

ADULT PRE-TRIAL  
COORDINATION  
PROTOCOL

WINNIPEG CENTRE

The Provincial Court of Manitoba

April 25, 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

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## **PREAMBLE**

Section 482.1(1)(b) of the *Criminal Code* gives the Court the power to delegate certain administrative tasks to court personnel. The pre-trial administrative processing of all criminal cases will be conducted by Pre-Trial Coordinators (PTCs). This process allows the Crown and Defence to identify, discuss and resolve administrative issues without an appearance before a Judge.

Effective pre-trial coordination ensures 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.

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. 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 Winnipeg Centre.

Pre-Trial Coordinators, who are Staff Justices of the Peace, manage all administrative matters relating to these cases within certain timelines. This Protocol is the document from which the PTCs obtain their authority and direction.

## **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 (except for conditions relating to offences set out in s. 515(4.1) and (4.2) of the *Criminal Code*) have been addressed;
- 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.

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);
- 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

Where:

- the accused has been denied bail, or
- does not intend to apply for bail,

the matter will next appear on one of the following dockets.

DOCKET NAME	APPEARANCE DATES
<b>PTC IN CUSTODY TRIAGE (PROVINCIAL)</b>	Monday, Friday 9:15 a.m., Rm 316
<b>PTC IN CUSTODY TRIAGE (FEDERAL)</b>	2 <sup>nd</sup> and 4 <sup>th</sup> Thursday 9:15 a.m., Rm 316
<b>PTC IN CUSTODY DATE SETTING COURT (PROVINCIAL)</b>	Friday 9:30 a.m., Rm 401

## **PTC In Custody Triage Court**

The PTC 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.

## **PTC In Custody Date Setting Court**

Where the timeline for provincial adult matters has expired in PTC in custody triage court and no date for preliminary hearing, trial or disposition has been set, matters will be remanded to the PTC in custody date setting court. The video appearance of the accused will be ordered unless a Designation of Counsel (Appendix C) or Undertaking by Counsel (Appendix D) has been filed with the court, in which case counsel may appear and the accused's appearance may be waived. A disposition, trial or preliminary inquiry must be set in date setting court.

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

When a self-represented in custody accused wishes to set a trial or preliminary inquiry date, the PTC will direct that a case management conference (CMC) be set, in conjunction with the trial coordinator's office (TCO). The matter will be adjourned to the date confirmed by TCO. After the CMC, the matter will be remanded back to the in custody triage docket or as otherwise directed by the CMC Judge. If the matter is at timeline, the matter will be remanded to the in custody date setting court or as otherwise directed by the CMC Judge. If a self-represented in custody accused wishes to enter a guilty plea, the PTC will direct a date be set in conjunction with TCO. In all cases (CMC, disposition or hearing), there will be a presumption the accused will be transported unless the accused or the Judge indicates otherwise.

## **OUT OF CUSTODY MATTERS**

### **Provincial Counter Court (PCC)**

All out of custody federal matters will appear on the PTC PCC-F docket on the 2nd and 4th Thursdays of each month at 9:15 a.m. in courtroom 316.

Out of custody provincial adult matters will appear on one of the following docket types between 8:30 a.m. and 2:00 p.m.

<b>DOCKET NAME</b>	<b>APPEARANCE DATES</b>
<b>PTC PCC</b>	Monday, Tuesday, Wednesday, and 1 <sup>st</sup> and 3 <sup>rd</sup> Friday
<b>PTC DATE SETTING COURT</b>	Thursdays
<b>PTC DIVERSON</b>	1 <sup>st</sup> and 3 <sup>rd</sup> Fridays of the month

During the hours of 8:30 a.m. and 2:00 p.m. the PCC is not a court of record. 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. Matters not spoken to by 2:00 p.m. will be addressed on the record beginning at 2:30 p.m.

The PTC will monitor all matters on the PTC PCC and PTC PCC-F dockets for 8 weeks from the first appearance on the dockets. 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 PTC PCC and PTC PCC-F dockets will be remanded to the end of the timeline, at which time it is expected that a date for disposition, preliminary inquiry or trial will be set.

If an accused is not represented by counsel at the first appearance, it is expected that 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 for the Crown Attorney assigned to their file or the duty Crown. The accused will be granted a 2 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 2 weeks at a time to monitor the setting of a date for disposition, preliminary inquiry or trial. If a date is not set when the timeline expires, the matter will be remanded to date setting court.

If the accused wishes to retain counsel or apply for Legal Aid, the PTC will remand the matter 2 weeks. If, at the next remand:

- the accused has not yet retained counsel, a further 2 week remand will be allowed. If counsel has not yet been retained by this next remand, the accused will be considered self-represented and remanded as indicated in the above paragraph;
- the accused applying for Legal Aid:
  - has not yet applied;
  - their application process is not complete;
  - Legal Aid refused their application; or
  - the accused made an appointment with Legal Aid for services from the University of Manitoba Community Law Centre,their matter will be remanded to the next Legal Aid Administrative court.

## **Diversion Docket**

If the Crown confirms a matter can be referred to a diversion program and the accused agrees, the PTC will adjourn the matter to the PTC PCC diversion docket which is held on the 1<sup>st</sup> and 3<sup>rd</sup> Friday of the month.

The following guidelines will apply from the date of referral:

- 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 diversion docket until diversion is complete.

Once the accused has provided the Crown with confirmation of successful completion of the program, the Crown may file a Stay of Proceedings Request Form with the PTC on or before the next remand date. If the PTC or Crown is not satisfied that the matter is progressing or diversion has been unsuccessful, the matter will be remanded back to the PTC PCC docket.

## **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 a date has not been previously arranged with the Crown, the matter will be stood down until the end of the docket or to 2:30 p.m. for a date to be arranged.

If one of 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 two weeks for the form to be filed or counsel and accused appear. Defence 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 Disposition 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 plea court for sentencing.

## **TIMELINE EXCEPTIONS**

The PTC only has 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. Problem Solving Court Application**

- The accused has applied for Drug Treatment Court or Mental Health Court and is awaiting acceptance.
- The accused is co-accused with an accused who is applying for or has been accepted into Drug Treatment Court and the Crown consents to adjourning the matter to another PTC docket.

### **3. 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 Disposition Coordinator must be set when the matter first appears before the PTC.

### **4. 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 Trial Coordinator.



## **5. 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.

## **6. 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 3 or more days, 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.

## **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 PCC court, the non-appearance will be noted and the matter may be remanded for 2 weeks on the PCC docket.

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 and the Crown requests a warrant, the PTC may issue the warrant at the Crown's request, if defence counsel does not oppose it issuing. If the PTC is not prepared to issue the warrant, the matter will be transferred to appear before a Judge.

### **By Counsel**

If a Designation of Counsel form has been filed, and counsel does not appear, the PTC will adjourn the matter 2 weeks. At the next remand, if counsel does not appear, the PTC may issue a warrant for the arrest of the accused.

## **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>  <div style="text-align: center;"> <input type="checkbox"/> 408 YORK AVENUE    OR   <input type="checkbox"/> </div>	
	<p><b>I HEREBY DIRECT THAT A STAY OF PROCEEDINGS BE ENTERED FORTHWITH, ON THE RECORD OF PROCEEDINGS OF THE ABOVE NOTED CHARGES.</b></p> <p><b>CROWN:</b></p> <p><b>SIGNATURE:</b> _____</p> <p><input type="checkbox"/> A motion was filed in these proceedings</p> <p>Defence Counsel:</p> <p>E-mail address: _____ or Telephone # _____</p>	
<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 / \_\_\_\_\_  
\_\_\_\_\_ at \_\_\_\_\_  
(Date/Date) (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 / \_\_\_\_\_  
\_\_\_\_\_ at \_\_\_\_\_  
(Date/Date) (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.