

ADULT PRE-TRIAL COORDINATION PROTOCOL

THOMPSON CENTRE

The Provincial Court of Manitoba
(September 11, 2023)

Amended April 4, 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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ADULT PRE-TRIAL COORDINATION PROTOCOL – THOMPSON CENTRE

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) 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);
- 4) Counselling or diversion issues have been addressed; and
- 5) 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;
- 7) Amend Informations by consent; and
- 8) Record elections.

IN CUSTODY MATTERS

Custody Coordinator Docket (CCD)

In custody accused will first appear before a Judge on a 10:00 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 Friday.

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

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. Consent written instructions are to be provided 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. Crown and Defence Counsel who have not addressed their matters by the cut off time are to appear 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 bring an application, or will be stood down to the Judge's 10 a.m. docket.

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. 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. The video or telephone appearance of the accused will be ordered when a hearing date is set unless a Designation of Counsel Form (Appendix C) 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 1st, 3rd and 4th Tuesday of the month (the JJP Docket). As the JJP Docket is presided over by a JJP, their jurisdiction also includes peace bond applications and other matters prescribed by law, and as designated by the Chief Judge.

Defence Counsel who have filed a Designation of Counsel Form 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. 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. 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 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 Restorative Justice diversion program and the accused agrees, the 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 agreed by Crown and defence.

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 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.

Non-Appearence

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;

- 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 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 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 Defence Counsel is opposed to the warrant issuing, the matter will be transferred 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 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, unless the accused is in attendance.

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 a Designation of Counsel Form is filed with the Court, no appearance by the accused or Counsel is required.

If a Designation of Counsel Form is not received by the PTC by the end of the docket and Defence Counsel does not appear, the PTC will remand the matter a maximum of 3 weeks for the form to be filed or Defence Counsel and/or the accused to appear. Counsel will be notified by the Court of the remand date and appearance required. If the accused appears and signs a Trial Acknowledgement Form, the matter will be set. If a Designation of Counsel Form is still not filed and Counsel and/or the accused do not appear, a warrant may issue for the accused.

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 has been

filed, Defence 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 TCO confirms there is time 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)

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.

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 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> </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)