

PRE-TRIAL COORDINATION
CIRCUIT
PROTOCOL

SWAN RIVER CENTRE

The Provincial Court of Manitoba

December 3, 2024

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 for the most updated version of the Protocol

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PRE-TRIAL COORDINATION PROTOCOL

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 and youth criminal prosecutions (in and out of custody) appearing in the Provincial Court Swan River 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) 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;
- 4) Counselling or diversion issues have been addressed.

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 upon hearing submissions from counsel;
- 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.

PTC DOCKET

The Swan River PTC Docket is an administrative docket and is not a court of record, except when it sits to deal with matters that have not been addressed on the administrative docket, issue warrants or address submissions from counsel where matters are not being dealt with by consent.

The Swan River PTC Docket is held the 1st and 3rd Wednesday of the month at 9 a.m. One week in advance of the PTC Docket, the PTC will provide a list of adult and youth accused appearing on the next PTC docket to the Crown, Legal Aid and Defence Counsel. Consent written instructions are to be provided by no later than 2 p.m., 3 working days before the PTC docket (the "cut off time"). All matters that have not been addressed in writing by the cut off time will appear on the record at the PTC Docket. Counsel who have not addressed

their matters by the cut off time, as well as all self-represented accused, are to appear in person at the designated time and courtroom, unless permission has been granted to appear remotely. Any unresolved issues between counsel will be remanded to the next PTC docket for discussions or for counsel to file an application before a Judge.

The PTC will monitor all matters on the PTC 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 PTC docket 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.

The Judge's Docket sits the first and second Wednesday and the second Tuesday of the month. All first appearances will appear on the Judge's Docket on the 1st Wednesday of the month.

If the accused is not represented but wishes to obtain counsel, the Judge will remand the matter to the next PTC Docket, until counsel is on record, then to timeline on the PTC Docket. If the accused does not wish to obtain counsel, the self-represented accused will be remanded to the PTC Docket from month to month to monitor the setting of a date for plea, disposition, preliminary inquiry or trial. If a date is not set when the timeline expires, the matter will be remanded to the next Judge's Docket.

Diversion

If the Crown confirms a matter can be referred to a Restorative Justice diversion program and the accused agrees, the PTC will adjourn the matter for 6 months. Informal diversion programs will be adjourned as requested by Crown and defence.

Once the Crown has been provided 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, or speak to it on the record. If diversion has been unsuccessful, the matter will be remanded one further month or to the initial timeline if the matter is not yet at timeline.

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, the matter will be stood down until the end of the docket 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 to the next PTC Docket for the appearance of counsel to set the date.

Setting Down for Disposition

Counsel will advise the PTC when a matter is ready for sentencing and a date has been agreed upon. 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.

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 1 month;
- 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 the PTC docket, a sentencing date must be set when the matter next 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 Circuit Coordinator.

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 1 month 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 1 month 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)

A Case Management Conference (CMC) must be arranged with the Trial Coordinator prior to setting a hearing date in the following circumstances:

- 1) Where counsel are seeking a special sitting;
- 2) For sexually related offences where a s. 276 or 278 *Criminal Code* application is anticipated;
- 3) For offences where *Charter* applications are anticipated;

- 4) At the discretion of the Judge, on their own accord or on application by either the accused or the Crown; or
- 5) The accused is self-represented.

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 PTC court, the non-appearance will be noted and the matter may be remanded for 2 weeks to the Judge's Docket. If the accused appears on the date following the non-appearance, the matter will be remanded to the next PTC docket. The timeline requirements will not be suspended during this period.

By Counsel

If counsel has not communicated with the Crown and has not appeared to address their matter as required by the PTC Protocol, the PTC will adjourn the matter 2 weeks to the next PTC docket for counsel to appear. At the next remand, if counsel does not appear, the PTC may issue a warrant for the arrest of the accused or adjourn the matter to a Judge's docket for counsel to appear.

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 the 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

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

APPENDIX B – Designated Offences

Designated Offences

Homicides and fatalities
Child Pornography
Attempt Murder
Aggravated sexual assault & sexual assault 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.

APPENDIX F – Trial Coordination Form

ACCUSED:

CHARGES:

IN CUSTODY: Yes No

DEFENCE COUNSEL: _____ CROWN COUNSEL: _____

ELECTIONS

OUTSTANDING DISCLOSURE:

Date to be provided by: _____

ISSUES IN DISPUTE: _____

CROWN WITNESSES (including Names):

Civilian adult:

Children:

Police:

Expert:

OF DEFENCE WITNESSES: _____

INTERPRETER REQUIRED

LANGUAGE _____

AGREEMENTS:

Date: Jurisdiction: Identification (as known):

Court order:

Photographs:

Ownership of property: Loss: Damage:

Medical records:

Reports:

Qualifications of expert:

Other: _____

MOTIONS NOT REQUIRING CMC:

715.1 (video statement)

486.1 (support person)

486.2 (remote testimony)

(behind screen)

ESTIMATE OF TIME REQUIRED:

Crown:

Defence:

Total: _____

Special Equipment or Courtroom: Details: _____

CROWN: _____ COUNSEL FOR ACCUSED: _____

COPY OF FORM PROVIDED TO OPPOSING COUNSEL