



THE LAW COURTS
800 SMITHE STREET
VANCOUVER, B.C.
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Notice to the Profession, the Public and the Media Regarding Criminal Proceedings

COVID-19: Criminal Jury Trials After August 15, 2022

COVID-19 Notice No. 53

Date: June 22, 2022

Effective August 15, 2022, this notice replaces the following notice:

- COVID-19 Notice No. 38

OVERVIEW

As of April 8, 2022, the British Columbia Public Health Officer removed [most measures](#) imposed to control the spread of COVID-19. On April 11, 2022, the Supreme Court also lifted many of the in-court measures that were put in place to control the spread of COVID-19 at courthouses and in courtrooms (see [COVID Notice No. 52](#) for further details). At that time, the Court retained the COVID-19 health and safety requirements for criminal jury trials in accordance with an incremental return to pre-pandemic practice.

Effective **August 15, 2022**, and subject to change based on new public health information, the Court will implement the following changes for criminal jury trials:

- Most COVID-19 measures will be lifted, including courtroom capacity limits and physical distancing requirements.
- The wearing of face masks in the courtroom will be subject to the direction of the judge presiding in the particular case.
- The two-stage jury selection process instituted on September 8, 2020, will continue until further notice. Both stages will take place on weekdays, wherever possible.

The remainder of this notice discusses some of the practical consequences of the above changes.

JURY TRIALS WILL BE HELD AT LOCAL COURTHOUSES

The removal of courtroom capacity limits and physical distancing requirements means that starting August 15, 2022, jury trials can proceed in any of the 26 courthouses in

which the Court has criminal jury courtrooms. Jury trials scheduled to begin after August 15, 2022 that were moved to different court locations because local courthouse facilities could not suitably accommodate physical distancing will remain in the locations where they are currently scheduled, subject to an order of the Court. For scheduling and other reasons, including the lead time required for the jury summons process, these trials cannot easily be moved back to the local courthouses.

For the sake of consistency, all health and safety measures will remain in place for any jury trials already in progress on August 15, 2022, subject to the direction of the trial judge.

THE JURY SELECTION PROCESS

Subject to the discretion of the presiding judge, after August 15, 2022, jury selection will continue to be conducted in two stages, on two separate dates, as described below.

The jury panel will consist of those jurors who have received juror summonses and who have responded to confirm that they will attend.

Stage 1: Drawing the Cards

Stage 1 of the jury selection process will take place in court with counsel and the accused person present, approximately two days before stage 2. In order to reduce the number of people present, the jury panel will not attend stage 1.

At stage 1, the court clerk will draw, one by one in a random selection, cards with the juror numbers of all of the members of the jury panel, and the numbers will be recorded in the sequence that they are drawn.

The jury selection will then be adjourned to the selection date (stage 2).

Stage 2: Individual Jury Panelists are Challenged, Excused, Stood By, or Sworn/Affirmed as Jurors

Following stage 1 and before stage 2, the members of the jury panel will be assigned to groups of approximately 30 or more according to the order in which their numbers were drawn at stage 1. The size of each group will generally depend on the available space in the courthouse where the jury selection will take place. Members of the jury panel will be advised of the time at which their group is to attend for the stage 2 court appearance.

Starting August 15, 2022, the stage 2 process will generally take place on a weekday instead of a weekend as was the practice when COVID-19 courthouse capacity limits were in place.

At stage 2, counsel and the accused person will be present in the courtroom. The members of the jury panel will attend at the appointed times. The judge, who will be the same judge as presided at the stage 1 random selection, will make opening remarks to the first group of jurors. Then members of the first group will be re-called in the order

resulting from the stage 1 random selection, and will be challenged, excused, stood by, or sworn or affirmed as jurors. The process (including the judge's opening remarks) will repeat with the second group, and so forth, until the jury and any alternate jurors are selected.

Unless otherwise directed, jurors who are sworn or affirmed will be required to remain in the courthouse while the jury selection continues.

In some locations, it may still be necessary for the members of a juror group to wait in a separate room from where the proceedings are taking place until they are re-called. If so, a two-way video link will be set up between the judge, court clerk, counsel, and the accused person, on one hand, and the waiting juror group, on the other to allow the judge's opening remarks to be conveyed to the juror group and to allow counsel to see the jurors next to be called forward.

The two-stage process outlined above differs in some ways from the pre-pandemic jury selection process in British Columbia. It was initially adopted in response to the public health restrictions on gatherings and physical distancing, while also preserving the essential aspects of a criminal jury selection, in order to allow criminal jury trials to proceed. To date, the modified process has been a success, in that the Court has been able to run criminal jury trials in many locations since September 2020. As a result, it is being retained while the circumstances of the pandemic are still evolving.

ONGOING REVIEW OF CIRCUMSTANCES

The Court recognizes the fundamental importance of jury trials to the criminal justice system in British Columbia and is committed to holding criminal jury proceedings in a safe way. Therefore, the Court will continue to monitor and review the practices set out in this notice, including in light of any new public health orders or guidance, and changes will be made as appropriate to respond to the circumstances.

THE FOREGOING IS SUBJECT TO CHANGE. ANY UPDATED DIRECTIONS WILL BE POSTED ON THE COURT'S WEBSITE.

Dated June 22, 2022, at Vancouver, British Columbia

By Direction of Associate Chief Justice Heather J. Holmes
Supreme Court of British Columbia