The registrar will, within four weeks of the filing of the Notice of Appeal, schedule a case management hearing to be presided over by the case management judge
3. Where the Notice of Appeal includes grounds of appeal or is amended to include grounds of appeal that trial counsel was ineffective or incompetent, counsel for the appellant shall formally serve a copy of that Notice of Appeal on trial counsel.
4. The appellant shall prepare and provide to trial counsel his or her affidavit setting out the factual basis for the allegations bearing on trial counsel's professional



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conduct and a signed waiver in which the appellant expressly waives solicitor-client privilege to the extent necessary to allow trial counsel to respond to the allegations against him or her. The appellant shall also deliver a copy of the affidavit and signed waiver to the Crown/respondent.

5. Upon written request by counsel for the appellant, trial counsel shall forward his or her entire trial file to counsel for the appellant, in accordance with the professional obligations of counsel.
6. If trial counsel wants to keep a copy of all, or any portion, of the trial file before transferring the file to counsel for the appellant, trial counsel may (at his or her own expense) make copies of whatever documents he or she wishes from the file. In addition, if trial counsel wants access to the file in connection with the appellant's case after it has been transferred to counsel for the appellant, counsel for the appellant must facilitate this access to the entirety of that file in a timely way, and must permit trial counsel to make copies (at his or her own expense) of whatever documents he or she wishes from the file.
7. Upon receipt of a copy of a Notice of Appeal, the Crown/respondent will forward a letter in Form A to trial counsel requesting an affidavit in response to the allegations set out in the appellant's material.
8. Upon receipt of the material referred to above, namely (a) a copy of a Notice of Appeal, (b) a signed waiver of privilege, (c) any affidavits or other material setting out the factual basis for the allegations bearing on trial counsel's professional conduct, and (d) the request from Crown/respondent, trial counsel shall prepare an affidavit in response to the allegations. Trial counsel's affidavit shall not divulge any confidential information learned or obtained by trial counsel during the course of the file or instructions given by the appellant, except to the extent necessary to fully respond to the allegations of ineffective assistance. Trial counsel's original affidavit and a copy shall be provided to counsel for the appellant.
9. Upon receipt of trial counsel's affidavit, counsel for the appellant shall review it and where he or she is of the opinion that it divulges confidential information or instructions of the appellant exceeding what is necessary for trial counsel to respond to the allegations, edit the copy of the affidavit and redact any portions of the affidavit over which privilege is asserted. A redacted copy of the affidavits shall be sent to the Crown/respondent (with redactions showing as blackened lines) and trial counsel, unless otherwise directed by the case management judge
10. Counsel for the appellant shall file with the Court, (a) the original copy of trial counsel's affidavit and (b) any edited or redacted version of the affidavit, both which shall be sealed by the registrar pending directions from the case management judge.



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Stage Three: Case Management

11. At the case management hearing, the case management judge may make any directions necessary to ensure a timely and fair hearing of the appeal, and shall specifically consider whether, after receiving submissions from counsel for the appellant and the Crown/respondent, it is necessary to make directions concerning each of the following matters:
- a. Confirmation that trial counsel has been formally served with a copy of the Notice of Appeal,
  - b. The time periods for preparation of any affidavits relied upon by the appellant in support of any allegations impugning the professional conduct of trial counsel to the extent that these materials have not already been prepared.
  - c. The time periods for preparation of trial counsel's affidavit and the submission of that affidavit to counsel for the appellant to the extent that this has not already occurred.
  - d. The time periods for any editing or redacting of trial counsel's affidavit by counsel for the appellant to the extent that this has not already occurred.
  - e. The time period for providing a copy of trial counsel's affidavit to the Crown/respondent, in either (i) unedited form, where counsel for the appellant determines that no editing is required or, (ii) edited form, where counsel for the appellant takes the position that editing is necessary because the affidavit divulges privileged information which is not necessary to respond to the allegations made against trial counsel.
  - f. If trial counsel's affidavit has been redacted by counsel for the appellant, the case management judge will, if required, review the original affidavit, the redacted affidavit and the appellant's affidavit, and after hearing from the parties, decide whether solicitor client privilege has been waived by the appellant with respect to some or all of the redacted portions. If so, the case management judge will release these redacted portions to the Crown/respondent.
  - g. The time period for the filing of the appellant's application to adduce fresh evidence, including but not limited to any affidavits referred to above.
  - h. If either party applies to cross-examine pursuant to *Code* s. 683(1) (b) or (d) on the affidavits filed, the division of the Court hearing the appeal must decide this issue. Such application shall be heard the



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same week the appeal is scheduled to be heard and by the same division hearing the appeal.

- i. Counsel will advise the case management judge if they wish to cross-examine on any filed affidavit. The case management judge will direct that trial counsel and/or the appellant attend the hearing of the appeal and the application to adduce fresh evidence and be available for cross-examination should the division of the Court so order. If counsel require a subpoena for a witness, they will submit their application for a desk order to the case management judge for the consideration of the Court.
- j. The time period for filing of the appellant's factum after the filing of the affidavits.
- k. The case management judge may provide a memorandum to the division hearing the appeal setting out any orders or directions, with copies to the parties.

Stage Four: The Hearing

12. Subject to the directions of the case management judge, a date for the hearing of the appeal shall not be set until:

- a. The appeal books and transcripts have been filed in accordance with the Rules.
- b. The appellant has filed an application to adduce fresh evidence, identifying any and all affidavits filed.
- c. All of the matters listed in paragraph 11 (a) through (j) have been considered and/or addressed by the case management judge.

"The Honourable Chief Justice Bauman"  
for the Court of Appeal of British Columbia

History: Replaces the criminal Practice Directive titled *Ineffective Assistance of Trial Counsel*, dated 19 September, 2011 and 1 February 2005.



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FORM A

Form letter to impugned trial counsel

Dear Sir / Madam:

**Re: *R. v. (name of appellant)* CA0 \_\_\_\_\_**

As you are aware, the above-captioned individual is appealing his/her conviction from (identify offence(s)) returned on (date) in (level of court). You were counsel at trial for (name of appellant). I represent the Crown/respondent in this matter.

The appellant has alleged in a(n) (amended) notice of appeal filed on (date) that your representation of him/her was ineffective and resulted in a miscarriage of justice. The details of this alleged ineffective representation are contained in the appellant's affidavit sworn (date) and (identify any other supporting material). It is my understanding that (name of appellant's counsel) has served this material upon you.

The Court of Appeal will require a response to these allegations from you in order to properly dispose of this ground of appeal. Your response should be in affidavit form. Please prepare and swear an affidavit responsive to the particulars of the allegations raised against you. To facilitate your doing so, it is my further understanding that (name of appellant's counsel) has delivered to you an express waiver of solicitor-client privilege to the extent necessary for you to respond, signed by the appellant.

It is not my intention to engage in a discussion with you concerning the content of your affidavit other than to point out that a complete response to each and every allegation is desirable. To this end, I'd ask you to have particular regard to the following portions of the appellant's material:

(enumerate applicable or pertinent paragraphs, etc.)

Once your affidavit is sworn, please deliver the original and a copy to (name of counsel for the appellant). (Name of counsel for the appellant) will then vet your affidavit for its adherence to the scope of the waiver of privilege. Do not send a copy to me at this point in time. Should there be



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any disputes about whether your affidavit exceeds the scope of the waiver, they will be addressed through the case management process currently underway in connection with this appeal under the auspices of (name of case management justice).



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**British Columbia Court of Appeal**  
**Practice Directive (Criminal)**  
**Title: Mental Disorder Appeals**

**Issued: September 4, 2012**

**Effective: Immediately**

**Cite as: *Mental Disorder Appeals (Criminal Practice Directive, 4 September 2012)***

This Directive applies to all appeals relating to a disposition made by a court or the Review Board or a placement decision made by the Review Board filed pursuant to s. 672.72 of the *Criminal Code*. The intent of this Directive is to expedite these appeals and identify unusual circumstances requiring the Court's attention. It is intended that these appeals shall be concluded within 90 days of the receipt of the decision made by a court or the Review Board. This Directive is a guideline. Issues that arise outside of the scope of this Directive may be dealt with by a pre-hearing conference justice.

Pursuant to the terms of this Directive, an unrepresented appellant is only required to file a Notice of Appeal in the form below to pursue an appeal under s.672.72 of the *Criminal Code*.

**A. Initiating an Appeal**

1. An appellant<sup>1</sup> shall file a Notice of Appeal in the attached form within 15 days of receiving a copy of the reasons for disposition or placement decision from the Review Board or the court (s. 672.72(2) of the *Criminal Code*).
2. The registrar shall promptly deliver a copy of the Notice of Appeal to:
  - a. The Review Board, if the appeal is from a decision of the Review Board;
  - b. The Representative of the Director of Adult Forensic Psychiatric Services, or, in the case of a "young person", the Representative of the Director of Youth Forensic Psychiatric Services and others referred to

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<sup>1</sup> For the purposes of this practice directive, "appellant" is used to describe an offender who is appealing from a disposition or placement. While this practice directive applies to all appellants who are offenders, it shall also apply to any other party who appeals. For those other parties, changes, where appropriate, may be made to the procedure.





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- in s. 141 of the *Youth Criminal Justice Act*, as applicable (the “Director”);
- c. Counsel for the Attorney General who appeared or made representations at the Review Board or before the court, if applicable;
  - d. Counsel who appeared at the Review Board on behalf of the appellant;
  - e. The Legal Services Society (where consent has been given on the Notice of Appeal);
  - f. Any party designated by the Court or Review Board pursuant to s.672.5(4) of the *Criminal Code*.
3. Any person or body other than the Director wishing to be added as a respondent to the appeal shall file an appearance. Only the Director and those filing an appearance will receive further copies of materials filed (i.e. transcripts, statements etc.).
  4. Pursuant to s. 672.74 of the *Criminal Code*, after the registrar notifies the Review Board or court that an appeal has been filed, the Review Board or court will promptly transmit to the Court of Appeal a copy of the complete record (or disposition information) relating to the disposition before the Review Board. In addition, the Review Board or court will send a copy of this record to the appellant or to appellant’s counsel.

**B. Pre-Hearing Conference**

1. The registrar will arrange a pre-hearing conference with the appellant and the respondent(s) to be held within two weeks of the filing of the notice of appeal.
2. An unrepresented appellant may appear at the pre-hearing conference in person, or by videoconference, if available. If the unrepresented appellant is unable to appear in person or by videoconference, he/she may apply by letter directed to the attention of the pre-hearing conference justice to appear by teleconference, or in some other manner.
3. The purpose of the pre-hearing conference is to discuss with the presiding justice the timetable for the appeal including any extensions or abridgments of time, representation of the appellant, any interlocutory applications such as those respecting dispositions under appeal under s.672.76 of the *Criminal Code* and other matters at the discretion of the pre-hearing justice.
4. Once a pre-hearing conference has been held, the registrar shall order four copies of the transcript of proceedings before the Review Board, or the court, plus such additional copies as are required by the parties. The registrar will also order one electronic copy of the transcript. On receipt, the paper copies of the transcript shall be forwarded by the registrar to all parties. Parties wishing electronic copies of the transcript shall make the request directly to the transcription company.



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5. Once the transcripts are received, the registrar shall notify the parties of available hearing dates and schedule the appeal. The hearing should be scheduled within 90 days of the receipt of the decision under appeal where at all possible, having regard to the circumstances of the appeal.

**C. Unrepresented Parties**

1. The unrepresented appellant is not required to file any document except the Notice of Appeal.
2. The unrepresented appellant may file material, including an Appellant's Statement, which shall not exceed 10 pages, and list in point form the mistakes the appellant submits the Review Board or court made in the disposition or placement order. The appellant may give examples of the mistakes alleged.
3. The unrepresented appellant may also file material, such as the material listed below under "Represented Parties".
4. The Appellant's Statement, and any other material, must be filed with the Court of Appeal at least four weeks before the hearing of the appeal.
5. All material filed with the Court of Appeal will be copied and distributed to the relevant parties by the Court registry staff.
6. An unrepresented appellant who has filed an Appellant's Statement may rely on that Statement without appearing at the hearing of the appeal. An appellant may consent to the hearing of the appeal in his or her absence by checking off the appropriate box on the notice of appeal.

**D. Represented Parties**

1. Four weeks before the appeal is scheduled to be heard the appellant shall file four copies of an Appellant's Statement and an appeal book containing the disposition of the Review Board or the placement decision, or the order of the court, any reasons for the decision, any exhibits or other material relied upon in the Appellant's Statement and a copy of the notice of appeal.
2. The appellant shall also file three copies of a book of authorities containing only those authorities referred to in the Appellant's Statement.
3. The appellant shall also file any additional copies of these documents as are required for service on the respondents.
4. The Appellant's Statement shall not exceed 10 pages, headed in the Style of Proceedings and containing the following information in point form:
  - a. The precise ground(s) of appeal to be relied on at the hearing of the appeal. In support of these grounds, appropriate references should be made to the reasons, the transcripts, and/or the exhibits.



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- i. Transcript references shall be to the page number in the transcript;
    - ii. Appeal book references shall be to the original exhibit number of the exhibit and the page number where the exhibit is reproduced in the appeal book.
  - b. The type of disposition which the appellant submits is appropriate for this offence(s) and this offender;
  - c. The position taken by each party before the Review Board/court with respect to the disposition.
5. The appellant shall deliver this material to the respondent(s) on the appeal.
6. The respondent(s) shall file a Respondent's Statement, not to exceed 10 pages, two weeks before the hearing of the appeal. The Respondent's Statement shall follow the format set out in #4 above, except it shall contain the respondent's position on the grounds of appeal and disposition raised by the appellant. The respondent(s) shall deliver to the appellant the Respondent's Statement, authorities and an appeal book containing any additional exhibits which were not included in the appellant's appeal book and which were referred to in the Respondent's Statement.
7. If the unrepresented appellant does not file an Appellant's Statement or an appeal book, the respondent(s) shall:
  - a. Prepare a Respondent's Statement, not to exceed 20 pages, setting out the relevant history and their understanding of any issues arising from the court or Review Board hearing.
  - b. The respondent shall also include in the Respondent's Statement its position on the issues raised.
  - c. The respondent shall also file and serve on the other parties an appeal book containing the material referred to in #D1 and a book of authorities.
  - d. The respondent shall prepare the appropriate copies for the Court and for service on the appellant and any other respondent.
  - e. Other respondents may also file and serve on the other parties an appeal book and book of authorities.
8. Notwithstanding the above requirements, where an appeal is more complicated than the usual Review Board appeal or court hearing, the parties may, by filing their consent, or at the direction of the pre-hearing justice, follow the usual procedures for a conviction appeal, including the filing of appeal books, factums and books of authorities, together with a filing schedule for all documents. The hearing date shall be within 90 days of the receipt of the decision under appeal, or so soon thereafter as possible.



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The Honourable Chief Justice Finch  
for the Court of Appeal of British Columbia

History: Replaces *Mental Disorder Appeals* (Criminal Practice Directive, 19 September 2011) which replaced the Practice Directive titled *Mental Disorder Appeals*, dated 2 March 1998.





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- that the placement decision is inappropriate for the accused who is a dual status offender;
- Other ground(s):

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The Court of Appeal will be asked at the hearing of this appeal to make the following order:

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*[set out the order you want the Court to make].*

The hearing before the Review Board/Provincial Court/Supreme Court *[circle one]* took \_\_\_\_\_ days/hours *[circle one]*.

I consent to Legal Services Society (Legal Aid) receiving a copy of this Notice of Appeal as an indication of my intent to apply for legal representation.

I consent / do not consent to this appeal being heard in my absence. *[circle one]*

Date: ...*[dd/mom/yyyy- e.g. 14/Mar/2012]*

.....

Signature of  appellant  lawyer for appellant

..... *[type or print name]*.....

To the Respondent(s):

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This Notice of Appeal is given by \_\_\_\_\_ (name) \_\_\_\_\_, the appellant or solicitors for the appellant, whose address for service is

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**British Columbia Court of Appeal  
Practice Note (Civil & Criminal)  
Title: Preferred Filing Registry**

**Issued: 19 September 2011**

**Effective: Immediately**

**Cite as: *Preferred Filing Registry* (Civil & Criminal Practice Note, 19 September 2011)**

The B.C. Court of Appeal sits regularly in Vancouver, monthly in Victoria, and occasionally in Kamloops, Kelowna and Prince George.

Vancouver is the central registry for the Court of Appeal. The scheduling and review of material takes place in Vancouver and all of the files and books are located in Vancouver.

For the hearing of appeals and chambers matters, the material is sent from Vancouver to the registry where the matter will be heard. For hearings and chambers applications set to be heard in Vancouver, and for related written submissions, the Court requires that all relevant materials be filed in Vancouver, if possible. This will avoid delays in the materials being transferred from outside registries to the Vancouver Registry.

The cooperation of counsel in this regard is appreciated.

“Jennifer L. Jordan”  
Registrar of the Court of Appeal of British Columbia

History:

Replaces the Notice to the Profession titled variously *Hearings in Victoria* and *Preferred Filing Registry*, dated 3 December 2007.



COURT OF APPEAL  
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**British Columbia Court of Appeal**  
**Practice Note (Criminal)**  
**Title: Publication Bans**

**Issued: 24 July 2012**

**Effective: 1 October 2012**

**Cite as: *Publication Bans* (Criminal Practice Note, 24 July 2012)**

The Court is becoming increasingly concerned with the accurate recording of publication bans. Two changes are necessary to address those concerns:

1. Both crown and defence should describe publication bans ordered in the Court of Appeal or by the court below that are in force at the time of filing on the front cover of their factum. The description should reference both the legislative provision (or inherent jurisdiction) that authorises the ban and the ban's precise terms; and,
2. Both crown and defence should be prepared to address the existence and nature of publication bans in force at the hearing of an appeal or in chambers.

The parties to an appeal are responsible for advising the Court of any publication bans in force. Where a publication ban is in force, factums that do not include publication bans on the front cover will be rejected by the registry.

"Jennifer L. Jordan"  
Registrar of the Court of Appeal of British Columbia

History:

This is a new practice note.





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**British Columbia Court of Appeal  
Practice Note (Civil & Criminal)  
Title: Sentence Appeals**

**Issued: 11 March 2016**

**Effective: 21 March 2016**

**Cite as: *Sentence Appeals* (Criminal Practice Directive, 11 March 2016)**

1. This Practice Directive does not apply to appeals from Forfeiture, Dangerous or Long Term Offender orders or designations. Such appeals are subject to *Forfeiture, Dangerous and Long Term Offender Appeals* (Criminal Practice Directive 6 September 2013).
2. Three weeks before the hearing of a sentence appeal, the appellant shall file six copies and one electronic copy of a document, entitled "Statement". The appellant shall deliver one copy of the statement to the respondent. The statement shall be headed in the style of cause and contain the following information in point form:
  - (a) A concise statement of facts;
  - (b) The precise ground(s) of appeal to be relied on at the hearing of the appeal (e.g. sentence falling outside the range of sentences for similarly situated offenders and similar offences, illegal sentence, failure to give effect to one or more principles of sentencing with particulars of the principle(s) invoked, failure to consider a conditional sentence, etc.), together with relevant transcript references;
  - (c) The range and type of sentence which the appellant submits is appropriate for the offence(s) and this offender;
  - (d) The position taken by Crown counsel and defence counsel before the sentencing judge with respect to the appropriate sentence and the range of sentence.
3. At the time this Statement is filed, the appellant shall also file five copies of the authorities upon which he/she relies, together with six copies of any other



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- written material the appellant intends to rely upon at the hearing of the appeal. The appellant shall deliver one copy of this material to the respondent.
4. Two weeks before the hearing of the sentence appeal, the respondent shall file six copies and one electronic copy of a document, entitled "Reply", and deliver one copy to the appellant. The reply shall contain the following information in point form:
    - (a) The respondent's position with respect to the ground(s) of appeal and the fitness of the sentence;
    - (b) If the respondent's position is that the sentence imposed is unfit or illegal, then the range and type of sentence which the respondent submits is appropriate for the offence(s) and this offender.
  5. At the time the reply is filed, the respondent shall also file five copies of the authorities upon which he/she relies, together with any other written material the respondent intends to rely upon at the hearing of the appeal. The respondent shall deliver one copy of this material to the appellant.
  6. The statement and reply shall not exceed eight pages in length, except for appeals involving a constitutional challenge to legislation, where the statement and reply shall not exceed 15 pages in length. The statement and reply must comply with the rules on factum preparation, both with respect to spacing and font size. [A Microsoft Word template](#) for a statement and reply is available on the Court's website under the criminal forms section.
  7. If an appellant or respondent is self-represented, he or she is encouraged, but not required, to comply with this directive. If a self-represented appellant does not comply with the directive, the Crown is not required to file a reply.
  8. A Justice may waive the necessity of compliance with this directive for good cause.

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The Honourable Chief Justice Bauman  
for the Court of Appeal for British Columbia

History:



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Replaces *Sentence Appeals* (Criminal Practice Directive, 6 September 2013), which replaced *Sentence Appeals* (Criminal Practice Directive, 19 September 2011) which replaced the Criminal Practice Directive titled *Sentence Appeals*, dated 14 May 1999 and the Notice to the Profession titled *Sentence Appeals*, dated 27 May 1999.



COURT OF APPEAL  
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**British Columbia Court of Appeal  
Practice Directive (Civil & Criminal)**

**Title: Submission of Electronic Factums and Statements**

**Issued: 22 April 2019**

**Effective: 02 July 2019**

**Cite as: *Submission of Electronic Factums and Statements (Civil & Criminal Practice Directive, 02 July 2019)***

1. This Practice Directive sets out the procedures to be followed by parties delivering electronic factums (including reply factums) and statements to the Court. In cases of demonstrated hardship, the Registrar may exclude a self-represented litigant from these requirements.
2. Since June 2014, parties have been delivering their factums and statements to the Court through the use of external media, such as DVD, memory stick or CD-ROM. These were filed at the same time as the paper versions of the parties' factums.
3. To reduce the cost of this process, the Court will now receive factums and statements via email to [appealrecords@courts.gov.bc.ca](mailto:appealrecords@courts.gov.bc.ca) and will no longer receive them on external media. At the time the factum or statement is filed in paper, the parties must present a copy of the email transmitting their factum electronically. If this is not done, the registry will reject the filing of the paper factum.
4. Judges must be able to copy and paste from an electronic factum or statement. As such, the electronic factum or statement must be submitted in optical character recognized (OCR) portable document format (PDF) or saved as a PDF from which text can be copied and pasted. Scanned factums or statements without OCR will be rejected, as will those which are not PDF.
5. The format of the electronic factum or statement shall be in one complete file, include the coversheet, index, any appendices and the content required by civil [Form 10 - Appellant's Factum](#), [Form 10 - Respondent's Factum](#) and [Form 11 - Appellant's Reply Factum](#) or criminal [Form 6 - Factum](#). The electronic factum or statement shall be a true copy of the paper factum, excluding the handwritten signature. As stated in [Citation of Authorities \(Civil](#)



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[& Criminal Practice Directive, 30 May 2013](#)), the Court welcomes optional hyperlinks to authorities in electronic versions of factums.

6. Use the following file names when submitting your materials via email:

CA12345\_factum\_appellant  
CA12345\_factum\_respondent  
CA12345\_factum\_appellant\_reply  
CA12345\_factum\_cross-appellant  
CA12345\_factum\_cross-respondent  
CA12345\_factum\_intervenor  
CA12345\_statement\_appellant  
CA12345\_statement\_respondent  
CA12345\_statement\_appellant\_reply  
CA12345\_factum\_appellant\_amended  
CA12345\_factum\_respondent\_amended  
CA12345\_factum\_appellant\_supplementary  
CA12345\_factum\_respondent\_supplementary  
CA12345\_factum\_intervenor\_supplementary  
CA12345\_further\_submissions\_appellant  
CA12345\_further\_submissions\_respondent  
CA12345\_further\_submissions\_intervenor

Examples: CA12345\_factum\_appellant.pdf  
CA12345\_factum\_respondent.pdf  
CA12345\_factum\_appellant\_reply.pdf

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The Honourable Chief Justice Bauman  
for the Court of Appeal of British Columbia

History:

Replaces *Submission of Electronic Factums and Statements* (Civil & Criminal Practice Directive, 27 June 2014) which replaced *Filing of Electronic Factums and Statements* (Civil & Criminal Practice Directive, 19 September 2011), which replaced the civil and criminal Practice Directives titled *Filing of Electronic Factums*, both dated 12 December 2005 and both amended 5 May 2008



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**British Columbia Court of Appeal  
Practice Directive (Criminal)  
Title: Summary Conviction Appeals**

**Issued: 6 September 2013**

**Effective: Immediately**

**Cite as: *Summary Conviction Appeals (Criminal Practice Directive, 6 September 2013)***

12. Pursuant to the *British Columbia Court of Appeal Criminal Appeal Rules, 1986*, an appellant must file an original and four copies of an application for leave to appeal in Form 1A, or Form 2 (where the appellant is unrepresented) within 30 days after the decision being appealed was pronounced. The registrar will forward a copy of the Form 1A or 2 to the prosecutor.
13. Within 30 days of filing the application for leave to appeal, the appellant shall file three copies of the following:
  - a. the reasons for judgment (or reasons for sentence if the sentence is appealed) from the original trial judge
  - b. The reasons for judgment of the summary conviction appeal judge;
  - c. Order of the summary conviction appeal judge; and,
  - d. A short outline of argument setting out the question of law proposed to be argued on appeal
14. The appellant shall deliver one filed copy of the material set out in paragraph two to the respondent.
15. At the time of filing material set out in paragraph two, the appellant shall also set an agreed date for the hearing of the application, which date shall be within 60 days of the filing of the application for leave to appeal.
16. The respondent shall file three copies of a short outline of argument together with any further material the respondent regards as necessary to the hearing



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- of the application for leave to appeal, at least two weeks prior to the date the application is set to be heard. The respondent shall deliver a copy of this material to the appellant.
17. Where leave to appeal is granted, the appellant shall forthwith set a hearing date for the appeal which is not more than 180 days from the date leave is granted.
  18. Within 60 days of leave to appeal being granted, the appellant shall file six copies of a factum and serve one copy on the respondent.
  19. At the same time the appellant shall file six copies of any appeal book and transcript which is necessary to argue the appeal and deliver one copy of this material to the respondent. The appellant shall also file one copy of an electronic transcript.
  20. Within 60 days of receiving the appellant's factum, the respondent shall file six copies of a factum and deliver one copy to the appellant. At the same time the respondent shall file six copies of any further appeal book and transcript, in addition to the material filed by the appellant, which is necessary to argue the appeal. The respondent shall deliver one copy of this further material to the appellant.
  21. Any party to the appeal may request case management at any time.
  22. This practice directive does not apply to appeals filed on or before the date this practice directive is issued.

“The Honourable Chief Justice Bauman”  
for the Court of Appeal of British Columbia

History: This is a new practice directive.



COURT OF APPEAL  
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**British Columbia Court of Appeal  
Practice Directive (Civil & Criminal)  
Title: Supplementary Arguments**

**Issued: 19 September 2011**

**Effective: Immediately**

**Cite as: *Supplementary Arguments (Civil & Criminal Practice Directive, 19 September 2011)***

After an appeal has been argued and judgment is reserved, the Court will not receive any further unsolicited material without the consent of all counsel. If there is no consent, an application may be made by writing a letter to the Registrar, requesting that the further material be received by the division which heard the appeal. Opposing counsel may respond to the request, also in writing addressed to the Registrar, within three days of the request being made. The matter will be referred to the division which heard the appeal, for consideration.

“The Honourable Chief Justice Finch”  
for the Court of Appeal of British Columbia

History:

Replaces the civil Practice Directive titled *Supplementary Arguments*, dated 12 December 2005.





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**British Columbia Court of Appeal  
Practice Directive (Civil & Criminal)**

**Title: Use of the Facsimile in the Court of Appeal**

**Issued: 19 September 2011**

**Effective: Immediately**

**Cite as: *Use of Facsimile in the Court of Appeal (Civil & Criminal Practice Directive, 19 September 2011)***

Documents to be Filed

The Court of Appeal registry will accept for filing any facsimile copy of a Court of Appeal document, except for documents requiring binding and multiple copies (such as appeal books and transcripts; factums; books of authorities). For lengthy documents which may or may not be bound (such as motion books and memorandum of argument), they will be accepted if they do not exceed 20 pages in length. Any document in excess of 20 pages will be accepted only if prior permission has been obtained from the registrar. The Court, however, may refuse to accept a facsimile copy as an original document. In such cases, the original document must be available for production to the Court.

It is understood that the facsimile machine is to be used for filing of documents only. The registry will not become a message service for lawyers. Requests for copies of documents will not be filled by sending copies by facsimile. The facsimile is to be used to assist parties in filing documents where there is a time factor involved.

Filing Fees

On any document where a filing fee is required - i.e. Notice of Appeal, Notice of Motion, Certificate of Readiness - any document filed by facsimile will be filed on the implied undertaking that the fee will be sent immediately to the registry. If the fee is not paid within one week of the filing, or before an appearance (in the case of a notice of motion), the document will be rejected.

The registry will not be responsible for invoicing past fees due. If fees are not paid, no further documents will be accepted from the law firm or individual.



COURT OF APPEAL  
FOR BRITISH COLUMBIA

If more than one copy is required for filing, (i.e. a Notice of Motion before the Court) the staff will photocopy the document and charge the sender for photocopying fees at \$1.00/page.

### Proof of Filing

Documents will be accepted for filing by facsimile only when sent to the Court of Appeal facsimile number (604) 660-1951.

On receipt of a document, the Court of Appeal staff will process it as if it had been received over the counter. The document will be date-stamped, given a Court of Appeal number and entered in the index (for Notices of Appeal), entered in the diary for an appearance in chambers and otherwise dealt with as a regular filing.

Registry hours are from 9:00 a.m. to 4:00 p.m. Documents received after business hours will be deemed to be received on the following day. In deciding the date of receipt, the registry staff will be guided by the transmission time appearing on the face of the facsimile. All documents will be processed in the order that they are received.

The staff will return to the sender, by facsimile, a confirmation that the document has been received. This confirmation will consist of a cover sheet, stating the fees due (if any) and any comments about the filing and the first page of each document filed by facsimile, showing the date stamp, appeal file number etc.

There is no charge to file by facsimile for those outside of the Lower Mainland (the Greater Vancouver Regional District and the Fraser Valley Regional District). For all others, the charge is \$16, plus \$1.00 per page.

In order to avoid confusion, do not mail the original document. The original document should be kept by the sender and attached as minutes to the pages received back as confirmation. The sender must be able to produce the original, if called upon to do so.

### Service of Documents

The registrar will accept as proof of service any acknowledgement of a document which has been forwarded by facsimile machine.

Any objection to service of a document which has been filed by facsimile is to be made to a judge in chambers.



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### Proviso

These guidelines are subject to judicial determination. Every accommodation will be made to see that this project is successful. However, if problems evolve in administering these guidelines, they may be changed or modified.

If any of this procedure is not followed, the registrar may refuse to transmit or accept Court of Appeal documents by facsimile.

“The Honourable Chief Justice Finch”  
for the Court of Appeal of British Columbia

### History:

Replaces the civil Practice Directive titled *Use of the Facsimile in the Court of Appeal*, dated 12 December 2005.