



COVID-19: PROVINCIAL COURT TELEPHONE PRE-TRIAL AND RESOLUTION CONFERENCES

Wednesday, April 15, 2020

Due to the ongoing situation with the COVID-19 pandemic, the Provincial Court will hold all pre-trial and resolution conferences via telephone. The following process and fillable PDF forms are intended to assist counsel in preparing for and setting up such telephone conferences.

TELEPHONE PRE-TRIAL CONFERENCES NOT HELD ON THE RECORD

Pre-trial conferences in criminal cases provide an opportunity to identify potential issues and efficiencies in the trial process. For these conferences to be effective, counsel must be familiar with the issues that will likely arise at trial; they must understand the context in which the issues will arise; they are expected to identify evidentiary matters not in issue; and, where possible, they can make admissions or provide an agreed statement of facts.

With that in mind, counsel attending the pre-trial conference must:

- Be the person scheduled to conduct the trial (except in unusual circumstances) and be fully informed of the issues and able to bind trial counsel;
- Be fully prepared; and
- Have adequate instructions to deal with all issues likely to arise in a pre-trial conference.

Counsel seeking a telephone pre-trial conference are to:

- Identify if this is a complex case (see [Provincial Court Practice Directive 4](#)).
- If it is a complex case, complete the online [Request Form](#) and the [Complex Case Pre-trial Conference Report](#) and send them electronically to the Supervisor of the Provincial Court. Email addresses for the Provincial Courts are online [here](#).
- If it is not a complex case, complete the [Request Form](#) and the [Pre-trial Conference Report](#) and send them electronically to opposing counsel and the Supervisor of the Provincial Court. Email addresses for the Provincial Courts are online [here](#).

Please note: It is important for counsel to indicate time requirements for the Pre-trial Conference on the Request Form.

The Provincial Court Supervisor/Judicial Assistant (JA) will consult with the Judiciary to arrange a pre-trial telephone conference date and time. The Supervisor/JA will confirm the date and time with counsel and provide the teleconference ID number. The Supervisor/JA will provide the judge with the Information(s).

The judge will prepare a memo to the file outlining the issues and efficiencies arrived at during the pre-trial conference and provide it to the Supervisor/JA to attach to the Information(s) and share with counsel.

TELEPHONE RESOLUTION CONFERENCES

Resolution conferences in criminal cases provide an opportunity to obtain judicial input and assistance for counsel's efforts at resolution. These conferences are intended to facilitate the resolution of cases in a timely and fair manner, without having to go to trial. To be effective, counsel must be familiar with the issues that will likely arise in a trial; they must understand the context in which the issues will arise; and they must understand the possible outcomes of the trial.

With that in mind, it is mandatory that counsel attending the resolution conference:

- Be the person scheduled to conduct the trial;
- Be fully prepared; and
- Have adequate instructions to deal with all issues likely to arise in a conference.

The accused individual should be available to provide instructions to counsel.

Scheduling Resolution Conferences

1. Complete the [fillable form](#) to request a telephone resolution conference with a Provincial Court Judge.
2. Once completed, counsel will email the form to opposing counsel and Anja Clyde in the Chief Judge's Office at aclyke@judicom.ca, along with the relevant materials set out in paragraphs 3 and 4.

Material for Resolution Conferences

3. At least 5 days before the resolution conference, the prosecutor will provide the following material to the judge and other counsel who are to attend the resolution conference:
 - (a) The facts upon which the prosecutor relies, identifying any facts on which there is agreement and those allegations of fact that remain in issue.
 - (b) A list of the issues for the resolution conference.

- (c) Other information relevant to counsel's position on a given issue (i.e. case law, reports, etc.).
 - (d) Crown position on resolution.
4. At least 2 days before the resolution conference, defence counsel will provide the following material to the judge, the prosecutor and any other counsel attending the resolution conference:
- (a) A list of the issues for the resolution conference.
 - (b) Other information relevant to counsel's position on a given issue (i.e. case law, reports, etc.).
 - (c) Defence position on resolution.

Counsel's Efforts at Resolution

5. Before the resolution conference, Crown and defence counsel shall:
- (a) Satisfy themselves that disclosure is complete.
 - (b) Discuss the information and materials exchanged and attempt to reach resolution.

At the start of the resolution conference, counsel shall inform the judge on their progress toward resolution.

Conduct at Resolution Conferences

6. Every effort will be made during the resolution conference to resolve the case or at least as many issues as can reasonably be resolved.
7. Victim impact statements and evidence concerning any victim must be considered before determination of sentence.
8. If the parties reach a resolution by joint recommendation on either a specific sentence or range of sentence, the plea may be entered on the record in the courtroom immediately following the conference, unless the exigencies of the case require the plea or sentencing to be set over to another day. The delay should be the least amount of time possible. If a resolution is achieved, it is non-binding until the matter is heard in open court and the case is determined.

Where resolution is tentatively achieved, the judge presiding over the resolution conference will arrange for the matter to be heard in open court, with the parties appearing by telephone as soon as possible and that judge will preside at the hearing. At any time before the hearing, either party may advise the judge that they are no longer willing to be bound by the resolution and the matter will proceed as if no resolution had been achieved.

9. If complete resolution is not achieved but agreement has been reached on process or as to some of the issues, it shall be considered non-binding until the agreements are placed on record in open court. In such a case, the judge will determine the most practicable method to record the agreements reached.
10. The judge who conducts the resolution conference must not be the trial judge or hear any contested proceedings in the case.
11. A resolution conference is private. All communications within it are confidential and must be treated in the same fashion as without prejudice communications. Any material resulting from a resolution conference shall not be placed in the court file, unless it becomes material which is part of the final disposition of the matter which is presented in open court.

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Media Contact:

Jennifer Stairs
Communications Director
Nova Scotia Judiciary
902-221-5257
stairsjl@courts.ns.ca