

Procedure for Appearing in Adult Court Provincial; Criminal Division in Calgary

First Appearance Courts

In Calgary, the “**first appearance or docket courtrooms**” are #101, #102 and #411. People usually appear in these courtrooms until their matter is set down for trial or, the person has plead guilty and/or the matter has been sent to “disposition court” (courtroom #411 in the pm.).

Courtroom # 101

This courtroom is usually designated for people who have been charged with indictable offences.

Courtroom #102

This courtroom is usually designated for people who have been charged with summary offences or dual offences which are likely to go summary.

Courtroom #103

This courtroom is designated for domestic violence, including assault charges. (This courtroom is new and is designated to start on May 29, 2000.)

Courtroom # 411(in the morning)

This courtroom is usually designated for people who have been charged with drug offences or federal matters.

Disposition Court # 411 (in the afternoon)

In the afternoon, this courtroom is a disposition court or a “guilty plea” courtroom. This means that it hears guilty pleas. Sometimes, lawyers will set a date for a guilty plea in # 411, as the judges do not like to hear guilty pleas in docket courts.

Step 1

You Have Been Charged

If you have been charged with a criminal offence and you have not been detained in custody, the police will give you an appearance notice that tells you the date, time and place you are to make your first appearance in court. Check your notice to see whether you are also required to appear for fingerprinting. If you are required to do so, be sure to show up for fingerprinting. Failure to show up for fingerprinting when required to do so is a criminal offence and could result in your arrest and an additional charge.

Step 2

Know what type of offence you have been charged with.

It is important to know whether you have been charged with a summary conviction offence or an indictable offence.

Summary Conviction Offences

Are considered to be less serious crimes than indictable offences. You may be able to have another person act as your agent and appear on your behalf. This could be a lawyer or a friend.

You may qualify for the Alternative Measures Program. (see information about the Alternative Measures Program).

Indictable Offences

Are considered to be more serious than summary offences and carry higher penalties; You must appear in court whether you have a lawyer or not. You cannot have someone appear on your behalf.

Dual/Hybrid Offences

The Crown Prosecutor will decide if they are going to proceed by way of summary conviction or indictment.

Note:

You can only have another party appear on your behalf if your offence is a summary offence. You can call the Crown Prosecutor's office to ask. (297-8444)

Getting Legal Assistance

Everyone can benefit from receiving advice from a lawyer. Even if you intend to plead guilty or if you wish to represent yourself... **Lawyers Can Help**. If you wish to seek legal advice, information and/or representation, see the Yellow

Pages of your telephone book under “Lawyers” or contact one of the following agencies.

Lawyer Referral (228-1722)

- Services provided in 33 languages;
- Will provide the names of three lawyers who practice law in your area of concern, i.e. criminal, civil, family, etc.;
- You will receive ½ hour of free legal advice from the lawyer your choice;
- You may wish to hire this lawyer, if you do you will have to pay his/her fees.

Legal Aid (297-2260)

1100,665-8St. S.W.

- May provide a lawyer for indictable offences if you do not have enough money to obtain a lawyer yourself;
- May provide a lawyer on summary offences to people without enough money to hire a lawyer if:

- ◆ A conviction will result in a possible jail sentence;

Or

- ◆ There will be a loss of means to earn a living if convicted. e.g. if you are a truck driver and lose your license because of an impaired charge, you have lost your means to earn a living.

Or

- There are special situations. e.g. English is not your first language and your need an interpreter.

Application Fee: \$10.00 (Bring this with you when you go for your appointment.)

Note: There is a Legal Aid office in the courthouse. You can see them that morning at court.

Legal Aid is not a free service. You will be expected to pay back the legal fees on a monthly basis. If you are approved for a lawyer you have choice of counsel. If you do not choose a lawyer Legal Aid will choose one for you.

Calgary Legal Guidance (234-9266)

100-615 Macleod Trail S.

- Provides free legal advice on summary convictions or indictable offences at their evening legal clinics if you do not have enough money to hire a lawyer and do not qualify for Legal Aid.
- They also offer an evening clinic through Native Counselling Services.
- Offers help and support to victims of domestic violence.
- Offers a restraining order program.
- Will not take assault charges.
- Do not cover impaired charges.
-

Calgary Legal Guidance may decide to take on your case. If they do, their fees are \$50.00.

Women's Resource Centre

- Offers legal clinics to women.
- ½ hour with a lawyer at their clinic.

This service is free.

Native Counselling Services of Alberta (237-7850)

Rocky Mountain Plaza
800, 615 Macleod Trail S.

- Visits city cells each morning;
- Offers information, guidance, counselling and referral services to Native people charged with offences;
- Will assist in court. (Court of Queen's Bench, Youth Court, Family Court, Adult Court and Traffic Court.)

This service is free

Student Legal Assistance (220-6637)

Faculty of Law, 3310 professional Faculties Building
University of Calgary

You do not have to be a student to use this service.

- Supervised law students provide assistance on summary offences;
- Do not cover impaired driving offences.
- Call Monday mornings to get an appointment.

Fees \$30.00

Step 4

Choosing a Plea

When you go to court for the first time, the judge will expect you to choose one of the following plea options:

Reserve Plea

Your case will be put over for 3-4 weeks so that you can seek legal advice, information or hire a lawyer. You will be expected to use this time to get a lawyer, so if you need to see Legal Aid, see them that morning after court. If you will be using the other resources listed above, it will be a good idea to start booking these appointments immediately as there is often a 2-3 week waiting list.

If you are not planning on getting a lawyer, but wish to go to trial, you can order “disclosure”. This is the Crown’s case against you. You are entitled to see the evidence that is against you, however you have to put in a request to get this information. The Elizabeth Fry Society Courtworkers have the disclosure request forms. They need to be filled out and handed to the Crown Prosecutor that day when your name gets called, or you can fill it out and take it to their office in Rocky Mountain Plaza, 14th floor. It usually takes 2- 3 weeks for it to be ready. It is your responsibility to go in person and pick it up. They will not phone you to tell you it is ready.

Plead Guilty

You will probably be sentenced at this time. If you do not have a lawyer, you can use Duty Counsel or Native Counselling to do your guilty plea for you. Both of these services are free. See sections of Duty Counsel and Native Counselling for more information.

Plead Not Guilty

A trial date will be set if you have a lawyer. If you do not have a lawyer, but wish to retain one, you will be instructed to return to court on the date that is set by the judge, with your lawyer so that a trial date can be set. If you are getting a lawyer, they will not set a trial date until they know when your lawyer is available for trial. If you plan on representing yourself at trial, tell the judge this and they will set your trial date for you. (Remember to order “Disclosure” if you will be representing yourself.)

Note:

There are certain indictable offences that require you to enter an “election”. An election means that you have to decide which court you wish to be tried in: Provincial Court without a preliminary hearing, or Court of Queen’s Bench with a preliminary hearing and a Judge, or in Court of Queen’s bench with a preliminary hearing and a Judge and jury. It is a good idea to seek legal advice on this matter.

Alternative Measures Program

Alternative Measures is a program that is designed for first time offenders who have been charged with a summary offence. You have to accept responsibility for your actions in order to be eligible for this program. (This does not mean you are entering a guilty plea in court.) The Crown Prosecutor will review your file to determine if you are eligible for the program. If you are, your case will be put over for approximately four months. A representative from the Alternative Measures Program will contact you to set up an appointment for you to meet with them. They usually ask people to do a donation to a charity, do community hours, or perhaps attend some type of programming. If you do what they ask you to do, in the time frame they give you, then when you return to court, the Crown Prosecutor will withdraw the charge and you will not have a criminal record.

There will be form for you to fill out at court. It states that you are accepting responsibility for this offence. If you do not successfully complete Alternative Measures, you will be back in court and you will be expected to enter a plea. You still have the option of pleading guilty or not guilty.

You do not have to have a lawyer to go through the Alternative Measures Program. Duty Counsel, who are lawyers who services are free of charge for first appearance courts can do the referral to Alternative Measures for you. If you believe you are not guilty of this offence then you need to go through the court system and plead not guilty.

If you are not sure if you will qualify for this program and you do not have a lawyer, you can talk to the E. Fry Courtworkers and they will refer you to Duty Counsel.

Step 5

Appearing in Court

Failing to appear in court will result in a warrant being issued for your arrest and an additional charge of "Failure to Appear" being laid.

Similarly, if you do not attend for fingerprinting, a warrant will be issued and an additional charge of "Failure to Appear" will be laid.

First Appearance or Docket Courts start a 9:00am. (and 1:30 in the pm.) for everyone. They will take people who have lawyers first, then they will do Duty Counsel's matters, and then they go alphabetically through the docket after that. Morning court is usually done in the morning, however, if you do not have a lawyer, you can expect to spend most of your morning in court.

Trial courtrooms start at 9:30am. (and 2:00 in the pm.). There are often more than one trial booked in these courtrooms. The doors to these courtrooms usually open about 9:15 am. and at 1:45pm.

Witnesses

The name of the accused will appear in the top left-hand corner of your subpoena. About half way down the subpoena, it will tell you which court house you need to attend in. It will then specify the date, time and courtroom number. If it is at Court of Queen's Bench, it will not indicate which courtroom it will be heard in. When you arrive at Court of Queen's Bench check the monitors for the name of the accused and they will indicate which courtroom the matter will be heard in. Or, you can check the clipboards that sit on a table to your right as you enter the courthouse from the 4th Street entrance. If you can still not find your matter, ask the Security staff to assist you.

If you are a witness or victim that has to testify at a trial, it is always a good idea to check to make sure the matter is still going to be heard in the courtroom indicated on your subpoena. You can check this out by asking one of the Elizabeth Fry Society Courtworkers.

Sometimes, matters are dealt with on an earlier date and you are not notified. If you have any concerns about this or any other questions, you can call Witness Central at 297-2433.

When the courtroom opens, you will need to hand in your subpoena to the court clerk. She is the woman in the black robe who sits below the judge. They will let the Crown Prosecutor know that you are here.

When your trial starts, all witnesses will be asked to leave the courtroom. You can not listen to any other testimony until you have testified yourself. If you wish to sit in court after you have testified, you can do so.

Also note the designated parking lots indicated on the back of your subpoena. If you use these parking lots they will reimburse your parking for you when you are done in court. You will need to go to the 5th floor when you are finished testifying and they will validate your parking for you.

Resources Available at Court

If you are unsure what to do when you go into court, the following services are available outside the first appearance or docket courtrooms.

Elizabeth Fry Society Courtworkers (294-0737)

640,1010-1st. S.W.

Volunteers from the Elizabeth Fry Society of Calgary are in Provincial Court on a daily basis. They can be identified by the burgundy blazers or vest they wear. They can provide you with the following assistance:

- Tell you which courtroom you are appearing in.
 - Tell you how get Legal Aid.
 - Referrals to other legal resources if you do not qualify for Legal Aid.
 - Referrals to Native Counselling.
 - Referrals to Duty Counsel.
 - Where to sign a probation order.
 - Where to sign a fine order.
 - Information on posting bail
 - Referrals to the Alternative Measures Program.
 - Support in court.
 - What to do if you are a witness.
 - Help you find your lawyer.
- ◆ Available ½ hour prior to court starting outside courtrooms #101,& #102 on the main floor of the courthouse.

Duty Counsel

Duty Counsel are lawyers hired by Legal Aid to provide brief legal advice and representation to people who are appearing in first appearance courts and who do not have a lawyer.

They can speak to sentence on guilty pleas, reserve your plea, enter pleas of guilty or not guilty and do bail hearings. **They can not represent you at trial.**

There are three Duty Counsel at court every day. One for courtroom #102, #101 and #103. If you are appearing in courtroom #411 and you need Duty Counsel you will need to speak to the Duty Counsel for courtroom # 102

Native Counselling Services of Alberta Courtworkers

Native Counsel are present in court on a daily basis. They can represent you in court. If you have been charged with a summary offence, they can act as your agent if you have given them instructions on what to do that day. *(Agent means that they are appearing on your behalf and you do not have to be there. This can only happen if you have been charged with a summary offence. However, if you are pleading guilty the Judge may want you to be there in person for sentencing.)

Salvation Army Courtworker

- Present in courtroom #102 to record for you notice of any further court dates, times, courtroom numbers, including fine due dates.
- Can set up further intervention with the Salvation Army if you request it.

Step 6

Sentencing

The judge has the choice of sentencing you to a fine, probation, a suspended sentence, a conditional sentence, an absolute or conditional discharge, restitution, community service hours, a conditional sentence or a prison term.

If you have been sentence to a fine, but need time to raise the money, you may ask the judge for “time to pay”. If you can’t pay your fine by the due date, you can apply for an extension prior to the day it is due. Go to the Court Clerks office on the 5th floor of the Provincial Courthouse to apply for an extension. You are more likely to get an extension if you have made some effort to repay the fine.

If you prefer to work off your fine, you must obtain a Fine Order slip from the Court clerks on the 5th floor. Then you can call fine Options at # 297-2345. They are located at the Attendance Centre, 3838 Manchester Rd. S.E.

For more detailed information about court procedure call #294-0737 or email us at