

NOTICE

PROVINCIAL COURT OF MANITOBA

RE: ADDITIONAL JUDICIAL AND JJP HEARINGS INCLUDING WEEKENDS

Introduction

Currently the Winnipeg Remand Centre (WRC) is now the central admission facility for all arrests in the Province. One of the outcomes of this is the WRC is no longer taking direct lock ups and police and RCMP all over the Province are housing arrestees in police/RCMP cells until potential release on bail has been addressed. We are advised between 50-60% of people admitted to remand are released within 7 days. These short stays increase the risk COVID-19 will be introduced into the institution potentially affecting employees, correctional officers, inmates and others.

As a result, to keep people in their communities where possible, and to reduce the spread of COVID-19, the court has established a Judges Weekend Court and is utilizing morning weekday courts (both in Winnipeg and the Regions) to deal with matters where admission to WRC for only a few short days can properly be avoided. In addition, it is necessary there be an opportunity for a meaningful hearing before the Judicial Justices of the Peace, (JJPs) and matters only be remanded after it is determined the matter cannot be dealt with substantively on the first appearance.

When a person is arrested in Manitoba, they are entitled to be brought before a judicial officer for the opportunity to apply for bail. In Manitoba, the JJPs conduct these first appearance hearings for accused throughout the Province of Manitoba.

In order for these first appearance hearings to be meaningful, the Crown must have received an arrest report and criminal record, reviewed the file and discussed its position on release with Legal Aid duty counsel or Private bar defence counsel. Private bar defence counsel and Legal Aid duty counsel must have also received disclosure and spoken to their client. An accused may also choose to represent themselves and is entitled to the same disclosure.

When the accused appears before the JJP, one of three things occur:

- There will be a contested bail hearing before the JJP;
- There will be a consent release; or
- The matter will be remanded with the accused declining to seek bail at that time.

Appearances before the JJP

1. Monday-Friday in Winnipeg and the Regions (except Brandon)

JJPs are available to hear first appearances throughout the Province.

Counsel can appear before the JJP by telephone or video if it is available.

It is expected Crown and Private bar defence counsel or Legal Aid duty counsel, have reviewed the file and will have a position on the release of the accused person when they first appear.

The JJPs will be available during the day to do remands, and bail hearings (consent releases and contested hearings).

If a matter is to be remanded without a bail hearing, counsel are expected to give a reason on the record as to why the matter cannot proceed to a bail hearing at that time before the JJP. It is recognized Private bar defence counsel or Legal Aid duty counsel may not always be available for these appearances. In these circumstances, where it is a consent remand, Crown counsel may put on the record the reasons for the requested adjournment and the accused's appearance may be waived. The JJP maintains the discretion to require the attendance of the accused.

If counsel are not ready to do a bail hearing but there is a reasonable probability of a consent release or a contested hearing later the same day, the JJP can stand the matter down to allow counsel to resolve the matter or prepare for the contested hearing before the JJP.

If the matter is not resolved at that second appearance and it will not be resolved by 9:00 a.m. the following morning, the matter will be remanded into custody and proceed in the ordinary course.

If Crown and Private bar defence counsel indicate they will be ready to proceed with a disposition for time in custody or a community disposition, or a contested bail, before 9:00 a.m. the next morning, the matter can be stood down to the 9:00 a.m. Judges morning docket in Winnipeg, or a 10:00 a.m. Judges in custody docket in the regions. The matters stood down to these Judge's dockets are expected to proceed as indicated and can proceed with the accused in police cells in their community by teleconference if necessary.

Any matters not resolved by 11:00 p.m. will be stood down to the 8:00 a.m. JJP docket.

2. Weekend in Winnipeg and the Regions (including Brandon)

JJPs are available in the regions and in Winnipeg to hear first appearances, on an ongoing basis, throughout the weekends until 11:00 p.m. The cut off times for the filing of paperwork related to these hearings are 9:45 p.m. in Winnipeg and 10:30 p.m. in the

regions. The JJPs can hear remands, and bail hearings (consent releases and contested hearings). The same principles apply to the appearances on the weekends as during the week.

Given JJPs are available on an ongoing basis, the 3:30 p.m. Weekend JJP docket is suspended indefinitely.

If a matter is to be remanded without a bail hearing, counsel are expected to give a reason on the record as to why the matter cannot proceed to a bail hearing at that time before the JJP. It is recognized Private bar defence counsel or Legal Aid duty counsel may not always be available for these appearances. In these circumstances, where it is a consent remand, Crown counsel may put on the record the reasons for the requested adjournment and the accused's appearance may be waived. The JJP maintains the discretion to require the attendance of the accused.

If counsel are not ready to do a bail hearing but there is a reasonable possibility of a consent release or a contested hearing later in the same day, the JJP can stand the matter down to allow counsel to resolve the matter or prepare for the contested hearing before the JJP.

If the matter is not resolved at the second appearance and it will not be resolved by 9:00 a.m. the following morning, the matter will be remanded into custody and proceed in the ordinary course.

If Crown and Private bar defence counsel indicate they will be ready to proceed with a disposition for time in custody or a community disposition, or a contested bail, before 9:00 a.m. the next morning, the matter can be stood down to the Judges Weekend docket. This includes Winnipeg, Brandon and all regional matters. The matters stood down to the Judges Weekend docket are expected to proceed as indicated and can proceed with the accused in police cells in their community by teleconference if necessary.

Any matters not resolved by 11:00 p.m. will be stood down to the 8:00 a.m. JJP docket.

Brandon

Monday- Friday

Any matters for disposition or a contested bail will be added directly to the Judge's docket on the same day before a Brandon judge. The cut off will be 2:30 p.m. JJPs will be available to hear remands (with reasons), and bail hearings (consent releases and contested hearings), after the 2:30 p.m. cut-off through 11:00 p.m. with documents being filed prior to the cut off time of 10:30 p.m.

Direct Lockups

Direct lockups are those persons who have been arrested and who have not seen a JJP before 11:00 p.m. and who are being held in police custody. The expectation with respect

to these matters is the Crown and Legal Aid duty counsel are reviewing the matters overnight so they can proceed first thing in the morning. The Crown will have received the arrest report and criminal record, reviewed the file, spoken to Private bar defence counsel or Legal Aid duty counsel and determined its position on the file. Private bar defence counsel or Legal Aid duty counsel will also have reviewed the matter and, where possible, spoken to their client. If the matters are ready to proceed to disposition for time in custody or a community based disposition, or if it is ready to proceed to a contested bail, it will be added to the Judge's morning or Weekend dockets. If it is not ready to proceed in that manner, it will be added to the JJP 8:00 a.m. docket or to a JJP docket as soon thereafter as possible.

Appearances Before the Judge on the Weekend and at the 9:00 a.m. or 10:00 a.m. Dockets Monday- Friday

The Judge's dockets are intended to deal with contested bail matters and dispositions, which are stood down from the JJP docket the evening before. The Judge's dockets will also deal with contested bails and dispositions on matters where the accused is a direct lock up (and did not appear before a JJP). The expectation with respect to these matters is the Crown will have received available disclosure, reviewed the file, spoken to Private bar defence counsel or Legal Aid duty counsel. Private bar defence counsel and Legal Aid duty counsel will also have reviewed the matter with their client and the matter will be ready to proceed. Matters will not be remanded from one day to the next. If matters are not dealt with on the Judge's docket, they will be remanded to the regular bail or in custody dockets in the ordinary course.

ISSUED BY:

“Original signed by:”

**The Honourable Chief Judge
Margaret Wiebe**

DATE: April 9, 2020