

ADULT PRE-TRIAL  
COORDINATION  
PROTOCOL

THOMPSON CENTRE

The Provincial Court of Manitoba  
September 11, 2023

**This Protocol is subject to change. It is expected that over time changes will be made and the Protocol will be amended. Please refer to our website at [www.manitobacourts.mb.ca](http://www.manitobacourts.mb.ca) for the most updated version of the Protocol**

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# ADULT PRE-TRIAL COORDINATION PROTOCOL – THOMPSON CENTRE

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## **PREAMBLE**

In 2016, the Supreme Court of Canada in *R. v. Jordan* said all justice system participants share responsibility for advancing matters through the justice system within a reasonable period of time. To that end, effective pre-trial coordination is required to ensure that when a matter appears before a Judge, only meaningful events occur such as:

- 1) Contested motions;
- 2) Bail applications;
- 3) Contested bail variations;
- 4) Guilty pleas;
- 5) Hearings/trials; and
- 6) Sentencings.

The pre-trial administrative processing of all criminal cases will be conducted by Judicial Justices of the Peace (JJPs) and Staff Justices of the Peace (SJPs), collectively the Pre-Trial Coordinators (PTCs), who obtain their jurisdiction through *The Provincial Court Act* and the *Criminal Code*.

The pre-trial coordination process allows the Crown and Defence to identify, discuss and resolve administrative issues without an appearance before a Judge.

The administrative timelines in this protocol ensure timely access to justice and the efficient progress of cases through the justice system.

## **APPLICATION OF PROTOCOL**

This Protocol applies to all adult criminal prosecutions appearing in the Provincial Court Thompson Centre. All administrative matters relating to these cases will be managed by PTCs as set out in this Protocol.

## **PRE-TRIAL COORDINATION**

Case management by PTCs is essential for successful processing of cases through the criminal justice system. The PTCs are mandated to carry out administrative tasks to ensure that:

- 1) An accused person has been informed of the right to be represented by counsel;

- 2) An accused person has been advised of their right to have a trial in English or French;
- 3) Disclosure is provided within a reasonable time;
- 4) Any consent bail variations have been addressed (though conditions relating to offences set out in s. 515(4.1) and (4.2) of the *Criminal Code*, can only be varied by a JJP);
- 5) The Crown has reviewed the evidence and provided its position;
- 6) Meaningful discussions between counsel have occurred;
- 7) Counselling or diversion issues have been addressed; and
- 8) Same-day dispositions are facilitated where possible.

Additionally, the PTCs have the authority to perform the following tasks:

- 1) Adjourn matters as required;
- 2) Endorse a stay of proceedings upon being provided with a completed Crown Stay of Proceedings Form (Appendix A) or on the record upon the request being made by the Crown;
- 3) Issue, cancel or hold warrants, including a decision whether the warrant should be endorsed or unendorsed, after considering submissions from counsel;
- 4) Allow counsel to withdraw;
- 5) Order forfeiture of items seized with the consent of both Crown and defence;
- 6) Adjourn a matter to the Court of King's Bench Assignment Court; and
- 7) Amend Informations.

## **IN CUSTODY MATTERS**

### **Custody Coordinator Docket (CCD)**

In custody accused will first appear before a Judge on a 9:30 a.m. docket in Courtroom B or C. If the accused:

- has been denied bail,
- does not intend to apply for bail, or
- is without counsel, wishes to retain counsel for the purpose of a bail application, and consents to an adjournment longer than three clear days (s. 516(1) of the *Criminal Code*),

The matter will be remanded to the Custody Coordinator Docket (CCD) which is managed by an SJP (the CC), the following week.

When an accused advises the CC of their intention to apply for bail, the matter should be remanded without delay to a Judge's docket for hearing, presumptively that same day or the next day. Bail applications of 30 minutes or less can be remanded directly into a bail docket by the CC.

It is expected that reasonable notice will be provided to the Crown and that all parties are copied on the correspondence to the CC. All bail applications expected to exceed 30 minutes or more require confirmation by the Trial Coordinator (TCO).

## **CCD Procedure**

CCD is an administrative docket. Each week, the CC will prepare a list of in custody accused appearing on the upcoming CCD and will email the list to the Crown, Legal Aid and Defence Counsel, the Monday immediately preceding the Friday CCD. All counsel are to provide consent written instructions by no later than 2 p.m. the Wednesday immediately preceding the CCD (the cut off time).

All matters that have not been addressed in writing by the cut off time will appear on the record on Friday at 9 a.m. in a designated courtroom. Counsel who have not addressed their matters by the cut off time are to appear in person on Friday morning at 9 a.m. Any unresolved issues between counsel will be remanded one week to the next CCD for discussions or for counsel to file an application.

In custody accused whose matters have not been addressed prior to the cut off time and who have not been waived by counsel will appear by video or telephone.

In custody accused who are pending on an allegation of a breach of a Conditional Sentence Order (CSO) will also appear on the record. It is expected that counsel will have arranged a date with the TCO so the hearing date can be set. If the allegation is recent and a date could not be obtained, the accused's breach CSO allegation will be remanded 1 week to the next CCD to confirm a date.

## **CCD Timelines**

The CC will monitor all matters on the in custody triage docket for 6 weeks from the date of the first appearance on the triage docket. If the accused is charged with a designated offence as indicated in Appendix B, a timeline of 16 weeks applies. It is expected that a date for disposition, preliminary inquiry or trial will be set within these timelines. The video or telephone appearance of the accused will be ordered when a hearing date is set unless a Designation of Counsel (Appendix C) or Undertaking by Counsel (Appendix D) has been filed with the court.

## **Self-Represented In Custody Accused**

When a self-represented in custody accused wishes to set a trial or preliminary inquiry date, the CC will direct that a case management conference (CMC) be set, in conjunction with the TCO. The matter will be adjourned to the date confirmed by TCO. After the CMC, the matter will be remanded back to CCD or as otherwise directed by the CMC Judge. If a self-represented in

custody accused wishes to enter a guilty plea, the CC will direct a date be set in conjunction with TCO.

## **OUT OF CUSTODY MATTERS**

### **JJP Docket**

All out of custody matters will appear on the 1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Tuesday of the month (the JJP Docket). As the JJP Docket is presided by a JJP, their jurisdiction includes imposing peace bonds (but not hearing contested peace bond applications) and other matters prescribed by law.

Counsel who have filed the appropriate forms (Designation of Counsel, Undertaking by Counsel) and agreed with the Crown as to the details of adjournments need not attend.

The PTC will monitor all matters on the JJP docket for 8 weeks from the first appearance on the docket. If the accused is charged with a designated offence (Appendix B), a timeline of 16 weeks will apply.

Once counsel is on record, matters on the JJP docket will be remanded to the end of the timeline, at which time a date for disposition, preliminary inquiry or trial will be set. Matters ready to be heard before timeline can be brought forward for a hearing on a Judge's docket.

If an accused is not represented by counsel at the first appearance, the PTC will advise the accused of the right to counsel.

If the accused does not wish to obtain counsel, they will be provided with the name and phone number of the Crown Attorney assigned to their file and the general number of Prosecutions. The accused will be granted a maximum 3 week remand in order to contact the assigned Crown Attorney, obtain disclosure and the Crown's position, and begin plea discussions with the Crown. After the initial remand, self-represented accused will be remanded for a maximum 3 weeks at a time to monitor the setting of a date for disposition, preliminary inquiry or trial.

If the Crown confirms a matter can be referred to a diversion program and the accused agrees, the PTC will adjourn the matter as follows:

- an initial 1 month remand to confirm enrolment in the program;
- a second 1 month remand may be permitted if enrolment has not been confirmed and the Crown does not oppose the remand; and
- remands up to 3 months as agreed by the Crown to monitor progress in the program.

If the PTC is satisfied that the matter is progressing and the Crown agrees, diversion matters may remain on the JJP Docket until diversion is complete.

Once the Crown has received confirmation of successful completion of diversion, the Crown may file a Stay of Proceedings Request Form with the PTC on or before the next remand date, or speak to it on the record.

If diversion is not successful, the initial timeline may be extended by one month if the matter is already at timeline.

## **Non-Appearance**

### **By Accused**

An accused is required to appear personally in the following circumstances:

- When they are representing themselves;
- When they have a personal appearance requirement; or
- when they are required to appear personally until counsel is on the record.

If an accused is required to appear and does not appear at JJP Docket, the non-appearance may be noted and the matter may be remanded for a maximum of 3 weeks on the JJP docket, or a warrant may issue.

If the accused appears on the date following the non-appearance, the matter will proceed as usual. The timeline requirements will not be suspended during this period.

If the accused does not appear on the subsequent remand date a warrant may issue.

### **By Counsel**

If a Designation of Counsel form has not been filed, and counsel does not appear, the PTC will adjourn the matter a maximum of 3 weeks. At the next remand, if counsel does not appear, the PTC may issue a warrant for the arrest of the accused.

## **SETTING DOWN FOR TRIAL OR PRELIMINARY INQUIRY**

When a matter is to be set down for trial or preliminary inquiry, a date has been previously arranged, and one of the following documents is filed with the court, no appearance by the accused or counsel is required:

- a trial slip or hearing acknowledgement signed by the accused;
- a Designation of Counsel Form; or
- an Undertaking by Counsel.

If one of the above forms is not received by the PTC by the end of the docket and counsel does not appear, the PTC will remand the matter a maximum of 3 weeks for the form to be filed or counsel and accused to appear. Counsel will be notified by the court of the remand date and appearance required.

## **SETTING DOWN FOR DISPOSITION**

Counsel will advise the PTC when a matter is ready for sentencing and a date has been agreed upon and confirmed by the Trial Coordinator. Provided a Designation of Counsel Form or an Undertaking by Counsel has been filed, counsel and the accused need not attend to set the date. The PTC will adjourn the matter to the date requested.

When a self-represented person wishes to plead guilty and the Crown agrees to a same day disposition, the PTC will ensure the matter will be transferred to a same day Judge's docket for sentencing if available.

## **TIMELINE EXCEPTIONS**

The PTCs have the discretion to diverge from the administrative timelines in this Protocol in the following circumstances.

### **1. Consent (one time only)**

- All counsel consent to an adjournment past the timeline up to a maximum of 4 weeks.
- In co-accused matters where:
  - the accused or co-accused is actively seeking to retain counsel and the Crown consents to further remands.
  - the co-accused is in custody and the Crown consents to keeping the matters together; the timeline that applies to the in-custody co-accused may apply to the out-of-custody co-accused.

### **2. Pre-Sentence Reports (PSR)**

When a PSR is ordered the Judge will set a due date for the report and set the sentencing date for the accused with the input of counsel. If the Judge does not set the sentencing date and adjourns the matter to a PTC docket, a sentencing date pre-approved by the TCO must be set when the matter first appears before the PTC.

### **3. Judge is Seized**



A matter waiting for a Judge who is seized to set a date may appear on a PTC docket until the date is confirmed by the TCO.

#### **4. Timeline Amendment for Change of Counsel**

Where there has been a new assignment of defence counsel, the PTC may grant 1 timeline extension of up to 4 weeks from the date new counsel goes on the record.

#### **5. Re-Arrest**

##### ***Breach & Fail to Appear Charges***

When an accused is arrested on a breach of a release order or fail to appear charge and subsequently appears on the PTC docket without new substantive charges, the timeline will be re-started, at the point it was at immediately prior to the arrest or warrant issuing. If the accused had reached the end of the timeline at the time of arrest or warrant issuing, one remand of up to 4 weeks will be permitted before a plea is required.

##### ***New Substantive Charges***

An accused who is arrested on a new substantive charge will be assigned a new timeline for that charge. The timeline on any existing charges will not be affected by the new timeline, unless the Crown agrees to amend the old timeline to be the same as that of the new charges.

#### **CASE MANAGEMENT CONFERENCE (CMC)**

When a matter being set for trial or preliminary inquiry is expected to take more than 1 day, in the case of sexual offences where a s. 276 or s. 278 *Criminal Code* motion is anticipated, or in the case of a self-represented accused, a CMC is mandatory. For any other matters, a CMC may be arranged either before a preliminary inquiry or trial date has been set, at the request of either Crown or defence counsel or upon the direction of the Court.

The CMC must be held at least 2 weeks before the expiration of the timeline. On the direction of the case management Judge, the PTC may remand a matter past the expiration of the timeline.

#### **WITHDRAWAL OR CHANGE OF COUNSEL**

Counsel may withdraw from the record on a PTC docket in the following circumstances:

- If the accused and new counsel advise the PTC:
  - that new counsel has been retained, and goes on the record, and
  - that new counsel is available for any scheduled trial or preliminary inquiry.

- If the PTC issues a warrant for arrest for the accused and counsel asks to be removed as counsel of record;
- If the accused advises they intend to represent themselves and does not intend to make further efforts to retain counsel.

If an application to the PTC for counsel to withdraw is contested, counsel must file a notice of application in accordance with Practice Directive 7 or seek leave of the Court to dispense with said filing.

**APPENDIX A – Crown Stay of Proceedings Form**

<b>TO BE COMPLETED BY CROWN</b>	<b>CROWN REQUEST - STAY OF PROCEEDINGS</b>	
	<b>DATE:</b>	
	<b>NAME OF ACCUSED:</b>	
	<b>DATE OF BIRTH:</b>	
	<b>POLICE REPORT #:</b>	
<b>CHARGES:</b>		
<b>COURT POCKET #:</b>		
<b>STATUS OF CASE:</b>		
<b>CURRENT REMAND DATE:</b> <b>Courtroom:</b>		
<input type="checkbox"/> 408 YORK AVENUE    OR  <input type="checkbox"/>		
<b>I HEREBY DIRECT THAT A STAY OF PROCEEDINGS BE ENTERED FORTHWITH, ON THE RECORD OF PROCEEDINGS OF THE ABOVE NOTED CHARGES.</b>		
<b>CROWN:</b>		
<b>SIGNATURE:</b> _____		
<input type="checkbox"/> A motion was filed in these proceedings		
Defence Counsel:		
E-mail address: _____ or Telephone # _____		
<b>CROWN CONTACT:</b>	<b>PHONE NUMBER:</b>	

## **APPENDIX B – Designated Offences**

### **Designated Offences**

Homicides and fatalities  
Child Pornography  
Attempt Murder  
Aggravated sexual assault & sexual aslt with weapon  
Aggravated assault  
Robbery with firearm  
Robbery  
Sexual Assault cause bodily harm  
Break and Enter – 3 or more  
Break and Enter involving a Home Invasion  
Impaired cause bodily harm  
Criminal Negligence cause bodily harm  
Drive Dangerous cause bodily harm  
Extortion  
Hostage Taking  
Incest  
Perjury  
All firearms and explosives offences  
Overcoming resistance - s. 246  
Administering Noxious Thing with intent  
Mischief endangering life  
Arson  
CDSA Project files as identified by the Federal Crown

**APPENDIX C – Designation of Counsel Form**

Court File  
No. \_\_\_\_\_

**PROVINCIAL  
COURT**

BETWEEN:

HIS MAJESTY THE KING

(applicant or  
respondent)

-and-

(applicant or  
respondent)

**DESIGNATION OF COUNSEL FORM**

I, \_\_\_\_\_ (name of accused) of \_\_\_\_\_ (address of  
accused)

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 attend Court in person for my trial if I decide to enter a plea of not guilty or on the day of any guilty plea for any of my charges, and on any day when I will be sentenced (unless the Judge gives permission for me to be absent); if I have personal appearances as a condition of my release order, on all court dates; and even if I do not have personal appearances as a condition of my release order, on any day the Judge orders me to attend Court.

I also understand that I MUST keep in touch with my lawyer until these charges are dealt with in Court, and appear before the Court on any date requested by the Court, and I agree that notice of such date to my lawyer

is notice to me of that date. 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 attest I reviewed the contents of the Designation of Counsel with \_\_\_\_\_  
(accused's name) and he/she has affirmed it to be true and correct in lieu of his/her signature.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(law firm, address, postal code)

Per : \_\_\_\_\_  
Lawyer's Name (Designated Counsel for the Accused)

## APPENDIX D – Undertaking by Counsel

### UNDERTAKING BY COUNSEL / ENGAGEMENT DE L'AVOCAT(E) (Trial / Preliminary Inquiry Date) / (Date du procès/de l'enquête préliminaire)

I / Je \_\_\_\_\_ state: / déclare  
soussigné(e) \_\_\_\_\_ :  
(Name of Counsel / Nom de l'avocat(e))

That I am counsel of record for / Que je suis avocat(e) au  
dossier de \_\_\_\_\_  
(Name of Client / Nom du (de la) client(e))

That I have: / Que j'ai, selon le cas :

- Received an email (copy attached) and I am satisfied it was sent by my client; /  
reçu un courriel (copie jointe) et que je suis convaincu(e) qu'il a été envoyé par mon (ma) client(e);
- Received a text message (copy attached) and I am satisfied it was sent by my client; or /  
reçu un message texte (copie jointe) et que je suis convaincu(e) qu'il a été envoyé par mon (ma) client(e);
- Spoken to a person I am satisfied is my client on /  
parlé à une personne qui, j'en suis convaincu(e), est mon (ma) client(e) le

\_\_\_\_\_ at / \_\_\_\_\_  
(Date/Date) at (Time / Heure)

And that my client has confirmed that he/she is aware that the trial/preliminary inquiry is scheduled for / Et que  
mon (ma) client(e) a confirmé qu'il (elle) est au courant que le procès/l'enquête préliminaire est prévu(e) le

\_\_\_\_\_ at / \_\_\_\_\_  
(Date/Date) at (Time / Heure)

IN PROVINCIAL COURT / À LA COUR PROVINCIALE

Court Room / dans la Salle  
d'audience \_\_\_\_\_

- 408 York Avenue, Winnipeg, Manitoba / 408, avenue York, Winnipeg (Manitoba) 945-3454

And that he/she is required to attend Court for the hearing of the following charges and advise me of any change  
to his/her contact information. / et qu'il (elle) est requis(e) de se présenter à la Cour pour l'audition des accusations  
indiquées ci-dessous et de m'aviser de tout changement à ses coordonnées.

Information Number(s) /  
Numéro(s) de dénonciation

Charge(s) /  
Accusation(s)

- 1.
- 2.
- 3.
- 4.

\_\_\_\_\_ Date / Date

\_\_\_\_\_ Signature of Counsel of Record / Signature de l'avocat(e) au  
dossier

## APPENDIX E – Order of Precedence

[The Legal Profession Act, C.C.S.M. c. L107](#)

### Order of precedence

84(1) Lawyers who are members are entitled to precedence before the courts and before other tribunals in the following order:

- (a) the Attorney General of Canada;
- (b) the Solicitor General of Canada;
- (c) the Attorney General of Manitoba;
- (d) lawyers who have held the office of the Attorney General of Canada or of Manitoba, according to seniority of appointment to the office;
- (e) lawyers who have held the office of Solicitor General of Canada, according to seniority of appointment to the office;
- (f) lawyers appointed by the Governor General or by the Lieutenant Governor in Council of any province as Her Majesty's counsel learned in the law, according to seniority of appointment to the office;
- (g) other lawyers, according to seniority of their registration in the rolls.