

**COURT OF APPEAL CRIMINAL APPEAL RULES
PRACTICE NOTE – CRIMINAL PROCEEDINGS**

CAPN No. 2018-20

TRANSCRIPTS

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The following Practice Note was filed with the registrar of the Court of Appeal and is published under rule 27 of the *Supreme Court of Newfoundland and Labrador – Court of Appeal Criminal Appeal Rules (2002)* and rule 4 of the *Court of Appeal Rules*.

Background

Rule 11 of the *Court of Appeal Criminal Appeal Rules (2002)* provides for the preparation and delivery of transcripts for purposes of an appeal. With recent changes in technology and the concern with delays in criminal matters, it is expedient that adjustments be made to facilitate the more efficient use of transcripts for an appeal.

Form D under rule 11 provides for the identification of specific portions of the proceeding in the court appealed from. While rule 11(1) provides that “the parties to an appeal shall file with the Court only those portions of the transcript ... that are necessary to enable the issues raised on appeal to be determined”, it is recognized that, in general, a party may require the transcription of portions of the proceedings which, ultimately, are not necessary for purposes of the appeal, but which must be reviewed by the party in preparing the appeal.

In order to accommodate the needs of the parties and of the Court, and to minimize the amount of the transcript that must be printed, it is desirable to take advantage of electronic options. To that end, the transcription coordinator of the court from which the appeal is taken will initially provide the parties with an electronic, rather than a printed, transcript that has been requested on Form D. The transcription

coordinator will determine the means to be used to transmit the electronic transcript to the parties. It should be noted that the electronic transcript is a transcript, not an audio recording, and that the party receiving the electronic transcript will be able to print whichever portions of the transcript he or she wishes to access in paper form.

Providing the parties initially with only an electronic transcript will necessitate a fundamental change in the process. The transcription coordinator will no longer automatically forward printed copies of the transcript to the Court when the electronic transcript is provided to the parties. Rather, consistent with the requirement under rule 11(1) that the transcript filed with the Court will comprise only those portions necessary to enable the issues raised on appeal to be determined, it will be necessary for the party that is required to file the transcript with the Court to contact the transcription coordinator with a separate request for the necessary printed transcript.

The request for the printed transcript, which will be the official printed transcript, should be made only after the scope of the appeal and need for the transcript has been determined, normally after the factum has been prepared. Form D, with the necessary changes, may be used for this purpose. Upon receipt of the request, the transcription coordinator would arrange for and deliver the necessary copies of the official printed transcript to the Court and the parties.

It is emphasized that, in order to facilitate preparation and delivery of a transcript, and to avoid delay, it is important that care be taken in making a request in Form D for an electronic or a printed transcript. As noted on the Form, only necessary items should be requested, both for purposes of the parties and, subsequently, for filing with the Court.

Copies of Form D must be delivered to the other parties at the same time as the Form is delivered to the transcription coordinator. Where any disagreement regarding the requested transcript cannot be resolved among the parties, a written request or application may be made to the Court for resolution.

To minimize the amount of paper required for the printed transcript, the document will be double-sided. It will be for the transcription coordinator to determine an

appropriate font size and type, and spacing necessary to provide an easily read document.

Practice Note

1. A party requiring a transcript shall make a request to the transcription coordinator in the court from which the appeal is taken, using Form D under the *Court of Appeal Criminal Appeal Rules (2002)*.
2. The party making a request for a transcript in Form D shall take care to request only the portions of the transcript necessary for the parties to prepare for the appeal.
3. When the transcript requested in Form D has been prepared, the transcription coordinator shall provide an electronic transcript to the parties. The transcription coordinator shall determine the means to be used to transmit the electronic transcript to the parties.
4. The transcription coordinator shall also provide the electronic transcript to the Court, in the manner requested by the Court.
5. After the party responsible for filing a transcript has determined which portions of the transcript are necessary to enable the issues on appeal to be determined, that is, generally after the factum has been prepared, that party shall make a request to the transcription coordinator, using Form D, with the necessary changes, for a printed copy of the portions of the transcript requested in that Form.
6. Upon receiving the request for a printed copy of the portions of the transcript necessary to enable the issues on appeal to be determined, the transcription coordinator shall arrange for and deliver to each party a copy of the requested portion of the printed transcript. The transcription coordinator shall deliver the original and three copies of the requested portion of the printed transcript directly to the Court. This will be the official printed transcript.
7. The party requesting an electronic or a printed transcript shall, at the same time as delivering Form D to the transcription coordinator, deliver to each other party to the appeal a copy of that Form.

8. If a party disagrees with the portion of an electronic or a printed transcript requested in Form D, that party shall, without delay, advise the transcription coordinator that a written request or an application has been made to the Court to resolve the disagreement. It is expected that parties will work to avoid such disagreements, and that all parties shall comply with the principle that a request for an electronic or printed transcript shall be limited to those portions of the proceedings necessary for the appeal.

9. The printed transcript shall be double-sided. The transcription coordinator shall determine an appropriate font size and type, and spacing necessary to provide an easily read transcript.

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