

**PORTAGE la PRAIRIE RESOLUTION  
DOCKET PROTOCOL**

**ADULT CHARGES**

# PORTAGE la PRAIRIE RESOLUTION DOCKET PROTOCOL

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# **PORTAGE la PRAIRIE RESOLUTION DOCKET**

## **PROTOCOL**

### **PURPOSE**

Section 482.1(b) of the *Criminal Code* gives the Court the power to delegate certain administrative tasks to Court personnel. The administrative processing of criminal cases will be conducted by a Staff Justice of the Peace (SJP). The docket will be called the Portage la Prairie Resolution Docket (PRD). This process will allow the Crown and the Defence to identify, discuss and resolve administrative issues in a fashion that does not require the attendance of a Judge. This will ensure that when a matter appears before a Judge, the following meaningful events will occur:

1. Bail Applications;
2. Contested Bail Variations;
3. Contested Motions;
4. Guilty Pleas and Plea Inquiry;
5. Ordering of Pre-Sentence Reports;
6. Sentencing.

### **APPLICATION OF PROTOCOL**

This Protocol applies to all criminal non-custody prosecutions involving adults appearing in the Provincial Court – Portage la Prairie Centre.

All administrative matters relating to these cases will be managed by the Staff Justice of the Peace (SJP) who has the jurisdiction set out in section 51 of the *Provincial Court Act*. This includes the following functions:

- conduct court and grant adjournments for counsel, particulars, plea and appearance before a provincial court judge;
- endorse a bail variation where the Crown consents to the terms of the variation;
- issue a warrant for arrest that authorizes release by an officer in charge;
- endorse a stay of proceedings;
- grant an application by a lawyer to withdraw as counsel of record if the accused's new lawyer is present and consents to represent the accused person;
- put an election to an accused as to mode of trial;
- accept a plea of not guilty and set the matter down for preliminary inquiry or a trial;
- accept a guilty plea (Pre-Plea Comprehension Inquiry Form – Appendix “B”);
- perform a function that is incidental to any of the matters referred above.

## **JUDGES DOCKET (MONDAYS)**

This docket will continue to deal with the following matters:

- All first appearances
- Applications for judicial interim release
- Matters for sentencing
- Ordering of Pre-Sentence Report
- Motions (provided they are scheduled in advance)

## **STAFF JUSTICES OF THE PEACE (SJP)**

The case management by the SJP is essential for successful processing of cases through the justice system. The SJP is mandated to deal with the administrative tasks to ensure that:

1. the accused person has been informed of the right to be represented by counsel;
2. the accused person has the opportunity to retain counsel or apply for counsel through the Legal Aid process;
3. the defence has received sufficient disclosure to enter a plea. This does not necessarily include all external reports such as laboratory reports; medical reports; fire commissioner reports; etc.
4. any bail variation issues can be addressed;
5. the Crown has reviewed the evidence and considered its position;
6. meaningful discussions between counsel have occurred;
7. counseling or diversion issues have been addressed;
8. issuing, cancelling or holding warrants for arrest, including unendorsed;
9. the setting of trial/preliminary hearing dates;
10. the setting of sentencing dates.

## **PORTAGE la PRAIRIE RESOLUTION DOCKET (PRD)**

If a matter is not dealt with on the first appearance or ready to proceed before a Judge, the matter will appear on the Portage la Prairie Resolution Docket (PRD). This docket will be an out of custody docket that will be held every Friday from 9:00 a.m. – 12:00 p.m.. All proceedings will be electronically monitored.

A matter will remain on the PRD until it is ready to appear before a Judge or at the discretion of the SJP. While rigid timelines will not be applied, matters should be ready for plea in approximately 8 weeks, after first appearing on the PRD.

During these periods, the assigned Crown will review particulars, and be ready to engage in plea discussions. Defence counsel will request any further disclosure by specifically

itemizing, in writing or on the record, those items they wish disclosed and be ready to engage in plea discussions.

It is expected that the accused or their counsel will appear in court before the SJP unless arrangements have been made in advance with the Crown's Office. If counsel has not made arrangements for a consent adjournment with the Crown's Office by 4 pm on the Wednesday before the PRD, they and their client must appear personally in court at the Friday Resolution Docket. If upon application of counsel for an adjournment the SJP is not in agreement, Counsel must either appear personally at the following PRD or counsel must appear personally before a Judge in Portage la Prairie within 10 days of the request being made (date and time to be fixed by the SJP).

The mailbox to be used by defence counsel to contact the Crown's Office about matters on the PRD is:

[PortageResDocket@gov.mb.ca](mailto:PortageResDocket@gov.mb.ca)

The subject line of the email must have the following information in order to be processed quickly:

- name of the accused
- court date
- courtroom

(e.g. Joe Accused – May 28 – Portage la Prairie)

Because this mailbox will be quite busy, it is important that we are consistent with the information so that the Crown's staff can process it quickly.

All self-represented individuals must appear before the PRD personally. This includes those individuals who have not yet received Legal Aid Manitoba approval. Once counsel is appointed by Legal Aid Manitoba or retained by the accused, the accused need not appear in court if a "Designation of Counsel" (See Appendix C) form is filed with the SJP.

At any point, the Crown or defence counsel may request that the matter be adjourned to next appear before a Judge. The SJP may exercise their discretion to have the matter next appear before the Judge. Any matter being adjourned to appear before the Judge must be endorsed to indicate the reason it is appearing before the Judge.

Where the Crown decides to enter a stay of proceedings (SOP) on a matter, the Crown may appear and enter the SOP on the record, or the Crown may file the Stay of Proceedings form (Appendix "A") with the SJP.

Where the accused wishes to enter a guilty plea to the charge(s), counsel for the accused may complete the Pre-Plea Comprehension Inquiry Form (Appendix "B") and file it with the SJP, or the SJP can complete same where the accused is unrepresented. The SJP will then adjourn the matter to the Judge's Docket for sentencing.

### Counseling / Diversion Programs

If the Crown agrees to refer a matter to a counseling/diversion program, the following guidelines will apply:

1. a one month remand from the date of referral to confirm enrollment in the program;
2. a second one month remand if enrollment has not been confirmed;
3. a remand of up to three months to complete the program;
4. a final one month remand in the event the program takes longer to complete than anticipated.

Once the accused has provided the Crown with confirmation of successful completion of the program, the Crown may file a Request for a “Stay of Proceedings” form (see Appendix “A”) on or before the next remand date.

### Pre-Sentence Reports (PSR)

Where counsel is requesting a PSR, the matter will appear before a Judge. Where a PSR has been ordered, the matter will be adjourned for 8 weeks to the PRD. From there dates will be set for the sentencing to take place within two weeks of the completion of the report.

### Pre-Trials

A pre-trial must be arranged with the pre-trial coordinator (Debbie Verwey, phone: 239-3383; fax: 239-3402; email: [Debbie.Verwey@gov.mb.ca](mailto:Debbie.Verwey@gov.mb.ca)) prior to setting a date as follows:

1. when the hearing or trial is to be set for two or more dates;
2. where a special sitting is being requested
3. where either party requests a focusing hearing;
4. at the discretion of the Court, based on an application by either the accused or the Crown.

### Preliminary Hearing & Trial Dates

When a matter is ready to proceed to preliminary hearing or trial, the following documents must be filed with the Court when the date is set:

1. Scheduling Form (see Appendix “D”);
2. Trial Notice or Trial Acknowledgement signed by the accused;
3. Forms A & B (preliminary hearing only).

If these documents are not filed with the Court, a preliminary hearing or trial date will not be confirmed.

### *Sentencing Dates*

Counsel will arrange a date for sentencing with the SJP. There will be a Calendar created on Outlook where matters can be slotted in 15 minute increments. It is expected that when a matter is set for sentencing that counsel will be prepared to proceed. If a matter has a PSR or VIS, that should be indicated on the calendar in order for the sentencing Judge to review the documents in advance.

REQUEST FOR A  
**STAY OF PROCEEDINGS**

NAME OF ACCUSED:

INFORMATION or TICKET NUMBER	OFFENCE

CROWN INSTRUCTIONS:

- Stay of Proceedings directed on above-mentioned information.
- Other: \_\_\_\_\_

Crown's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

** System updated by: _____	Date: _____
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Appendix "B"

**PRE-PLEA COMPREHENSION INQUIRY FORM**

I, \_\_\_\_\_, hereby acknowledge that:

1. I understand that I have the right to legal counsel and wish to waive that right and represent myself in court.
2. I intend to enter a plea of guilty.
3. I agree that I committed the offence(s).
4. No one is forcing me to enter a guilty plea.
5. By entering a guilty plea, I know that the Crown will not have to prove the case against me.
6. I understand I will now be sentenced by a Judge and the Judge does not have to follow any agreements made between the Crown Attorney and myself.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Witness: \_\_\_\_\_

Name of Witness: \_\_\_\_\_

(Please print)

**PROVINCIAL COURT OF MANITOBA**

Portage la Prairie Centre  
(Criminal Division)

BETWEEN :

HER MAJESTY THE QUEEN

- and -

,  
(Accused)

**DESIGNATION OF COUNSEL**

(S. 650.01 CC)

I, \_\_\_\_\_ of \_\_\_\_\_ state that my lawyer is (lawyer's name, address and phone number).

I have asked my lawyer to represent me, appear for me and provide legal services for me on the following charges:

Information Number(s)	Charge(s) (in words)	Date of Offence(s)
1.		
2.		
3.		

I understand my lawyer cannot appear for me in my absence on any other charges except those listed above, unless I sign a further Designation of Counsel form for those charges.

I understand that I MUST keep in touch with my lawyer until these charges are dealt with in Court. This means I must tell my lawyer IMMEDIATELY if I change my address or telephone number and I will make sure that my lawyer always has a way to contact me. I have been given a copy of this Designation of Counsel.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_.

\_\_\_\_\_  
Signature of Accused

\_\_\_\_\_  
Signature of Lawyer (Designated Counsel)

I certify that this document has been filed with the Court, together with the Information(s) to which it relates.

Staff Justice of the Peace \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_.

Appendix "D"

**SCHEDULING FORM**

ACCUSED:

CHARGES:

DEFENCE COUNSEL:

CROWN:

All charges and all accused  
on one information

Crown . Defence  
Election . Election

Pre-trial  
Motions

Charter  
Motions

ISSUES jurisdiction .  
ADMITTED identity .  
date of offence .  
continuity of exhibits .  
recognizance/probation order  
photographs  
reports  
other .

ISSUES .  
IN .  
DISPUTE .

# of CROWN . Civilian  
WITNESSES . Children  
Police  
. Expert  
. TOTAL:

Qualifications of  
Expert Admitted

# of DEFENCE .  
WITNESSES .  
.

Statement from Accused .  
Voir dire required? .  
.

Defence calling evidence on voir dire? .  
.

OTHER MATTERS .  
.

ESTIMATE OF TIME . Crown .  
.  
. Defence  
. Total .

Judge Setting Date . Date Set  
.

TRIAL / PRELIMINARY HEARING DATE .  
.