

REGIONAL ADULT PRE-TRIAL COORDINATION PROTOCOL

- Brandon, Dauphin, Portage
La Prairie, The Pas -

The Provincial Court of Manitoba

(Portage La Prairie, October 13, 2023; The Pas,
November 10, 2023; Dauphin, December 12, 2024;
Brandon, April 16, 2024)

Amended April 1, 2025

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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REGIONAL ADULT 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 criminal prosecutions appearing in the Provincial Court in Brandon, Dauphin, Portage La Prairie and The Pas.

PTCs, 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; and
- 5) Same-day dispositions are facilitated when 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 upon the request being made on the record;
- 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;
- 7) Amend Informations by consent; and
- 8) Record elections.

IN AND OUT OF CUSTODY MATTERS

All in and out of custody adult criminal matters will first appear on a Judge's docket.

In Custody Matters

If, on the first appearance, the in custody 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*),
- Has not otherwise dealt with their matter,

the matter will be remanded to the PTC docket the following week.

Out of Custody Matters

Out of custody matters that are not dealt with on the first appearance be remanded to the PTC docket the following week.

PTC DOCKET

The 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 by consent and by the cut off time, issue warrants or address submissions from Counsel where matters are not being dealt with by consent.

One week in advance, the PTC will provide a list of adult 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., 2 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 a designated time in a courtroom. Crown and Defence Counsel who have not addressed their matters by the cut off time are to appear at the designated time and courtroom. Any unresolved issues between Counsel will be remanded to the next PTC docket for discussions or for Counsel to bring an application before a Judge, or will be stood down to the Judge’s 10 a.m. docket.

Self-represented accused, including those who are pending Legal Aid approval, must appear in person, or by teleconference or video if they are in custody.

The PTC dockets will be held as follows:

Judicial Centre	PTC docket	Cut Off Date
Brandon	1 st and 3 rd Tuesday 9 am CR102	Friday 2 pm, 2 working days prior to on the record court
Dauphin	2 nd and 4 th Tuesday 9:30 am CR102	Friday 2 pm, 2 working days prior to on the record court

Portage La Prairie	1 st and 3 rd Friday 9 am Provincial Court	Wednesday 2 pm, 2 working days prior to on the record court
The Pas	2 nd and 4 th Friday 9 am CR C	Wednesday 2 pm, 2 working days prior to on the record court

TIMELINES

The PTC will monitor all matters as follows:

- For in custody, non designated matters, 6 weeks from the date of first appearance;
- For out of custody, non designated matters, 8 weeks from the date of first appearance;
- For designated matters (Appendix B), 16 weeks.

Once Defence Counsel is on record, all matters will be remanded to timeline. It is expected that a date for disposition, preliminary inquiry, trial or other hearing will be set within these timelines on the PTC Docket. Accused must appear in person, by video or telephone when setting a hearing date unless a Designation of Counsel Form (Appendix C) has been filed with the Court. When a date is set for trial or preliminary inquiry, the Crown must have previously indicated to Defence Counsel if they are proceeding by summary conviction or indictment so that Defence Counsel can indicate their client's election when they set the date.

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 one 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. Diversion Program

If the Crown confirms a matter will be referred to a Restorative Justice diversion program and the accused agrees, PTC will adjourn the matter one month to confirm contact with diversion, then a further five months, or as otherwise directed at the discretion of the PTC, to confirm completion. Informal diversion referrals will be adjourned as requested by Crown and defence. Once the Crown is provided with confirmation of successful completion of the program, the Crown may file a Stay of Proceedings Request Form with the PTC, 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 to set a date for disposition, trial or preliminary inquiry.

3. Problem Solving Court Application

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

4. 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 Trial Coordinator must be set when the matter next appears before the PTC.

5. Judge is Seized

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

6. Timeline Amendment for Change of Counsel

Where there has been a new assignment of Defence Counsel, the PTC may grant one timeline extension of up to one month from the date new Counsel goes on the record.

7. 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 one 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.

SELF-REPRESENTED ACCUSED

If, at the first appearance, the accused wishes to retain Counsel or apply for Legal Aid, the Judge will remand the matter to the next PTC docket. If, at the next remand, Counsel has not yet been retained or appointed, a maximum of two further remands will be allowed until it is confirmed Counsel will not be representing the accused. The accused will then be considered self-represented and remanded as indicated in the below paragraph.

If the accused does not wish to obtain Counsel, they will be provided with the name and phone number of the assigned Crown attorney and/or the general number for Prosecutions. The accused will be granted a remand to the next PTC docket to contact the assigned Crown Attorney, obtain disclosure and the Crown's position, and begin plea discussions. After the initial remand, the self-represented accused will be remanded to appear at each PTC docket to monitor the setting of a date for disposition, preliminary inquiry or trial until the matter reaches timeline, when a date must be set on the PTC docket.

If a self-represented accused wishes to enter a guilty plea, the matter will be remanded to a Judge's docket on a date that the PTC directs in consultation with the accused and the Crown.

If a self-represented accused wishes to set a trial or preliminary inquiry date, the PTC will direct that a Case Management Conference (CMC) be set and will adjourn the matter to the CMC date.

After the CMC, the matter will be remanded back to the PTC docket until a hearing date is set as directed by the CMC Judge.

SETTING 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 confirmed with TCO, and a Designation of Counsel Form is filed with the Court, no appearance by the accused or Counsel is required. The date will be set by the PTC.

If the Designation of Counsel Form is not received by the PTC by the end of the PTC docket and Counsel does not appear, the PTC will remand the matter two weeks for the form to be filed or Counsel and/or the accused to appear. If the accused appears and signs a Trial Acknowledgement Form, the matter will be set. If the Designation of Counsel Form is still not filed and Defence Counsel or the accused do not appear at the next remand, a warrant may issue for the accused.

CASE MANAGEMENT

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 hearing date of more than one day;
- 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.

When a matter is ready to proceed to preliminary hearing or trial and a CMC is not required, Counsel must provide a Trial Coordination Form (Appendix F) to the Trial Coordinator before a date is provided to Counsel.

SETTING FOR DISPOSITION

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

In Brandon, matters of thirty minutes or less can be remanded directly to a Judge's docket from the PTC docket.

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

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;
- When they are required to appear personally until Counsel is on the record; or
- To set a disposition, preliminary inquiry or trial date, when their Counsel has not filed a Designation of Counsel Form.

If an accused is required to appear and does not appear at the PTC docket, the non-appearance will be noted and the matter may be remanded to the next PTC 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 or if Defence Counsel is opposed to the warrant issuing, the matter will be remanded to appear before a Judge.

By Counsel

If a Designation of Counsel form has not been filed, and/or Counsel have not provided consent instructions or arranged a date, and Counsel does not appear, the PTC will either stand the matter down for Counsel to appear or adjourn the matter to the next PTC docket. At the next remand, if Counsel does not appear the PTC may issue a warrant for the arrest of the accused, unless the accused is in attendance, or stand the matter down for Counsel to appear before a Judge.

WITHDRAWAL OR CHANGE OF COUNSEL

Counsel may withdraw from the record on the 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 no longer want Counsel to represent them.

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

CROWN REQUEST FORM					
TO BE COMPLETED BY CROWN	<p>DATE:</p> <p>NAME OF ACCUSED:</p> <p>DATE OF BIRTH:</p> <p>POLICE REPORT # :</p> <p>CHARGES:</p> <p>COURT POCKET #:</p>				
	<p>CURRENT REMAND DATE:</p> <p>COURTROOM:</p> <p>STATUS:</p> <div style="text-align: center; margin-top: 20px;"> <input type="checkbox"/> </div> <div style="text-align: center; margin-top: 20px;"> <input type="checkbox"/> PROCEEDING BY DIRECT INDICTMENT </div> <div style="text-align: center; margin-top: 10px;"> <input type="checkbox"/> WARRANT (recall and cancel); (FTA included if applicable) </div>				
	<p>I HEREBY DIRECT THAT A STAY OF PROCEEDINGS/WITHDRAWAL OF ALLEGATION BE ENTERED FORTHWITH, ON THE RECORD OF PROCEEDINGS OF THE ABOVE NOTED CHARGES.</p> <p>CROWN:</p> <p>SIGNATURE: _____</p> <p><input type="checkbox"/> A motion was filed in these proceedings.</p> <p>Defence Counsel:</p> <p><i>Please note that proceedings and all applicable orders remain in place until this request is processed by the Court.</i></p> <p>Defence E-mail Address:</p> <p>or Telephone #</p>				
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">CROWN CONTACT:</td> <td style="width: 50%; padding: 5px;">PHONE NUMBER:</td> </tr> <tr> <td style="height: 40px;"></td> <td></td> </tr> </table>	CROWN CONTACT:	PHONE NUMBER:		
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

**PROVINCIAL COURT OF MANITOBA
CENTRE**

DESIGNATION OF COUNSEL

Name of accused: _____

Address of accused: _____

My lawyer is: _____

Address and telephone number: _____

Personal appearance required as condition of release: ☐ yes ☐ no

I have asked my lawyer to represent me and appear for me on the following charges:

	Information #	Charge(s)	Date of Offence(s)
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____

I understand if I have a personal appearance requirement as a condition of my release that I must attend court in person on each of my court dates.

I understand my lawyer cannot appear for me in my absence on charges not listed above.

I understand it is my choice whether to have my trial in Provincial Court or in the Court of King's Bench.

I understand my lawyer will indicate on my behalf whether I want to have my trial in Provincial Court or in the Court of King's Bench.

I understand I must attend court in person for my trial if I decide to plead not guilty.

I understand I must attend court in person for my sentencing if I decide to plead guilty.

I understand I must attend court in person on any other date the Judge orders me to attend.

I agree that if the Judge tells my lawyer I am required to appear in court, it is the same as the Judge telling me I am required to appear in court.

I understand I must keep in contact with my lawyer until my charges are dealt with so that I know when I am required to appear in court.

I understand I must tell my lawyer immediately if I change my address, my email address or telephone number.

I have been given a copy of this Designation of Counsel form.

Dated this _____ day of _____ 20____ at _____ .

Signature of Accused

Signature of Lawyer
(Designated Counsel)

I attest that I have reviewed the contents of the Designation of Counsel form with _____
He/she/they has affirmed it to be true and correct in lieu of his/her/their signature.

Signature of Lawyer
(Designated Counsel)

APPENDIX D – 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