



NOTICE TO ACCUSED PERSONS, PROFESSION, CROWN, PUBLIC PROSECUTION SERVICE OF CANADA, CORRECTIONAL INSTITUTIONS, WITNESSES, JURORS, THE PUBLIC AND THE MEDIA REGARDING CRIMINAL OPERATIONS

SUSPENSION OF SUPERIOR COURT OF JUSTICE REGULAR OPERATIONS

Updated April 2, 2020

UPDATED NOTICE FOR MATTERS TO BE HEARD IN THE ONTARIO SUPERIOR COURT OF JUSTICE DURING THE COVID-19 EMERGENCY

A. Preamble

To address the safety of all who use and work in the Ontario Superior Court of Justice (SCJ), the Court suspended its regular operations and implemented processes to have ONLY urgent matters heard in all areas of its work as set out in the [Notices to the Profession](#) issued by the Superior Court of Justice on March 15, 2020, which came into effect on March 17, 2020.

This Notice updates the March 17, 2020 Notice for Criminal matters. The complete list of criminal matters that may be heard in each region is contained in region-specific Notices to the Profession, issued April 2, 2020, which include the process to seek a hearing, and are available at:

- [Central East](#)
- [Central South](#)
- [Central West](#)
- [East](#)
- [North East](#)
- [North West](#)
- [Southwest](#)
- [Toronto](#)

For Civil/Family matters, please refer to the Civil/Family Notice updated April 2, 2020.

As the COVID 19 pandemic continues, the Court recognizes it has a constitutional responsibility to ensure access to justice remains available. To promote access to justice, to minimize growing caseloads, and to maintain the effective administration of justice in Ontario, the Court is expanding its operations beyond the most urgent matters. All matters will be heard remotely by way of telephone or video conference.

For the Court's processes to be successful, judges of the Court will require lawyers to act co-operatively and to be flexible to achieve a timely, just and fair hearing. Counsel, accused persons and all court participants can anticipate that the judiciary will, in turn, make every effort to respond with flexibility and creativity, where feasible and appropriate.

There will necessarily be regional differences in approach. Some of the Court's regions have significantly higher volumes than others. At this time, some regions have court administration and trial coordination support better equipped to work virtually. The Court is making the best use of resources available to it.

B. Compliance with Existing Procedures & the Inherent Jurisdiction of the Superior Court of Justice

The emergency created by COVID-19 may, in some instances, render strict compliance with the procedural rules set out in the *Criminal Proceedings Rules* impossible or impractical. The rules were drafted without contemplation of how virtual court hearings would be conducted in a pandemic. These functional gaps cannot be an impediment to the timely, fair and just adjudication of matters heard by the Court.

In this time of emergency, the inherent jurisdiction of the Superior Court of Justice may be relied upon, as it is entrenched in s. 96 of the *Constitution Act, 1867* and as confirmed in s. 11(2) of the *Courts of Justice Act*. This unique power shall be relied upon sparingly and with caution to relieve compliance with procedural rules, regulations and statutes when it is:

- just or equitable to do so,
- reasonable and necessary to control the Court's own process during this time of emergency,
- required to render justice between litigants,
- essential to prevent obstruction and abuse of the Court,

- necessary to secure convenience, expeditiousness and efficiency in the administration of justice.

Accordingly, and relying upon the inherent jurisdiction of the Superior Court of Justice, the processes set out in this Notice, or the process directed by a judge in a case, may deviate from existing rules.

C. Gowning

The requirement to gown for an appearance in the Superior Court of Justice is suspended. Counsel and parties are expected to dress in appropriate business attire. Judges will similarly dress in business attire.

D. Public and media access to criminal proceedings

The Ontario Superior Court of Justice remains committed to the open court principle throughout the COVID-19 pandemic.

Any member of the media or the public who wishes to hear/observe a remote proceeding may email their request to the [local courthouse staff](#) in advance of the hearing. The person requesting access should provide their name, the hearing they wish to hear/observe, and their contact information.

Every effort will be made to provide the requestor with information on how they may hear/observe the proceeding.

Section 136 of the *Courts of Justice Act* restricts the recording by a member of the public of a court hearing.

Certain proceedings are closed to the media and public by legislation or court order.

The Court will seek to post on a public website matters scheduled to be heard by the Court, so that the media can choose to hear or observe a proceeding.

E. Communicating with Court, Staff and Trial Coordinators

Counsel and self-represented persons shall not communicate directly with a judge, unless the court directs otherwise. Counsel and self-represented persons will communicate with court staff and trial coordinators by email pursuant to a region's Notice.

The below direction should be followed when communicating by email with court staff and trial coordinators.

1. To ensure the email is received and processed by the appropriate court office, the subject line should include the following information:
 - LEVEL OF COURT (SCJ)
 - TYPE OF MATTER (Criminal, Family, Civil, Commercial List, Estates)
 - FILE NUMBER (indicate NEW if no court file number exists)
 - TYPE OF DOCUMENT (e.g., Motion, Conference Brief, Other Request)

2. The body of the email should include the following information if applicable:
 - i. court file number (if it is an existing file)
 - ii. short title of proceeding
 - iii. list of documents attached (note: attachments cannot exceed 35 MB)
 - iv. type of request
 - v. name, role (i.e. lawyer, representative, party, etc.,) and contact information of person submitting the request (email and phone number)

F. Filings

Effective April 2, and until further notice:

Electronic Filing: The Ontario Superior Court of Justice will dispense with the requirement to file documents personally and in hardcopy pursuant to rule 2.01 of its Criminal Proceedings Rules. Pursuant to ss. 841-844 of the Criminal Code, all criminal filings with the Superior Court of Justice are to be done electronically, by way of email to the trial coordinators. [See email list here](#)

Electronic Signatures: The Superior Court of Justice will accept electronically signed documents where a signature is required. An electronic signature consists of electronic information that identifies the signatory and the date and place of signing.

Electronic Service: The Superior Court of Justice will dispense with the requirement for personal service where personal service is required. In place of personal service, pursuant to rules 5.05(4) and 5.01(6), the Superior Court of Justice directs service of all materials under the rules be done by email to the opposing party with proof of service.

Self-represented persons who do not have access to email should contact the trial coordinator and seek directions from the Court. [See email list here.](#)

Please note that the court will only accept emailed filings for those matters that can proceed during the suspension period pursuant to the particular regional Protocol that is in place.

G. Criminal Matters During the Suspension

I.) Criminal Matters Suspended Effective March 17, 2020

By order of Chief Justice Morawetz, for any accused person who had a criminal matter scheduled for any type of appearance in the Superior Court of Justice between March 17, 2020 and June 2, 2020, that matter was adjourned, unless directed otherwise by the Court. To preserve jurisdiction, for all accused persons who were scheduled to appear between March 17, 2020 and June 1, 2020 a bench warrant with discretion was issued as of the date the person was scheduled to appear, pursuant to s. 597 (4) of the *Criminal Code*.

Accordingly, accused persons with matters scheduled in the Superior Court of Justice in the month of **March 2020**:

were adjourned until June 2, 2020

- must appear in court on June 2, 2020 at 10:00 a.m. at the court location at which they were to appear in March 2020.
- a bench warrant with discretion issued to return on June 2, 2020, and
- if the person fails to appear on June 2, 2020, a warrant will be issued for their arrest.

Accused persons with matters scheduled in the Superior Court of Justice in the month of **April 2020**:

- were adjourned until June 3, 2020
- must appear in court on June 3, 2020 at 10:00 a.m. at the court location at which they were to appear in April 2020
- a bench warrant with discretion issued to return on June 3, 2020, and
- if the person fails to appear on June 3, 2020, a warrant will be issued for their arrest.

Accused persons with matters scheduled in the Superior Court of Justice in the month of **May 2020**:

- were adjourned until June 4, 2020

must appear in court on June 4, 2020 at 10:00 a.m. at the court location at which they were to appear in May 2020

- a bench warrant with discretion issued to return on June 4, 2020, and
- if the person fails to appear on June 4, 2020, a warrant will be issued for their arrest.

II.) Trials

On March 17, 2020 all trials were adjourned, unless ordered otherwise. Accused persons, witnesses and counsel involved in jury trials that were in progress received direction from the presiding judge on March 16, 2020

III.) Witnesses, Lawyers and Jurors

Witnesses, lawyers and jurors should not attend court for trials or any matters between March 17 and May 29, 2020, unless specifically ordered to do so by the presiding judge. Jurors and witnesses will be re-notified of when to attend. Unless ordered otherwise, ongoing trials were adjourned to a date after June 1, 2020.

IV.) Sureties

Defence counsel are responsible for arranging to confirm sureties' identification and to assist them to sign bail by signing an electronic bail release and scanning it back to the court registrar to be forwarded to the institution, or as otherwise directed by the Court.

V.) Urgent Matters

Bail, Bail Review, Detention Review, Guilty Pleas and Sentencing will continue to be prioritized for in-custody persons in urgent circumstances. *Habeas Corpus* applications will be conducted.

As noted above, as of April 6, 2020 regions will handle additional matters. Please refer to Regional Practice Advisories linked above.

VI.) Remote Proceedings

The court will utilize to the fullest extent *Criminal Code* provisions permitting matters to be heard by audio, or if necessary, video or, where appropriate, in the absence of the accused in appropriate instructions.

Parties are urged to provide consent to the use of these alternative processes to the fullest extent possible, where such consent is required.

Assistance to self-represented persons may be available through a roster of volunteers from the criminal defence bar.

VII.) Resumption of Normal Operations

In the weeks ahead, the Court will finalize a plan to resume regular operations. Criminal matters are scheduled to return in the first week in June. However, if circumstances change and normal operations can resume earlier, the court will notify counsel, the Crown and institutions.

Geoffrey B. Morawetz
Chief Justice
Ontario Superior Court of Justice