



PROTOCOL ON RECORDING AND THE USE OF COMMUNICATIONS DEVICES DURING COURT PROCEEDINGS

1. Purpose

This Protocol sets out the guidelines for the use of communications devices during proceedings of the Provincial Court of Newfoundland and Labrador. This Protocol is founded on the “open courts” principle, which requires transparency and accountability in the judicial system in order to foster public confidence in the administration of justice.

2. Definitions

- a) Communication device: any device which can be used to transmit, record or receive audio, including computers, personal electronic and digital devices, and mobile, cellular and smart phones.
- b) Transmit: The dissemination of information via television, radio, internet or other electronic means, including but not limited to e-mailing, blogging, tweeting, texting and posting on Facebook or other social networking sites.

3. Application

- 1) *General* – This Protocol applies to all persons attending or participating in a location where proceedings of the Provincial Court of Newfoundland and Labrador are being conducted or transmitted, including proceedings via videoconference or teleconference.
- 2) *Judicial Orders* – The presiding judge retains overriding responsibility to maintain courtroom decorum and to ensure that court proceedings are conducted in a manner consistent with the proper administration of justice. In deciding whether to restrict the use of communication devices, the presiding judge may consider whether there is evidence regarding factors such as:

- i. whether the use of communication devices would disrupt court proceedings, or interfere with the proper functioning of the court's electronic equipment; or
- ii. whether the use of communication devices would interfere with witness testimony, or unreasonably infringe anyone's privacy or security.

4. Publication Bans

Any person using a communication device during a proceeding of the Provincial Court of Newfoundland and Labrador has the responsibility to identify and comply with any publication bans, sealing orders, or other restrictions imposed either by statute or court order.

5. Use of Communication Devices while the Court is in Session

Subject to an order by the presiding judge, the use of communication devices while the court is in session is permitted as follows:

- 1) *Unofficial Audio Recordings* – Communication devices can be used as audio to record, but not transmit, court proceedings. Unofficial recordings of court proceedings are to be used for note-taking purposes only.
- 2) *Tweeting and Texting* – Tweeting, texting, and other forms of live, text-based communication are permitted when the court is in session.
- 3) *Speaking on Communication Devices* – With the exception of teleconferencing, videoconferencing or other technology for court purposes, speaking on communication devices while the court is in session is not permitted.
- 4) *Discreet Use Required* – Where the use of a communication device is permitted:
 - i. it must be used in a discreet manner that does not interfere with court proceedings;
 - ii. it must be set to silent or vibrate mode.

6. Enforcement

Anyone who uses a communication device in a manner the presiding judge determines to be unacceptable may be ordered to turn off the device, leave the device outside the courtroom, leave the courtroom, or abide by any other order the presiding judge may make.