

CUSTODY COORDINATOR PROTOCOL

PREAMBLE

A review of the matters on the dockets in the Provincial Court in Thompson shows that many matters appear and are remanded many times before any meaningful event occurs that results in or leads to the disposition of the matter.

In order to ensure that matters are effectively resolved within reasonable time frames, the Thompson Provincial Court is implementing a system of pre-trial coordination for matters where the accused is in custody.

Section 482.1(1)(b) of the Criminal Code gives the Court the power to delegate certain administrative duties to Court personnel. Pre-trial coordination will mean that after a first appearance/bail hearing, the matter will not be on a judge's docket until the Crown and the Defence have identified, discussed and resolved administrative issues and are ready to proceed with:

- Contested Motions;
- Contested bail variations;
- Guilty pleas;
- Hearings/trials;
- Sentencings.

CUSTODY COORDINATOR

Non-discretionary case management has been delegated to the Custody Coordinator (CC) by the judges of the Thompson Provincial Court. The CC will ensure that:

- 1) The defence has received from the Crown sufficient disclosure to enter a plea. This does not include external reports, such as laboratory reports, medical reports, fire commissioner reports, etc.
- 2) Any bail variation issues have been addressed;
- 3) The Crown has reviewed the evidence and considered its position;
- 4) Meaningful discussions between counsel have occurred;
- 5) Counselling or diversion issues have been addressed;
- 6) A trial slip has been signed by counsel on behalf of the accused.

The CC has the authority to:

- 1) Adjourn matters as required provided the matter has not exceeded its timeline;
- 2) Endorse a stay of proceedings upon being provided with a Crown Stay of Proceedings form (see attached Appendix "A");
- 3) Issue, cancel or hold warrants;
- 4) Allow counsel to withdraw if counsel seeking to become counsel of record is present or if the CC issues a warrant for arrest for the accused and counsel asks to be removed as counsel of record;
- 5) Allow counsel to withdraw if the Accused advises he intends to represent himself and does not intend to make further efforts to retain counsel;
- 6) Allow Legal Aid Counsel to be removed as counsel of record, unless the matter is scheduled for trial or preliminary hearing within 12 weeks from the date of the request. If the request to withdraw is later than 12 weeks, the request must be referred to a judge for decision.
- 7) Order forfeiture of items seized pursuant to charges laid under the CDSA with the consent of both Crown and defence.
- 8) Adjourn a matter to the Queen's Bench Assignment Court if the accused appears on an indictable offence, other than on offence listed in section 469 of the *Criminal Code*, where the offence is not one over which a provincial court judge has absolute jurisdiction under section 553 and neither the accused nor the Crown has requested a preliminary inquiry.
- 9) Bring matters forward to a judge's court within the stated timeline on the request of defence counsel.

CUSTODY COORDINATOR'S DOCKET

Between the first appearance of the accused, or after bail is denied, and the matter is ready to proceed before a Judge, the matter will appear on the Custody Coordinator's docket. The CC, who is bound by certain administrative timelines, will oversee the docket, which will be available for reference by counsel at the front desk of the Thompson Provincial Court.

If an accused is being remanded in custody by a Judicial Justice of the Peace, Staff Justice of the Peace or Community Justice of the Peace, the matter will be added to the Judges' docket and if remanded further, will go to the Custody Coordinators' docket.

ADMINISTRATIVE TIMELINES

Failure to comply with the timelines as directed by the CC will result in the matter being referred to the next Judge's Court, at which time the judge will require that: the accused enter a plea; or if the Crown has failed to provide the defence counsel with the appropriate disclosure, will impose a timeframe within which that must happen. The next appearance will be peremptory for plea.

If the charges are domestic violence charges, the assigned crown is expected to review particulars, obtain input from Victim Services, if appropriate, and be ready to engage in plea discussions with Defence Counsel.

During the period of time that a matter is on the CC docket, the accused will not be transported to court. Thereafter the accused will be transported, only as ordered by a Judge.

Custody Coordinator Dockets

The CC will monitor all matters weekly where the accused is represented by counsel. Once a matter is remanded to the CC docket, the name of the assigned Crown will be provided at the first appearance on the docket.

First appearance on the CC docket will be 4 weeks after remand from court, following a first appearance or bail application. If both Crown and Defence agree that more time is required to complete administrative matters or provide disclosure, they may request a timeline extension from the CC. The CC may only grant one timeline extension not exceeding 4 weeks.

The matter will be referred to a Judge's Court no later than 8 weeks after its first appearance. At any time after the first appearance, counsel may contact the CC and have the matter brought forward for appearance before a Judge.

Once a matter has reached the end of its timeline, a plea must be entered and the matter must be scheduled for preliminary hearing, trial or disposition.

CONSENT REMANDS

When both the Crown and Defence agree to a remand, either party may inform the CC of the request by email, with a copy to the other counsel, and no appearance by counsel is required in those circumstances.

REMAND WARRANTS

The CC is required to update all remand warrants that have exceeded the timeline of the original 4 week period if the accused is in custody.

PRELIMINARY HEARING & TRIAL DATES

When a matter is being set for Preliminary Hearing or Trial, the following documents must be filed with the Court when the date is set:

- 1) Certificate of Trial Readiness;
- 2) Trial Slip to be filed with the CC

NON-APPEARANCE BY COUNSEL

If counsel does not appear on a remand date for a matter that is on the CC custody docket and there has been no prior request for a remand made to the CC or the Crown, the CC will adjourn the matter to appear before a judge. The CC then will notify crown and defence that the matter will be appearing before a judge.

APPEARANCE BEFORE A JUDGE

Counsel will advise the CC when a matter is ready for plea. The video link will be used unless it is likely that the accused will be sentenced to additional custody time that will be served in a penitentiary, for preliminary inquiry, or for trial.

Where an appearance is from a southern institution, to the extent possible it will be scheduled for Tuesday or Thursday. Otherwise the appearance will be scheduled for 1:30 Monday. Video appearances will be staged as follows:

1. Accused in MRCC, WCC or WRC
2. Accused in AYC
3. Accused women in TPCC
4. Accused men in TPCC

Video appearances for accused in HCC and BCC may be facilitated by using the WRC video conference rooms.

The appearance lists will be managed by the clerk closest to defence counsel table. Before 9:45 am each day video court is scheduled, counsel can approach the clerk to advise the order in which s/he would like their clients to appear that day. Doing so before 9:45 will allow the sheriffs time to move in-custody in-person accused to court.

The clerk will attempt to meet these requests in all cases, but will also be alternating video and in-custody in-person appearances as needed to allow court to operate as smoothly as possible.

CROWN – STAY OF PROCEEDINGS

TO BE
COMPLETED
BY CROWN

DATE: _____

NAME OF ACCUSED: _____

DATE OF BIRTH: _____

POLICE REPORT #: _____

CHARGES: _____

COURT POCKET #: _____

STATUS OF CASE:

ACCUSED IN CUSTODY: ☐ YES ☐ NO

CURRENT REMAND DATE: _____ Courtroom _____

☐ Thompson Provincial Court, Thompson Provincial Building **OR**

☐ _____

I HEREBY DIRECT THAT A STAY OF PROCEEDINGS BE ENTERED FORTHWITH, ON THE RECORD OF PROCEEDINGS OF THE ABOVE NOTED CHARGES.

CROWN: _____

SIGNATURE: _____

CROWN SUPPORT CONTACT _____

PHONE NUMBER _____

The Legal Profession Act

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(Assented to August 9, 2002)

PART 7 GENERAL

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, but only if appointed before the coming into force of this Act;
- (g) other lawyers, according to seniority of their registration in the rolls.