



**The Law Society  
of Manitoba**

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# CRIMINAL PROCEDURE

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## **Chapter 1**

An Overview of Criminal Procedure

October 2023

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# A. BASIC CRIMINAL PROCEDURE

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## 1. The *Constitution Act*, 1867 - Division of Power

The *Constitution Act*, 1867 divides legislative authority in criminal procedure.

Section 91(27) gives the federal parliament the power to make laws about “The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.”

Section 92(14) gives the provinces legislative power over “The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.”

The federal government passes laws under its criminal law power in section 91(27) and as an adjunct of its other constitutional authority. More particularly, the drug offences found in the *Controlled Drugs and Substances Act* and the *Food and Drugs Act* have been held to have been passed under the federal government’s jurisdiction over Peace, Order and Good Government (see *R. v. Hauser*, 1979 CanLII 13 (SCC), [1979] 1 SCR 984). The Supreme Court held that federal offences passed according to heads of power other than criminal law are in the exclusive jurisdiction of the federal government. In practice, this means that the Federal Justice Department has jurisdiction over drug offences and offences under other federal statutes (e.g., *Competition Act*, *Aeronautics Act*, *Income Tax Act* etc.).

This division of powers results in the provinces administering the criminal law. In practice, this means that the provincial Attorney-General’s Department is responsible for prosecuting offences under the *Criminal Code*.

The constitutional division of powers also means that each province creates its courts of criminal jurisdiction. There is, therefore, no uniformity in the names of the courts in the provinces and territories. The *Criminal Code*, which is a federal statute, addresses this problem by using language which is defined for each province in section 2.

The most important *Criminal Code* terms and the Manitoba equivalents are:

<b>Criminal Code Term</b>	<b>Manitoba Equivalent Term</b>
Court of Criminal Jurisdiction	Provincial Court and Court of King's Bench
Justice	Judicial Justice of the Peace or Provincial Judge
Provincial Court Judge	Provincial Judge
Superior Court of Criminal Jurisdiction	Court of King's Bench

In addition to these terms from section 2, the *Criminal Code* contains an entire part (Part XXVII) that is devoted to summary conviction procedure (discussed below).

The term “summary conviction court” is defined in section 785.

## 2. Jurisdiction Over the Offence

It is important to determine what type of offence you are dealing with because the mode and place of trial, the sentence and the appeal procedure are all affected by the category of the offence.

Each section of the *Criminal Code* which creates an offence places the offence into one of three categories:

1. indictable offences;
2. summary conviction offences;
3. hybrid offences.

To determine the category of an offence, check the section of the *Criminal Code* that sets out the penalty for that offence. For example, section 343 defines the offence of robbery and section 344 sets out the penalty for robbery and states that robbery is an indictable offence.

Provincial offences can be created by provincial statutes and regulations as well as by municipal by-laws. *The Provincial Offences Act of Manitoba* governs how those offences are prosecuted. *The Provincial Offences Act of Manitoba* applies where another Act provides that a person is liable to a penalty on summary conviction, unless that Act says otherwise.

A criminal offence that may be prosecuted as either a summary conviction or an indictable offence depending upon the election of the Crown Attorney is called a hybrid offence. Most *Criminal Code* offences are hybrid offences.

That means the offence is considered an indictable offence unless the Crown elects to proceed by summary conviction. For example, *Criminal Code* section 130 defines the offence of personating a peace officer and sets out the punishment for the alternatives of a summary conviction or an indictable offence. Other common examples include theft under \$5,000.00, (s. 334(b)) and assault (s. 266).

This option to elect is given to the Crown so that the Crown can weigh the circumstances of the offence and the background of the offender when deciding how to proceed. For example, the Crown will likely elect to prosecute an accused's first offence of shoplifting by summary conviction. However, if an accused with a lengthy criminal record is charged with shoplifting, the Crown would likely elect to prosecute that offence by indictment.

The decision of the Crown as to how to proceed is purely administrative and is therefore not reviewable by the court. The power given to the Crown to make the election has been held to comply with the provisions of the Canadian Bill of Rights (see *Smythe v. The Queen*, 1971 CanLII 831 (SCC), [1971] SCR 680).

The following sections and the elections flowchart found in the Criminal Procedure Forms and precedents at the end of these materials describe the classification of offences and the elections available under each category in more detail.

### a) Indictable Offences

The concept of indictable offences was introduced into the *Criminal Code* in 1892. It replaced the common law term felony. Historically, at common law a felony was punishable by death.

Indictable offences are the more serious offences. There is no limitation date as to when they can be prosecuted. They carry maximum penalties of jail terms ranging from two years to life in prison.

The *Criminal Code* divides indictable offences into three sub-classes:

- (i) offences within the **exclusive** jurisdiction of the Superior Court of Criminal Jurisdiction (in Manitoba, the King's Bench Court);
- (ii) offences within the **absolute** jurisdiction of the Provincial Court Judge (in Manitoba, the Provincial Judge - *Criminal Code* s. 553);
- (iii) election offences, where the accused has a choice of mode of trial.

Generally, if an offence is found in section 553, it will be tried in the Provincial Court, as those offences are stated to be in the absolute jurisdiction of the Provincial Court. However, the word “absolute” does not mean “exclusive”. The provincial judge has the power to ‘waive’ jurisdiction (*Criminal Code* s. 555) and the King’s Bench can try a section 553 offence if it is included in the indictment before that court (see [Regina v. Scherbank et al.](#), 1966 CanLII 278 (ON CA)). In practice it is only in certain unusual circumstances that the King’s Bench will try a section 553 offence.

#### **i. Exclusive Jurisdiction of the Superior Court of Criminal Jurisdiction (King’s Bench Court of Manitoba)**

*Criminal Code* sections 468 and 469 work together to explain when the Manitoba Court of King’s Bench has exclusive jurisdiction over certain indictable offences.

Under section 468 every superior court of criminal jurisdiction (in Manitoba, the Court of King’s Bench) can try any indictable offence. Those courts have inherent jurisdiction.

Under section 469 every court of criminal jurisdiction (in Manitoba, the Provincial Court) can try an indictable offence except for those indictable offences specified in the section. Its jurisdiction is not inherent and is limited by *The Provincial Court Act*. The indictable offences listed as exceptions in section 469 can only be tried in the Manitoba Court of King’s Bench.

First and second degree murder are examples of offences that are in the exclusive jurisdiction of the Court of King’s Bench when sections 468 and 469 are applied and read together.

#### **ii. Absolute Jurisdiction of the Provincial Court**

Section 553 of the *Criminal Code* sets out the absolute jurisdiction of the provincial court to try certain offences without the consent of the accused.

These offences include many of the more common property offences: theft under \$5,000.00; false pretences under \$5,000.00; possess goods obtained by crime under \$5,000.00; mischief under \$5,000.00. Although the Court of King’s Bench could try these offences because it is a superior court of criminal jurisdiction, the Provincial Court is the court where these offences are usually tried.

### iii. Election Offences

If an offence is not found in section 469 (exclusive jurisdiction of the King's Bench Court in Manitoba) or section 553 (absolute jurisdiction of the provincial judge) then the offence is considered to be an electable offence.

This means that the accused has an option to choose which of three modes of trial they want. The accused is put to an election under section 536.

In Manitoba, the accused's options for modes of a trial are:

1. a trial by a provincial judge;
2. a trial in King's Bench by a judge alone; or
3. a trial in King's Bench by judge and jury.

The factors that may affect the accused's decision about the mode of a trial are the seriousness of the charges, the length of time to obtain a trial date, costs, possible consequences, and preference of the accused.

The Crown or accused can only request a preliminary inquiry for charges that have a maximum punishment of 14 years or more (see s. 536(4)). [Note: There is an exception to this in the case of a direct indictment. Direct indictments are not covered in this overview.]

The factors that may affect the accused's decision whether to elect a King's Bench judge and jury or a trial by King's Bench judge alone are similar to the factors affecting the decision about the mode of trial; the accused most commonly considers the seriousness or nature of the charges faced, the length of time it will take to get to trial, costs, possible consequences if convicted, and the accused's preference.

Counsel for the accused should also be aware that other lawyers have observed that there are certain types of charges to which juries are not sympathetic, such as drugs, weapons and sexual assaults. If the nature of the defence involves highly technical arguments that a jury may not understand, an accused might not want to select a jury trial. In some circumstances, the accused may want to have a trial in front of a jury of their peers. The demographic of a given area may affect that decision.

## **b) Summary Conviction Offences**

A case will be prosecuted by summary conviction either by operation of law (because the *Criminal Code* or another statute makes the offence a summary offence) or because the Crown chooses to elect summary proceedings where the offence is a hybrid offence.

All summary proceedings are governed by Part XXVII of the *Criminal Code*. All trials are held in Provincial Court and are presided over either by a provincial judge or a judicial justice of the peace.

Part XXVII provides two important distinctions between summary and indictable offences.

The first major distinction is that section 786 establishes a twelve-month limitation period for charging an accused with a summary conviction offence unless both prosecutor and defendant agree to waive that limitation.

The limitation period in a summary conviction criminal case affects the court's jurisdiction; if the charge was laid after the twelve-month limitation period, the provincial court does not have jurisdiction to try the case and the matter will be dismissed. (Prior to amendments in 2019, the limitation period for charging an accused with a summary conviction offence was six months).

The second major distinction between summary and indictable offences is the penalty. Section 787 of the *Criminal Code* states that, unless otherwise provided for by law, the penalties in summary conviction offences are restricted to a maximum fine of not more than \$5,000 or a term of imprisonment of not more than two years less a day, or both.

### 3. Territorial Jurisdiction

Canadian courts exercise jurisdiction over crimes committed in Canada (s. 6(2)). There are some technical rules extending jurisdiction in special circumstances, such as offences committed on aircraft (s. 7), crimes against humanity (s. 469 (c.1)) and conspiracy (s. 465).

For convenience, each province is divided into judicial districts, but there is nothing that legally prevents the trial from taking place anywhere in the province. In some cases, offences may be continuing or may occur within more than one jurisdiction (for example, mail fraud). In such a case, the trial can take place in any of the provinces where the offence occurred (see *R. v. Horbas*, 1968 CanLII 875 (MBCA) and ss. 476 and 477).

Otherwise, a court in a province shall not try an offence committed entirely in another province (s. 478). This section does permit an accused person to plead guilty in one province to offences committed entirely in another province. This is a valuable section to help accused persons collect and dispose of outstanding charges to clean up their affairs.

Section 478 has several important prerequisites:

- the offence cannot be a section 469 offence (for example, murder);
- the Attorney-General (see s. 2 - includes the Attorney-General's lawful deputy i.e., the Crown attorney) of the province where the offence occurred must consent;
- the accused must plead guilty.

The section requires the Attorney General's consent because the province where the offence occurred must voluntarily give up its jurisdiction. The accused must plead guilty because the purpose of the section is administrative convenience. If the accused wants a trial, it must take place in the situs of the offence because it is the jurisdiction that has an interest in the outcome and it is the jurisdiction where the witnesses would reside.

### 4. Assuming Jurisdiction Over the Person

A criminal prosecution is formally commenced by swearing a document called an Information. The process is called the laying of an Information (s. 504). In an Information, an individual (usually a police officer but not restricted to a police officer) swears that they have reasonable and probable grounds to believe that the accused has committed an offence. Other procedures such as questioning the accused or witnesses, fingerprinting, searches etc., may proceed or follow this step as circumstances dictate.

An accused is usually brought into the criminal justice system in one of three ways:

- a) an appearance notice;
- b) a summons; or
- c) an arrest.

### **a) Appearance Notice – Section 496**

An appearance notice is a document stating an offence will be charged against the person and it includes the date for the person's first appearance at court.

The Information has not yet been sworn so the person who gets an appearance notice is not yet charged with the offence. An Information must be sworn before the first appearance in court or the appearance notice is a nullity (s. 505).

### **b) Summons – Sections 507, 507.1 and 509**

A summons differs from an appearance notice in that an Information has been laid before a summons is issued to the accused. When the Information has been laid, the Justice is charged with the responsibility of listening to the informant who has laid the Information and deciding whether issuing a summons or a warrant is more appropriate.

To decide, the justice will consider factors such as the seriousness of the offence and the background of the offender. A summons is the notice of the offence charged against the accused and it gives a date for the accused's first appearance in court.

### **c) Arrest**

An arrest may be made by a warrant (ss. 507 and 511) or without a warrant (ss. 494 and 495). Once arrested, the accused may be released pending trial or held in custody until the matter is resolved.

Arrest and release pending trial (judicial interim release or bail) are discussed in Chapter 2.

## 5. First Appearances

An accused who has been arrested and detained by the police is required to be taken before a justice (in Manitoba that is a Judicial Justice of the Peace (JJP) or a Provincial Court judge) within 24 hours or so soon thereafter as is possible (s. 503).

The purpose is to identify the accused, presumably answer any questions, and ensure proper compliance with the law. The release process is discussed in Chapter 2.

Persons who are out of custody pending their first appearance will be required to attend court on the date set out in their appearance notice or summons. The appearance notice or summons will also often contain a requirement that, before the court appearance date, the accused must attend for photographing and fingerprinting according to the *Identification of Criminals Act*, section 2.

That Act allows reasonable identification procedures to be undertaken on persons charged with indictable offences. This section, allowing for pre-trial identification on indictable and hybrid offences, has been held not to violate the *Charter* (see *R. v. Beare*; *R. v. Higgins*, 1988 CanLII 126 (SCC), [1988] 2 SCR 387).

The *Interpretation Act*, R.S.C. in section 34, makes it clear that a hybrid offence is considered an indictable offence until the Crown formally elects.

## 6. Particulars

The *Criminal Code* contains very few formal provisions about discovery. Section 587 deals with particulars and does allow a court to order the Crown to provide particulars if it is necessary for a fair trial.

The Supreme Court of Canada case of *R. v. Stinchcombe*, 1991 CanLII 45 (SCC), [1991] 3 SCR 326 requires the Crown to give full disclosure to the accused. Full disclosure includes all witness statements, forensic reports and police notes. If you are defence counsel and you feel you have not received all the information which you require, you should contact the Crown and request the additional information you need. If the Crown refuses to comply, a motion to court may be necessary.

## 7. Adjournments

After the first appearance, the matter may be adjourned from time to time subject to the accused's constitutional right to be tried within a reasonable time. In practical terms, there are usually several adjournments after the first appearance while counsel and client consider the options.

Counsel should always be mindful of the prejudice of delay and the decision of *R v. Jordan*, 2016 SCC 27 (CanLII), [2016] 1 SCR 631 which established a new framework for applying section 11(b) of the Charter, the right to be tried within a reasonable time.

At the heart of this new framework is a presumptive ceiling beyond which delay is presumed to be unreasonable unless exceptional circumstances justify it. The presumptive ceiling is 18 months for cases tried in the provincial court, and 30 months for cases in the superior court (or cases tried in the provincial court after a preliminary inquiry). Delay attributable to or waived by the defence does not count towards the presumptive ceiling. The time is calculated from the date of the charge to the actual or anticipated end of the trial.

## 8. Elections

The *Criminal Code* contemplates that early in the process the Crown will make a formal election concerning hybrid offences. In practice, this is usually discussed informally so that the accused and counsel can consider the options. Therefore, in practice, there is no formal election by the Crown until the matter is ready to proceed.

Once the matter is ready to proceed, the *Criminal Code* contemplates that the justice will formally put the accused to an election as to the mode of trial. In Manitoba, the accused informally elects the mode of trial and gets a date for the hearing. The formal election is not made until the day set for the hearing. A hearing consists either of a guilty plea, a preliminary inquiry, or a trial.

## 9. Conclusion

The *Criminal Code* is not exhaustive as to criminal procedure. It has basic rules which are supplemented by provincial practice. To have an understanding of the practice and procedure within the province, it is important to know the procedure set out in the *Criminal Code* and how it is implemented.

## B. CRIMINAL PROCEDURE IN MANITOBA

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### 1. Introduction

For those who are unfamiliar with the criminal justice system, one of the most immediate problems is determining where a case will appear and what will happen at that time. Below is an outline of the procedure followed by the courts in Manitoba for remands, appearance dates and setting trial dates. Other matters, such as bail or preliminary inquiries, are dealt with in separate chapters.

Prosecutions within Manitoba can be broadly grouped into four categories:

- Prosecutions by the Public Prosecution Service of Canada (Federal Crown);
- Prosecutions by the Provincial Department of Justice in Winnipeg (Provincial Crown);
- Prosecutions by the Provincial Crown outside Winnipeg; and
- Prosecutions under the *Youth Criminal Justice Act*.

### 2. Prosecutions by the Public Prosecution Service of Canada

#### a) Matters Handled

The federal Crown prosecutes offences under the statutes of Canada, except for offences under the *Criminal Code*. The most common prosecutions involve breaches of *The Controlled Drugs and Substances Act*.

Federal Crowns are also responsible for the prosecution of *Criminal Code* offences that relate directly to a prosecution that they have initiated under another act. For example, a charge of failure to comply with the recognizance in connection with a charge of trafficking will be dealt with by the federal Crown (even though failing to comply with a recognizance is a *Criminal Code* offence) because that failure relates directly to the prosecution of the trafficking charge under the *Controlled Drugs and Substances Act*.

#### b) Prosecutions in Winnipeg

Administrative dockets for both in and out-of-custody matters adult and youth on remand pending the setting of dates are held at 9:15 a.m. in courtroom 316 on the 2<sup>nd</sup> and 4<sup>th</sup> Thursday of every month.

Federal motions, Regulatory matters, identified Project and Complex files, and other Administrative federal matters are held on Mondays at 2:00 p.m. in courtroom 303.

Federal dispositions as scheduled ahead with PPSC intake take place Wednesdays at 10:00 a.m. and 2:00 p.m. in courtroom 303.

Those charged with drug offences and detained by the police will appear on the bail docket in courtroom 301 at 9:30 a.m.

To set a date for a trial or preliminary inquiry counsel must speak to the assigned Crown to narrow issues so an appropriate time estimate can be made. *[Note that the federal crown regularly relies on section 540 of the Criminal Code to streamline preliminary hearings so counsel should expect a notice letter and the documents that will be filed and relied upon without the calling of witnesses.]*

The Crown will then provide a list of available dates. Pre-trial conferences may be set for matters requiring more than one day, although this is no longer required.

Information concerning particular cases can be obtained from the Crown having conduct of the matter. The general office number is 204-983-5738.

### **c) Rural Prosecutions**

The federal Crown has monthly dockets in:

- Brandon (second Thursday of each month);
- Thompson (last Friday of each month); and
- The Pas (third Friday of each month).

Custodial matters will appear in these locations on the local docket on the day after arrest.

Federal Crown prosecutions in other areas outside the City of Winnipeg will also appear on the local docket.

In most circumstances, a provincial Crown will appear as an agent for the federal Crown and will have the authorization to speak to sentence on matters such as simple possession guilty pleas. The defence counsel should contact the federal Crown's office in Winnipeg in advance so that the proper arrangements, and any agreements, can be made. This also gives the federal Crown time to ask the provincial Crown to speak to the matter or make arrangements to attend. The defence counsel should advise the client to appear personally on all remands.

Currently, in the Winnipeg based circuit courts, you must obtain pre-approval from a judge before setting a rural trial date with the Crown.

### 3. Prosecutions by the Provincial Department of Justice in the City of Winnipeg

Section 482.1(1)(b) of the *Criminal Code* gives the Provincial Court the power to delegate certain administrative tasks to court personnel.

The pre-trial coordinators (PTC) conduct the administrative processing of all criminal cases in Winnipeg. The PTC are limited jurisdiction justices of the peace whose powers in dealing with cases are derived from the Provincial Court's Pre-Trial Coordination Protocol. They have no discretion to deviate from the protocol.

The protocol applies to all criminal prosecutions in the Provincial Court – Winnipeg Centre. The [Adult Pre-trial Coordination Protocol](#) can be found on the Provincial Court of Manitoba website under [Notices and Practice Directions](#). At this writing, the most recent version is dated April 25, 2023.

A separate protocol exists for [Youth Court matters](#), also located on the website under Notices and Practice Directions. At this writing, the most recent version is dated December 13, 2018.

This process allows the Crown and the defence to identify, discuss and resolve administrative issues without appearing before a judge. A matter will appear before a judge only when one of the following meaningful events occur:

- contested motions;
- bail applications;
- contested bail variations;
- guilty pleas;
- hearings/trials; or
- sentencing.

Between the time a charge is laid and a matter is ready to proceed before a judge for a meaningful event, the matter will appear on a PTC docket unless it involves an allegation of breach of a conditional sentence order, in which case a date will be set before the appropriate judge with the assistance of the Trial Coordinator's Office.

The PTCs are mandated to deal with 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 the right to have a trial in English or French;
3. disclosure has been provided within a reasonable time;
4. any consent bail variation issues 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.

The PTCs also have the authority to perform the following tasks:

9. adjourn matters as required;
10. endorse a stay of proceedings upon being provided with a Crown stay of proceedings form;
11. issue, cancel or hold warrants;
12. allow counsel to withdraw;
13. order forfeiture of items seized based on charges laid under *The Controlled Drugs and Substances Act* with the consent of both Crown and defence;
14. adjourn a matter to the King's Bench assignment court;
15. amend Informations.

If the timeline for a matter expires or the maximum number of remands is reached, the matter must be set for sentencing, preliminary inquiry or trial unless one of the following exceptions applies:

1. the accused is a co-accused with an accused who is in custody and the Crown consents to keeping the matters together;
2. the accused is applying for or has been accepted into drug treatment court and the Crown consents to adjourning the matter to another PTC docket;
3. 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;
4. the drug that is the subject matter of the charges is being tested at the request of the Crown;
5. the Crown consents to an adjournment past the timeline;
6. the accused is actively seeking to retain counsel and the Crown consents to further remands or the accused is co-accused with an accused who is actively seeking to retain counsel and the Crown consents to further remands.

Where the accused has been denied bail, does not intend to apply for bail or the matter has appeared in bail court or on the bail triage docket for five days without a bail application, the matter will next appear on a custody PTC docket held every Monday and Friday starting at 9:15 a.m. in courtroom 302.

Where an accused has a form of release on the charges, the matter will appear in an out of custody PTC docket held every Monday, Tuesday and Wednesday at 1:00 p.m. in courtrooms 301 and 302.

## **a) Custodial Matters**

### **i. Bail Triage Court**

This docket is a court of record. It is held Monday to Friday starting at 9:30 a.m. in courtroom 301 at 408 York Avenue. The Court will sit until the docket is complete, with a lunch recess of at least 45 minutes. Matters appearing in this Court are triaged by a JJP for the purpose of monitoring whether counsel are ready to proceed with a contested application for judicial interim release, a consent release, an expedited disposition or a further remand in custody.

The [Adult Bail Triage Court Protocol](#) can be found on the Provincial Court of Manitoba website under [Notices and Practice Directions](#). At this writing, the most recent version is dated April 5, 2023.

Provincial Crown paralegals will appear in person on behalf of the Provincial Crown between 9:30 a.m. and 3:00 p.m. After 3:00 p.m., a Crown Attorney, if available, will appear in person to speak to any remaining outstanding matters. If a Crown Attorney is unavailable to attend at 3:00 p.m. the Crown Paralegal will remain to complete the docket. Defence counsel may appear in person, by TEAMS video link or by TEAMS call-in audio.

Accused appearing from the Winnipeg Police Service Central Processing Unit and the Winnipeg Remand Centre will appear by TEAMS video link unless the accused is remanded in custody by consent without conditions and their appearance is waived by counsel. Accused appearing from other correctional institutions will appear by teleconference.

### **ii. Contested Applications for Judicial Interim Release**

If, prior to 11:30 a.m., counsel advise the JJP that they are ready to proceed with a contested application for judicial interim release, their matter will be transferred to bail court to make the application before a Provincial Court Judge. Domestic matters (DV) are transferred to courtroom 304. Non-Domestic matters (AC) are transferred to courtroom 302. Only matters that are contested will be transferred to bail court.

If counsel have not received a Crown position on release before 11:30 a.m. it will be presumed that the matter is contested and a transfer to a bail court may be requested.

If a matter becomes a consent release after it has been transferred to a bail court, the presiding Judge has the discretion to return the matter to Bail Triage Court to be completed.

The JJP has the discretion to transfer a matter to bail court after the 11:30 a.m. cut-off time in appropriate circumstances.

### **iii. Consent Releases**

All consent releases are to proceed before the JJP in Bail Triage Court. Counsel may file a consent release form electronically or provide a hard copy of the completed form to the Crown paralegal. If the consent release form is properly completed, counsel do not need to appear to address the matter.

The presiding JJP will require the Crown and defence counsel to appear if the form is incomplete, unclear or clarification regarding any matter is required. The court clerk will email counsel to advise the appearance is required.

All section 810 peace bonds proceeding by consent and the endorsement of any stays of proceedings by the Crown are to proceed in Bail Triage Court.

### **iv. Expedited Dispositions**

If, prior to 11:30 a.m. counsel advise they are prepared to proceed with a disposition involving no further custody, they will be transferred to a bail court for disposition before a PJC.

If the anticipated disposition may not involve further custody, the matter will be transferred to bail court as above, but the presiding Judge will determine, in light of the contested matters expected to proceed, whether there is sufficient time to hear the disposition. In the event there is insufficient time to hear the disposition, counsel may adjourn the matter directly to a bail court at 10:00 a.m. the following day for disposition.

### **v. Consent Remand in Custody**

All consent remands in custody are to proceed before the JJP in Bail Triage Court.

Unless an accused is being remanded in custody by consent without conditions, and their appearance is waived by counsel, all accused will appear by TEAMS video link or teleconference for their remand to be addressed on the record.

Where a section 524 bail cancellation is being dealt with by consent, counsel for the accused may waive their client's appearance.

## **vi. Timelines**

Adult bail matters may stay on the Bail Triage docket for 5 working days. After 5 working days matters will be remanded to a Pre-trial Coordinator (PTC) in custody docket or to the next sitting of the appropriate circuit court. The JJP has the discretion to extend the timeline beyond 5 days at the request of counsel in appropriate circumstances.

## **vii. In Custody PTC Triage Court**

Where an accused person has been denied bail or does not intend to apply for bail, the matter will be adjourned to an in custody PTC Triage Docket. This docket is held every Monday and Friday starting at 9:15 a.m. in courtroom 316 at 408 York Avenue.

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 of a more serious nature, a timeline of 16 weeks applies. It is expected that a date for disposition, preliminary inquiry or trial will be set within these timelines.

## **viii. 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 or Undertaking by Counsel 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.

## **b) Non-Custodial Matters**

### **i. Out of Custody PTC Dockets**

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.

All 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.:

1. PTC Provincial Court Counter – Monday, Tuesday, Wednesday, and the 1st and 3rd Fridays;
2. PTC Date Setting Court – Thursdays;
3. PTC Diversion – 1st and 3rd 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 of a very serious nature, 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.

Some special situations may arise. For example, a person charged with a City of Winnipeg by-law offence will be given a notice to appear in a special by-law court handled by a City of Winnipeg prosecutor. Where the charge concerns a breach of a provincial statute other than *The Highway Traffic Act* or *The Liquor, Gaming and Cannabis Control Act*, the person charged will be required to appear in provincial prosecutions court, which sits on the third Thursday of the month at 2:00 p.m. in courtroom 402.

## **ii. Diversion PTC Docket**

If the Crown confirms that a matter will be referred to a counselling or diversion program, and defence accepts the diversion position, the PTC will adjourn the matter to the diversion PTC docket. Mental Health Court matters are considered a diversion matter provided the appropriate paperwork has been filed by the defence who is awaiting a decision by the Forensic Assertive Community Treatment (FACT) team about acceptance.

The diversion docket is heard the first and third Friday of every month.

The following guidelines will apply from the date of the referral:

1. an initial one month remand to confirm enrolment in the program;
2. a second one month remand may be permitted if enrolment has not been confirmed and the Crown does not oppose the remand;
3. remands up to three 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 completed.

Once the accused has provided the Crown with confirmation of the 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.

### **c) Case Management on PTC Dockets**

For both custodial and non-custodial matters, cases may be remanded from time to time on the PTC dockets by agreement of Crown and defence counsel within the designated timeline set out in the protocol. The Crown will normally consent to a remand if defence counsel provides a valid reason for seeking the adjournment.

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 one 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.

#### **d) Preliminary Hearing and Trial Dates**

If an accused person wishes to enter a plea of not guilty, a preliminary hearing date or trial date may be arranged by contacting the Crown attorney who has conduct of the case.

Counsel will select a mutually agreeable date from the available trial dates posted on the Court's [website](#). Once counsel have determined a mutually agreeable date between them, they will contact the trial coordinators by email at [pctrialcoordinators@gov.mb.ca](mailto:pctrialcoordinators@gov.mb.ca) to confirm the setting of that date. When contacting the Trial Coordinators Office to confirm the date, counsel will be required to advise the trial coordinators of the following information:

1. name of the accused;
2. charges and date of offence;

3. crown's and defence counsel's names;
4. date being requested;
5. custody status (in or out of custody).

Counsel will be expected to notify the trial coordinators as soon as possible if the trial will not be proceeding as originally scheduled to allow the Court to make effective use of the Court's resources.

Once a hearing date has been agreed upon, the date may be set in the PTC docket.

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 to appear. Defence counsel will be notified by the court of the remand date and appearance required.

Counsel and the accused, if required, must attend the date setting docket no later than 2:30 p.m. If the accused does not appear and counsel does not have one of the requisite forms, the PTC will issue a warrant for the accused and the date will be cancelled.

### **e) 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 Page | 6 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.

## **f) Case Management Conferences**

A case management conference may be arranged only after a preliminary hearing or trial date has been set. It may be held at the request of either Crown or defence counsel or upon the direction of the court or the PTC and must occur at least two months before the date of the trial or preliminary inquiry except with the permission of the case management judge.

For any hearing that is set for three days or more, or in the case of sexual violence offences where a section 276 or section 278 motion is anticipated, it is required that a case management conference be set to discuss the issues.

The case management conference must be held at least two 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.

A date for the case management conference may be obtained from the Provincial Court trial coordinator at [pctrialcoordinators@gov.mb.ca](mailto:pctrialcoordinators@gov.mb.ca), (204) 945-5657. Available dates may be viewed online at the [website](#) for the Provincial Court of Manitoba.

To make the case management conference as productive as possible, the following principles apply:

1. Counsel attending must have read the file and have had a preliminary discussion with counsel opposite about the issues and each counsel's position.
2. Substantial disclosure should be complete so counsel can have meaningful discussions about resolution or identify issues for the trial.
3. Counsel attending must have the conduct of the file.
4. Counsel attending must have instructions from their client and be prepared to make substantive decisions.
5. A trial date will be set at the end of the first case management conference and any further case management conferences will be booked with the trial dates in mind.
6. Counsel will verify compliance with these principles by completing a case management readiness form which will be provided to the court before attendance at the case management conference.

### **g) Assignment Court**

An accused who has elected to be tried in the Court of King's Bench may be ordered to stand trial by waiving the right to a preliminary inquiry, by a committal by consent, or after a preliminary inquiry.

The accused will be directed to sign a notice to appear in the King's Bench assignment court. The date of the assignment court and a designation of counsel will be included on the notice to appear, which is signed by both the accused and counsel if counsel will continue to act for the accused.

Assignment court takes place on the second Wednesday of each month at 9:30 a.m., usually in courtroom 210 of the old Law Courts Building. If the designation of counsel form is completed, it is filed in the King's Bench, and the accused will not have to appear in court until trial. If the designation of counsel form is not completed, the out of custody accused must appear in assignment court, as that appearance cannot be waived by anyone. The accused's appearance will be presumed to be waived where the accused is in custody unless trial dates are being set.

If the election is trial by judge alone, a pre-trial conference must be arranged and heard within 90 days of committal for trial. Dates for resolution conferences must be obtained from the King's Bench trial coordinator. Two dates that are convenient to both counsel are to be e-mailed to the King's Bench trial coordinators at [kbtrialcoordinators@gov.mb.ca](mailto:kbtrialcoordinators@gov.mb.ca), who will select the date and advise counsel by return e-mail.

If the election is judge and jury there is a similar deadline for the hearing of a resolution conference. The resolution conference must be arranged and heard within 90 days of committal for trial. Dates for resolution conferences must be obtained from the King's Bench trial coordinator. Counsel must email two dates (that are convenient to all counsel) to the King's Bench trial coordinators at [kbtrialcoordinators@gov.mb.ca](mailto:kbtrialcoordinators@gov.mb.ca). The trial coordinator will select the date and advise counsel by return e-mail.

Generally speaking, such arrangements should be made well in advance. Needless appearances can be the subject of comment and inquiry by the presiding justice at assignment court.

As well, there is an assignment court for summary conviction appeals held on the second Friday of each month starting at 9:00 a.m. in courtroom 223. Dates for the hearing of appeals also may be arranged in advance by contacting the appeals coordinator at the Crown's offices.

## **h) 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.

A date for a sentencing hearing may be arranged by contacting the Provincial Court's disposition coordinator. Counsel can view available [disposition dates](#) on the Court's website. The disposition coordinator is responsible to schedule all sentencing matters in the Provincial Court and can be contacted by telephone at 204-945-6712 or by email at [earlypcdispos@gov.mb.ca](mailto:earlypcdispos@gov.mb.ca).

For in-custody dispositions, counsel must confirm with the PTC that the matter is ready for sentencing and must advise whether an in-person appearance is required, along with the reason. Otherwise, the appearance will be by video.

For out-of-custody dispositions, counsel must advise the PTC when a matter is ready for sentencing. The matter will be adjourned to an out-of-custody disposition court.

When a pre-sentence report 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 date and adjourns the matter to a PTC docket, a date must be set when the matter first appears before the PTC.

A date is to be set following the guidelines regarding due dates below:

1. for an adult in custody, 4 weeks;
2. for an adult in custody with a *Gladue* report, 5 weeks;
3. for an adult out-of-custody, 10 weeks;
4. for an adult out-of-custody with a *Gladue* report, 12 weeks.

## **4. Prosecutions by the Provincial Department of Justice Outside of Winnipeg**

### **a) Regional Dockets**

Prosecutions in locations outside the City of Winnipeg are handled by Crown attorneys from Winnipeg, Dauphin, Thompson, The Pas, Portage La Prairie or Brandon. The frequency of the regular docket will depend on several factors and can vary from almost daily to perhaps once every two months.

The [Adult Pre-trial Coordination Protocols](#) for outside the City of Winnipeg can be found on the Provincial Court of Manitoba website under [Notices and Practice Directions](#).

The [Revised Adult Pre-Trial Coordination Protocol](#) for adult criminal matters in Thompson was implemented on September 11, 2023. It does not apply to Thompson circuit locations.

The [Regional Adult Pre-trial Coordination Protocol](#) will apply to all adult criminal prosecutions appearing in the Provincial Court in Brandon, Dauphin, Portage La Prairie and The Pas. At this time, the Protocol will not apply to circuits in those judicial district. This Protocol was implemented in [Portage la Prairie](#) effective October 13, 2023 and will be implemented in [The Pas](#) effective November 10, 2023. A further notice will be sent regarding the implementation of the protocol in Brandon and Dauphin.

The Protocol which applies to all adult and youth criminal prosecutions (in and out of custody) appearing in the [Provincial Court Steinbach Centre](#) can be found here.

The Protocols are subject to change. It is expected that over time changes will be made and the Protocols will be amended. Please refer to the [Manitoba Courts](#) website for the most updated version of the Protocols.

## **b) Changing Locations**

Where an accused is in custody, arrangements for bail can normally be made through the local Judicial Justice of the Peace or RCMP detachment.

If a release is being opposed, counsel may discover that the next court appearance date for that location is not for several days or sometimes even longer. In those situations, it is usually best to contact the detachment or the Crown's office and arrange to have the accused appear in court at another location with an earlier appearance date. For example, an accused from Steinbach who is in custody may appear at the video bail courtroom on Monday rather than waiting until a Steinbach court sitting on Thursday.

## **c) Trial Dates**

Trial dates in matters outside of Winnipeg are set by agreement with the Crown. Where an accused is in custody, or where a case is expected to be lengthy, the Crown may agree to set a special hearing date at a time when there is normally no court.

Outside of Winnipeg, matters that are set for trial or preliminary inquiry will normally be called at the end of the docket. This may mean trials that are set for 10:00 a.m. are not called until well into the afternoon. Many counsel conducting trials outside of Winnipeg bring some other work with them to make use of the inevitable waiting period.

An accused who has had a preliminary inquiry and has been ordered to stand trial will be ordered to attend at assignment court in Winnipeg, Brandon, Portage La Prairie, Dauphin, The Pas or Thompson. The case will then proceed in the same fashion as with assignment dates from Winnipeg.

#### **d) Waiving in a Charge for Guilty Plea**

Where an accused has been charged with an offence that is away from that accused's normal place of residence, it is possible to have the matter sent to the closest court for a guilty plea. Any arrangements concerning the disposition of the charge must be made with the Crown from the original jurisdiction.

In Winnipeg, there is a waive-in docket every Thursday morning in courtroom 402 which handles charges waived in from other locations in Manitoba. The charges will be waived in for guilty pleas only. Normally, Crown counsel will not allow any remands for these cases so if remands are requested the Crown will have the matter sent back to the original jurisdiction instead.

It is also possible to have charges from outside the province waived into Winnipeg. Those charges also appear on the Thursday at 10:00 a.m. in courtroom 401. Again, any arrangements concerning disposition or charges to be stayed have to be worked out with the Crown from the other province in advance.

## C. PRECEDENTS

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### 1. Appearance Notice

[Document follows on next page]



Manitoba

COMPLAINT NO. / PLAINTÉ N° \_\_\_\_\_  
LOCKUP NO. / N° DE DÉTENU: \_\_\_\_\_

**NOTICE ISSUED BY A PEACE OFFICER TO A PERSON NOT YET CHARGED WITH AN OFFENCE**  
**AVIS DÉLIVRÉ PAR UN AGENT DE LA PAIX À UNE PERSONNE**  
**QUI N'EST PAS ENCORE INCUPLÉE D'UNE INFRACTION**

To / À _____	Birth Date / Date de naissance _____
of / de _____	Occupation / Profession ou occupation _____

You are alleged to have committed the following offence on:  
Vous êtes accusé(e) d'avoir commis l'infraction suivante le

**OFFENCE/INFRACTION**

<input type="checkbox"/> <b>APPEARANCE NOTICE</b> You are required to appear as indicated below.	<b>CITATION À COMPARAÎTRE</b> Vous êtes tenu(e) de comparaître conformément à ce qui est indiqué ci-dessous.
<input type="checkbox"/> <b>PROMISE TO APPEAR</b> In order that I may be released from custody, I promise to attend court as indicated below.	<b>PROMESSE DE COMPARAÎTRE</b> Afin de pouvoir être mis(e) en liberté, je promets d'être présent(e) au tribunal conformément à ce qui est indiqué ci-dessous.
<input type="checkbox"/> <b>UNDERTAKING ATTACHED (if applicable)</b>	<b>PROMESSE CI-JOINTE (s'il y a lieu)</b>

<input type="checkbox"/> <b>RECOGNIZANCE ENTERED INTO BEFORE AN OFFICER IN CHARGE OR OTHER PEACE OFFICER</b> In order that I may be released from custody, I hereby acknowledge that I owe to Her Majesty the Queen \$ _____ to be levied on my real and personal property if I fail to attend court as hereinafter required.	<b>ENGAGEMENT CONTRACTÉ DEVANT UN FONCTIONNAIRE RESPONSABLE OU UN AUTRE AGENT DE LA PAIX</b> Afin de pouvoir être mis(e) en liberté, je reconnais par les présentes devoir à Sa Majesté la Reine la somme de \$ _____, cette somme devant être prélevée sur mes biens réels et personnels si j'ometts d'être présent(e) au tribunal comme j'y suis tenu(e) ci-après.
<input type="checkbox"/> <b>FOR A PERSON NOT ORDINARILY RESIDENT IN THE PROVINCE IN WHICH THE PERSON IS IN CUSTODY OR WITHIN TWO HUNDRED KILOMETERS OF THE PLACE IN WHICH THE PERSON IS IN CUSTODY</b> In order that I may be released from custody, I hereby acknowledge that I owe to Her Majesty the Queen \$ _____ and deposit the sum herewith to be forfeited if I fail to attend court as hereinafter required.	<b>PERSONNE NE RÉSIDANT PAS HABITUELLEMENT DANS LA PROVINCE OÙ ELLE EST SOUS GARDE NI DANS UN RAYON DE DEUX CENTS KILOMÈTRES DU LIEU OÙ ELLE EST SOUS GARDE</b> Afin de pouvoir être mis(e) en liberté, je reconnais par les présentes devoir à Sa Majesté la Reine la somme de \$ _____; je dépose cette somme qui doit être confisquée si j'ometts d'être présent(e) au tribunal comme j'y suis tenu(e) ci-après.

**YOU MAY APPEAR VOLUNTARILY ON A PLEA OF GUILTY ONLY BEFORE A JUSTICE AT THE PROVINCIAL COURT**  
**SI VOUS AVEZ L'INTENTION DE PLAIDER COUPABLE, VOUS POUVEZ COMPARAÎTRE VOLONTAIREMENT DEVANT UN JUGE DE PAIX À LA COUR PROVINCIALE**

☐ \_\_\_\_\_

☐ Addressed below/dont l'adresse figure ci-dessous :

Between the hours of 8:30 A.M. and 4:00 P. M. between the  
Entre 8 h 30 et 16 h, du \_\_\_\_\_ day of / jour d \_\_\_\_\_ and the / au \_\_\_\_\_ day of / jour d \_\_\_\_\_  
(Monday to Friday - excluding Holidays)  
(du lundi au vendredi, à l'exception des jours fériés)

**IF YOU FAIL TO APPEAR VOLUNTARILY, OR IF NO VOLUNTARY DATES FOR RESPONSE ARE PROVIDED, YOU ARE COMMANDED TO APPEAR BEFORE A JUSTICE AT PROVINCIAL COURT**  
**IL VOUS EST ENJOINT DE COMPARAÎTRE DEVANT UN JUGE DE PAIX À LA COUR PROVINCIALE DONT L'ADRESSE FIGURE CI-DESSOUS SI VOUS OMETTEZ DE COMPARAÎTRE VOLONTAIREMENT OÙ S'IL NE VOUS EST FOURNI AUCUNE DATE DE COMPARUTION VOLONTAIRE**

- ☐ 59 Elizabeth Drive, Thompson, Manitoba  
59, promenade Elizabeth, Thompson (Manitoba)
- ☐ 408 York Avenue, Winnipeg, Manitoba  
408, avenue York, Winnipeg (Manitoba)
- ☐ 1104 Princess Avenue, Brandon, Manitoba  
1104, avenue Princess, Brandon (Manitoba)
- ☐ \_\_\_\_\_

At 10:00 A.M. or / à 10 h ou à \_\_\_\_\_ M. / heures,  
on the / le \_\_\_\_\_ day of / jour d \_\_\_\_\_  
in Courtroom / dans la salle d'audience \_\_\_\_\_  
and to attend thereafter as required by the court, in order to be dealt with  
according to law / et d'être présent(e) par la suite selon les exigences du tribunal,  
afin d'être traité(e) selon la loi.

**YOU ARE ALSO REQUIRED TO APPEAR AT:**  
**VOUS DEVEZ AUSSI COMPARAÎTRE À L'UN DES ENDROITS SUIVANTS :**

**LOCATION / ENDROIT**

- ☐ Identification Office, 2nd Floor, Public Safety Building  
151 Princess Street, Winnipeg  
Bureau d'identification, 2e étage, Édifice de la sûreté publique,  
151, rue Princess, Winnipeg
- ☐ Identification Section, Brandon City Police  
1340-10th Street, Brandon  
Section de l'identification, Police de la ville de Brandon,  
1340, 10e rue, Brandon
- ☐ \_\_\_\_\_

**TIME / HEURE**

At 1:00 P.M. or / à 13 h ou à \_\_\_\_\_ M. / heures,  
on the / le \_\_\_\_\_ day of / jour d \_\_\_\_\_  
for the purpose of the Identification of Criminals Act.  
pour l'application de la Loi sur l'identification des criminels.

**I UNDERTAKE TO COMPLY AS SET FORTH WITHIN AND HAVE READ AND UNDERSTAND THE WARNING SET OUT ON THE REVERSE OF THIS NOTICE.**  
**JE M'ENGAGE À ME CONFORMER À CE QUI EST INDiqué DANS LE PRÉSENT AVIS.**  
**J'AI LU ET JE COMPRENDS L'AVERTISSEMENT QUI SE TROUVE AU VERSO.**

\_\_\_\_\_  
Signature of accused / Signature du (de la) prévenu(e)

\_\_\_\_\_  
Print name in full / Ecrire le nom au complet en caractères d'imprimerie

COMPLAINT NO. / PLAINTÉ N° \_\_\_\_\_

NO. / N° _____	FORCE / CORPS DE POLICE _____	DET / DIST. N° _____
DATE _____		SIGNATURE _____

WHITE - COURT  
BLANC - COUR

PINK - ACCUSED  
ROSE - PRÉVENUE(E)

BLUE - POLICE REPORT  
BLEU - RAPPORT DE POLICE

CANARY - POLICE RECORDS  
JAUNE - DOSSIERS DE LA POLICE

## 2. Summons

[Document follows on next page]

To / À \_\_\_\_\_ of / de \_\_\_\_\_  
D.O.B. Né(e) le \_\_\_\_\_ P/R # / N° du rapport de police \_\_\_\_\_

**WHEREAS** you have been charged  
**ATTENDU QUE** vous avez été inculpé(e)

OFFENCE / INFRACTION	LOCATION	DATE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**THIS IS THEREFORE** to command you, in her Majesty's name, to attend at: /  
**À CES CAUSES**, les présente vous enjoignent, au nom de Sa Majesté, d'être  
présent(e) :

**LOCATION / ENDROIT**

- ☐ Clerk of the Courts Office, 373 Broadway, Winnipeg  
au Greffe des Cours, 373, Broadway, Winnipeg
- ☐ Clerk of the Courts Office, 100 - 408 York Avenue, Winnipeg  
au Greffe des Cours, 408, avenue York, bureau 100, Winnipeg

**PROVINCIAL COURT  
LA COUR PROVINCIALE**

Court Room / Salle d'audience

- ☐ 408 York Avenue, Winnipeg, Manitoba 945-3454  
408, avenue York, Winnipeg (Manitoba) 945-3454
- ☐ 373 Broadway, Winnipeg, Manitoba 945-3156  
373, Broadway, Winnipeg (Manitoba) 945-3156
- ☐ \_\_\_\_\_

**Time / Heure:** at / à 10:00 A.M. or / ou à

on the / le \_\_\_\_\_ day of / jour d \_\_\_\_\_,

and to attend thereafter as required by the court, in order to be dealt with  
according to law/  
et d'être présent(e) par la suite selon les exigences du Tribunal, afin d'être  
traité(e) selon la loi.

**YOU ARE ALSO REQUIRED TO APPEAR AT : /  
VOUS ÊTES ÉGALEMENT REQUIS(E) DE COMPARAÎTRE À L'ENDROIT**

**SUIVANT :**

- ☐ Identification office, 2<sup>nd</sup> floor, Public Safety Building, 151 Princess Street,  
Winnipeg  
Bureau d'identification, 2<sup>e</sup> étage, Édifice de la sûreté publique, 151, rue  
Princess, Winnipeg
- ☐ Identification Section, Brandon City Police, 1340 - 10<sup>th</sup> Street, Brandon  
Section de l'identification, Police de la ville de Brandon, 1340 - 10<sup>e</sup> rue,  
Brandon
- ☐ Not required to attend for identification

**Time / Heure:** at / à 1:00 P.M. or / ou à

on the / le \_\_\_\_\_ day of / jour d \_\_\_\_\_,

**You are warned** that failure without lawful excuse to attend court in  
accordance with this summons is an offence under subsection 145(4) of the  
Criminal Code.

Subsection 145(4) of the Criminal Code states as follows:

"(4) Everyone who is served with a summons and who fails, without  
lawful excuse, the proof of which lies upon him, to appear at a time and place  
stated therein, if any, for the purposes of the Identification of Criminals Act or to  
attend court in appearance therewith, is guilty of

(a) an indictable offence and is liable to imprisonment for two years,

or

(b) an offence punishable on summary conviction."

Subsection 510 of the Criminal Code states as follows:

"Where an accused who is required by a summons to appear at a  
time and place stated therein for the purposes of the Identification of Criminals  
Act,

does not appear at that time and place, a justice may issue a warrant for the  
of the accused for the offence with which he is charged."

**Vous êtes averti(e)** que l'omission, sans excuse légitime, d'être  
présente(e)

au tribunal en conformité de la présente sommation, constitue une infraction en  
vertu du paragraphe 145(4) du Code criminel.

Le paragraphe 145(4) du Code criminel s'énonce comme suite :

"(4) Quiconque reçoit signification d'une sommation et omet, sans  
légitime dont la prévue lui incombe, de comparaître aux lieu et date indiqués  
pour

l'application de la Loi sur l'identification des criminels, ou d'être présent au  
en conformité de cette sommation est coupable

a) d'un acte criminel et passible d'un emprisonnement de deux ans,

ou

b) d'une infraction punissable sur déclaration sommaire de culpabilité."

L'article 510 du Code criminel s'énonce comme suite:

"Lorsqu'un prévenu à qui une sommation enjoint de comparaître aux  
temps et lieu y indiqués aux fins de la Loi sur l'identification des criminels, ne  
comparaît pas aux temps et lieu ainsi indiqués, un juge de paix peut décerner  
un  
mandat pour l'arrestation du prévenu pour l'infraction dont il est inculpé."

**FAILURE TO APPEAR MAY RESULT IN YOUR TRIAL PROCEEDING IN  
YOUR ABSENCE OR THE COURT MAY ISSUE A WARRANT FOR YOUR  
ARREST.**

**SI VOUS OMETTEZ DE COMPARAÎTRE, LE TRIBUNAL PEUT PROCÉDER  
À  
L'INSTRUCTION DE LA CAUSE EN VOTRE ABSENCE OU DÉCERNER UN  
MANDAT POUR VOTRE ARRESTATION.**

**DATED** this / **FAIT** le \_\_\_\_\_ day of / jour d \_\_\_\_\_,

at / à **Winnipeg**, Manitoba.

## AFFIDAVIT OF SERVICE

## AFFIDAVIT DE SIGNIFICATION

I, the undersigned Peace Officer make oath and say that I did,  
on the \_\_\_\_\_ day of / jour d \_\_\_\_\_

*Je soussigné(e), agent de la paix, déclare sous serment que j'ai  
20 \_\_\_\_ at / à \_\_\_\_\_ / heure(s)*

serve the within summons on the within named person to whom  
it is directed by:

*signifié la sommation ci-jointe à la personne dont le nom y  
figure et à laquelle elle est adressée, de la manière suivant :*

delivering it to him personally, OR

☐

*en la lui délivrant à personne, OU*

### COMPLETE FOR SUBSTITUTIONAL SERVICE / REEMPLIR DANS LE CAS D'UNE SIGNIFICATION INDIRECTE

Leaving it at :

*En la délivrant à :*

The address recorded on the summons,

☐

*l'adresse inscrite sur la sommation,*

☐ or at / ou à \_\_\_\_\_

his last or usual place of abode,

*sa dernière résidence ou sa résidence habituelle,*

☐ with / entre le mains de \_\_\_\_\_

who admitted to be an inmate thereof who appeared to be  
at least 16 years of age, to understand the summons and  
who promised to bring it to the attention of the alleged  
offender as soon as practicable.

*Qui a admis être une personne y habitant, qui paraît être âgé(e)  
d'au moins 16 ans et semblait comprendre la nature de la  
sommation et qui a promis de porter la sommation à la  
connaissance de la personne présumée contrevenante,  
aussitôt que possible.*

I believe the above to be the last or usual place of  
abode because :

☐

*Je crois que l'adresse indiquée ci-dessus correspond à sa  
dernière résidence ou à sa résidence habituelle, pour les  
raisons suivantes :*

The within named could not conveniently be found  
(Explain):

☐

*La personne dont le nom figure sur la sommation ne pouvait  
être trouvée facilement (Apporter des précisions) :*

**SWORN** before me this / **ASSERMENTÉ(E)** devant moi le \_\_\_\_\_ day of / jour d \_\_\_\_\_  
20 \_\_\_\_\_ at / à \_\_\_\_\_, Manitoba.

Judge, Provincial Court Judge or Justice  
*Juge, juge de la Cour provinciale ou juge de paix*

A Commissioner for Oaths in and for the Province of Manitoba  
*Commissaire aux serments dans et pour la province du Manitoba*

Signature of Peace Officer /  
*Signature de l'agent de la paix*

My Commission expires / *Ma commission prend fin le :* \_\_\_\_\_

### **3. Information**

[Document follows on next page]

INFORMATION

DÉNONCIATION

This is the information of

Les présentes constituent la dénonciation de

(force/peace officer/corps de police)

(location/lieu)

hereinafter called the informant.

ci-après appelé(e) le dénonciateur.

The informant says that he/she has reasonable and probable grounds to believe and does believe:

Le dénonciateur déclare qu'il/qu'elle a des motifs raisonnables et probables de croire et croit effectivement :

THAT/QUE :

SWORN/AFFIRMED before me this/DÉCLARÉ SOUS SERMENT OU AFFIRMÉ SOLENNELLEMENT devant moi le

(day/jour) (month/mois) (year/année) at/à \_\_\_\_\_, Manitoba/au Manitoba.

Provincial Court Judge or Justice of the Peace  
Juge ou juge de paix

Informant/Dénonciateur

(To be completed if sent by telecommunications)

I solemnly declare that all matters contained in the Information are true to the best of my knowledge and belief. I understand that this statement is of the same force and effect as if made under oath.

(À remplir dans le cas d'un envoi par télécommunications)

Je déclare solennellement que les faits énoncés dans la dénonciation sont exacts autant que je sache. Je comprends que la présente déclaration a la même valeur et le même effet que si elle était faite sous serment.

Dated this/Fait le \_\_\_\_\_ at/à \_\_\_\_\_, Manitoba/au Manitoba.  
(day/jour) (month/mois) (year/année)

Provincial Court Judge or Justice of the Peace  
Juge ou juge de paix

Informant/Dénonciateur

DOB:/NÉ(E) LE :

Gender/Sexe: ☐ male/homme ☐ female/femme D/L#/P/C # :

PR#/R. P. # :

Police Agency/Detachment/Service ou détachement de police : \_\_\_\_\_

☐ Vehicle-related offence / Infraction liée à un véhicule:

Vehicle Plate No. / N° de plaque: \_\_\_\_\_ Prov.: \_\_\_\_\_

Vehicle Type / Type de véhicule : ☐ Motor Vehicle / Véhicule automobile ☐ Motorcycle / Motocyclette ☐ ATV / VTT  
☐ Snowmobile / Motoneige ☐ Implement of husbandry/special mobile machine/tractor /  
Matériel agricole/engin mobile spécial/tracteur  
☐ Other, specify / Autre, préciser : \_\_\_\_\_

☐ Child passenger under 16/passager de moins de 16 ans

National Safety Code No.: / Numero du Code national de securite: \_\_\_\_\_

Domestic Violence / Violence familiale ☐ Yes / Oui ☐ No / Non

Police Agency/Detachment Responsible for CPIC entry / Service ou détachement de police responsable de l'entrée des données au CPIC : \_\_\_\_\_

T-Telecommunication

V-Video

N-No Appearance

P-Personal

W-Waived

RECORD OF PROCEEDINGS:

INITIALS	
OTHER	JUDGE/YOUTH JUSTICE COURT JUDGE/ PROVINCIAL COURT JUDGE/JUSTICE
WARRANT	RECALLED
	CANCELLED
	HELD
	ENDORSED
	DEFAULT NOTED
	ISSUED
OTHER MATTERS IN CUSTODY	
BAIL SEE BHO	REVOKED
	DENIED
	VARIED
	GRANTED
IN CUSTODY	
COURT ROOM	TRANSFERRED TO
	REMAND TO
TIME	
APPEARANCE W - P - N - V-T	
COURTROOM APPEARANCE 1 REMAND DATE 2 BROUGHT ON DOCKET 3 ARRESTED AND ON DOCKET	FIRST COURTROOM APPEARANCE: 1 2 3 1 2 3 1 2 3 1 2 3 1 2 3 1 2 3 1 2 3

Defence Counsel

Process

- ☐ Appearance Notice
- ☐ Promise to Appear ☐ Undertaking attached
- ☐ Recognizance before Officer in Charge  
☐ Cash deposit ☐ Undertaking attached
- The above process is: ☐ Confirmed ☐ Cancelled
- ☐ Summons
- ☐ Warrant: ☐ Endorsed ☐ Not endorsed

No process - Reason below:

- ☐ Warrant on other charge(s)
- ☐ \_\_\_\_\_

Date \_\_\_\_\_  
Provincial Court Judge/Justice of the Peace

- ☐ Summary Arrest ☐ Direct Lock-up
- ☐ Information Read ☐ Waives Reading
- ☐ Advised Language Choice: ☐ English ☐ French
- ☐ Advised Right to Counsel ☐ Waived
- ☐ Advised Adult Sentence will be imposed - Presumptive A

Date \_\_\_\_\_  
Provincial Court Judge/Justice of the Peace

In Custody Appearance

Date \_\_\_\_\_  
☐ Released ☐ Not Released  
see Order

Provincial Court Judge/Justice of the Peace

YP Only: ☐ Notice to Parent/Guardian☐ Accepted ☐ Dispensed WithDate \_\_\_\_\_  
Provincial Court Judge/Justice of the Peace

Information No.:

Accused/Young Person - Surname

Given Name(s)

Offence

Domestic Violence ☐ YES ☐ NO☐ Information Amended Date \_\_\_\_\_

Render of Accused/Young Person by Surety/Responsible Person

	Date	Date
<input type="checkbox"/> Application/Warrant	_____	_____
<input type="checkbox"/> Recognizance Vacated	_____	_____

☐ Ban on Publication Date \_\_\_\_\_

☐ Bail Hearing \_\_\_\_\_

☐ Preliminary Hearing \_\_\_\_\_

☐ Identity of Complainant/Witness \_\_\_\_\_

In Custody Non Communication Order - Sec 515(12)

☐ Issued \_\_\_\_\_

<input type="checkbox"/> Exhibits Filed <input type="checkbox"/> Bail	<input type="checkbox"/> Disposition
---	--------------------------------------

Disposition (see attached) Accused/Young Person	Date
--	------

## 4. Criminal File Interview Form

### CRIMINAL FILE INTERVIEW FORM\*

#### INSTRUCTIONS:

This form is designed as a template that you can adapt for your use when interviewing your client in a criminal matter. Some questions may not apply to your client's particular case, but the more complete the report, the better the service you can provide.

#### I. PERSONAL INFORMATION ABOUT CLIENT

Interviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

Start time: \_\_\_\_\_ End time: \_\_\_\_\_

Name: \_\_\_\_\_

Aliases: \_\_\_\_\_

Present Address: \_\_\_\_\_

City/Town: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Phone: (Bus) \_\_\_\_\_ (Res) \_\_\_\_\_

(Cell) \_\_\_\_\_ E-mail/Social media: \_\_\_\_\_

How long at above address? \_\_\_\_\_

Previous Address: \_\_\_\_\_

Age: \_\_\_\_\_ Birth date: \_\_\_\_\_ Place of birth: \_\_\_\_\_

Citizenship: \_\_\_\_\_ How long lived there? \_\_\_\_\_

Where did you live before coming to \_\_\_\_\_ (if applicable): \_\_\_\_\_

What is your Immigration number? (if applicable) \_\_\_\_\_

---

\* The original form is a copyright publication of the Canadian Centre for Professional Legal Education and the form was amended by Manitoba lawyers with the permission of the Legal Education Society of Alberta.

Parent or Guardian's Name:\_\_\_\_\_

Parent or Guardian's Address:\_\_\_\_\_

Parent or Guardian's Phone Number and e-mail:\_\_\_\_\_

Parent or Guardian's Employer's Name, Address, and Phone Number

\_\_\_\_\_  
\_\_\_\_\_

Copy of Photo Identification on file:\_\_\_\_\_

Do you have any case workers assigned to you (mental health, social worker, Child and Family Services etc.)?\_\_\_\_\_

\_\_\_\_\_

## **II. EDUCATION**

Please specify level reached and year of completion: \_\_\_\_\_

\_\_\_\_\_

Elementary:\_\_\_\_\_

Junior High:\_\_\_\_\_

High School\_\_\_\_\_

University (specify degree(s) obtained):\_\_\_\_\_

Trade School:\_\_\_\_\_

Other (Degrees, diplomas, certificates of training, etc.):\_\_\_\_\_

\_\_\_\_\_

Future education or upgrading:\_\_\_\_\_

### III. PAST CRIMINAL RECORD OR INVOLVEMENT

Are you now, or have you ever been, on probation or parole (provide details)?

---

---

Have you ever been convicted of a criminal offence before, including driving offences?

1. Offence:\_\_\_\_\_

Date of Conviction:\_\_\_\_\_

Sentence received:\_\_\_\_\_

2. Offence:\_\_\_\_\_

Date of Conviction:\_\_\_\_\_

Sentence received:\_\_\_\_\_

3. Offence:\_\_\_\_\_

Date of Conviction:\_\_\_\_\_

Sentence received:\_\_\_\_\_

4. Offence: \_\_\_\_\_

Date of Conviction:\_\_\_\_\_

Sentence received:\_\_\_\_\_

Have you ever been CHARGED with an offence but NOT convicted (provide details)?:

---

---

#### IV. EMPLOYMENT HISTORY

Who is your present employer? (full name of company or employer):

---

---

Address of employer:\_\_\_\_\_

Name of immediate supervisor:\_\_\_\_\_

What is your job, or what are your duties?\_\_\_\_\_

---

How long have you held this present position? \_\_\_\_\_

---

List previous employers from most recent to least recent (specify dates for each employer, name of employer, length of employment at each and job description):

1. \_\_\_\_\_

---

2. \_\_\_\_\_

---

3. \_\_\_\_\_

---

4. \_\_\_\_\_

---

If you are not working now, when were you last working, and for how long?

---

---

When and where do you expect to be working in the future?

---

---

If you are not working now, what skills, education, or experience do you possess at this time that would be of assistance in obtaining or retaining employment?

---

---

If you are convicted of the offence(s) with which you are now charged, describe how (if at all) this will or might affect your employment?

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---

---

Church or Religious Organization Involvement: \_\_\_\_\_

What is your annual income? \_\_\_\_\_

Do you own any property? \_\_\_\_\_ What is the Value? \_\_\_\_\_

---

## **V. MARITAL STATUS**

Single \_\_\_\_ Married \_\_\_\_ Divorced \_\_\_\_ Separated \_\_\_\_ Widowed \_\_\_\_ Common Law \_\_\_\_

Name of Spouse or partner: \_\_\_\_\_ Date of marriage/union: \_\_\_\_\_

Children living with you (names and ages): \_\_\_\_\_

---

Date of previous marriage (if applicable): \_\_\_\_\_

Children not living with you, but that you support:

---

---

Family Background and Occupations \_\_\_\_\_

What is your state of health? \_\_\_\_\_

What physical and mental health diagnoses do you have?

---

---

What medications do you take? \_\_\_\_\_

## **VI. SENTENCING INFORMATION**

What activities, hobbies, sports, or clubs, charities, volunteer work or pastimes do you participate in or belong to?

---

---

Please list any awards or other recognitions you may have received that might be helpful on the issue of sentencing (provide details):

---

---

Please list anything else you think might be helpful for us to know to be able to tell the Judge if you were convicted with any of the offences with which you are charged:

---

---

Gladue Factors – Do you identify as Indigenous? Status or non-status, Metis or Inuit?

---

What community or band is your family from? Do you live in a city or rural area?

---

Who do you live with now? \_\_\_\_\_

What is your home reserve or community like? Are there issues with substandard housing, lack of clean water, chronic unemployment, or substance abuse issues?

---

What kind of living arrangements did you have as you were growing up?

---

Have you or any members of your family ever been in foster care?

---

Do you feel dislocated from your home community?

---

Did you or a family member go to an Indian residential school?

---

Have you or they received and monetary compensation, treatment, or counselling?

---

Have you ever struggled with substance abuse (alcohol or drugs) or other addictions?

---

Did you grow up in a home with substance abuse issues or addictions?

---

Did you grow up in a home where there was abuse?\_\_\_\_\_

Do you or any of your family members have trauma, Fetal Alcohol Spectrum Disorder or learning disabilities?

---

Have you taken part in Indigenous celebrations or traditions?

---

Have you ever been affected by racism?\_\_\_\_\_

Have you been affected by poverty?\_\_\_\_\_

What are your interest and goals for employment and volunteering, for your family and community?\_\_\_\_\_

---

Who do you consider to be supports for you in the community?

---

## VII. DESCRIPTION OF THE OFFENCE

*This is the space for you to record your client's description of the circumstances surrounding the offence. It is suggested that you have the client explain the circumstances of the whole matter. You will want to know the facts in chronological order once you understand the situation, but you may have to get the big picture before you can get the client to go over the facts and put them in chronological order. Please adapt these sample directions below according to your best professional judgement when speaking to your client about the details of the offence.*

"Please tell me what happened that brought you to me. Tell me everything about this matter from the beginning to the present. Provide as much detail as you can remember, but if you do not know something or are guessing or speculating on something then please say so. If you didn't personally witness some of the details, but you know them because other persons told you about those details, please tell me that you didn't see or hear it yourself and tell me who told you about it. Please tell me the actual words you and the police used when talking to each other. I want to know the actual conversations between you and the police as accurately as possible. I can do my best job for you if I have as much information as you can give me."

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

## VIII. RIGHT TO A LAWYER ISSUES

(Details of being “read your rights” or being advised of your right to call a lawyer)

Describe the exact location where you were first stopped or arrested by the Police:

---

---

Exact time and date (as accurate as you can be) when you were stopped or arrested by the Police: \_\_\_\_\_

---

Were you told the reason for being stopped or arrested by the Police?

---

Details: \_\_\_\_\_

---

Were you advised of your right to remain silent or that you did not have to say anything?

---

If so, by whom? \_\_\_\_\_

---

When? \_\_\_\_\_

---

What exactly was said?

---

---

Were you ever told you had the right to contact counsel, a lawyer, or to get legal advice, or anything like that? \_\_\_\_\_

---

If so, provide complete details (i.e., precisely what was said and by whom, and what, if any, reply you gave): \_\_\_\_\_

---

---

Were you ever told anything as to whether or not it would cost you anything to call a lawyer? \_\_\_\_\_

---

If so, provide complete details as to who said what in this regard, and what, if any, reply you gave: \_\_\_\_\_

---

---

Did you ever ask to call a lawyer or any other person? \_\_\_\_\_

If so, provide complete details:

---

---

If you did speak with a lawyer at any time upon your arrest, provide complete details here (i.e., when, where, who did you talk to, who said what, how long did you speak):

---

---

If you did speak with a lawyer or any other persons, was your call in any way impaired or restricted (i.e., did you get privacy, were you interrupted, was your phone call cut off or limited in any way?):

---

---

---

---

If you did attempt to contact a lawyer, were you allowed to use the telephone yourself or did the police do the dialling (provide details)?

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---

Did you ask for or were you provided with any telephone books, directories, lists of lawyers, etc. to assist in obtaining a lawyer? Provide details:

---

---

---

Were you harmed in any way by the police? Provide details:

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---

---

Did the police ever ask you to "give a statement" or "tell your side of the story"? \_\_\_\_\_

If so, did you? \_\_\_\_\_ Provide complete details of what was said:

---

---

---

---

Did the police use a tape recorder or video camera at any time during their dealings with you? \_\_\_\_\_

If so, provide details: \_\_\_\_\_

\_\_\_\_\_

How would you describe your condition during your dealings with the police when arrested on this matter (i.e., drunk, stoned, tired, scared, injured, nervous, angry, etc.)?

\_\_\_\_\_

\_\_\_\_\_

Did you know any of the officers you dealt with from any previous encounters?

\_\_\_\_\_

\_\_\_\_\_

Was any property seized from you, your residence or vehicle at any time during your dealings with police? \_\_\_\_\_

If so, what was seized (complete details)? \_\_\_\_\_

\_\_\_\_\_

## **IX. BREATHALYZER OR IMPAIRED DRIVING CHARGE RELATED CHARGES**

### **PART A - THE VEHICLE YOU WERE IN**

Registered owner: \_\_\_\_\_

Vehicle Description (make, model, year, colour): \_\_\_\_\_

\_\_\_\_\_

What is your driver's licence number? \_\_\_\_\_

From what Province? \_\_\_\_\_

Do you currently possess a driver's licence from any other jurisdiction?

\_\_\_\_\_

Your position in the vehicle when stopped by police (i.e., driver, passenger, inside or outside the vehicle, awake, asleep): \_\_\_\_\_

\_\_\_\_\_

Describe the circumstances of being stopped (i.e., accident, check-stop, police following you, etc.): \_\_\_\_\_  
\_\_\_\_\_

Who else was in the vehicle at the time you were stopped (names, addresses and phone numbers)? \_\_\_\_\_  
\_\_\_\_\_

Once stopped were you asked by police to produce:

(A) Driver's Licence? \_\_\_\_\_ Did you produce one? \_\_\_\_\_

If so, from where? \_\_\_\_\_

Any difficulties or delays in doing so? \_\_\_\_\_

Details: \_\_\_\_\_  
\_\_\_\_\_

(B) Registration? \_\_\_\_\_ Did you produce it? \_\_\_\_\_

If so, from where? \_\_\_\_\_

Any difficulties or delays in doing so? \_\_\_\_\_

Details: \_\_\_\_\_  
\_\_\_\_\_

(C) Insurance? \_\_\_\_\_ Did you produce it? \_\_\_\_\_

If so, from where? \_\_\_\_\_

Any difficulties or delays in doing so? \_\_\_\_\_

Details: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## PART B - DEALINGS WITH THE POLICE

Were you at any time asked by the police to perform sobriety tests? (i.e., walk a line, touch your nose, pick up keys, etc.)? \_\_\_\_\_ If so, describe, including how you did and any comments made by the police:

---

---

---

Were you at any time asked by the police to provide a sample of saliva or blood? If so, describe, if you provided the sample and any comments made by the police:

---

---

---

Were you asked to blow into a roadside breath testing machine (usually referred to as an Alcosur machine or "roadside tester", small handheld machine usually done right at your car or inside the police vehicle)? \_\_\_\_\_

If so, by whom? \_\_\_\_\_

When? \_\_\_\_\_

Where were you when you blew into this roadside tester? \_\_\_\_\_

Result (i.e., pass, fail or warning)? \_\_\_\_\_

If you were asked to blow into a roadside tester and you refused or failed, why did you refuse or fail?

---

---

Were you asked or told to accompany the officer for breath tests on a "regular" breathalyzer? \_\_\_\_\_

If so, provide complete details as to what exactly the officer said to you, when and where and your reply?

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---

What did the police say (at any time) if anything, about the way you were driving?

---

---

What do you say about your manner of driving? \_\_\_\_\_  
\_\_\_\_\_

Did the police (at any time) say anything about your condition (i.e. how you were walking, talking, etc.)? \_\_\_\_\_  
\_\_\_\_\_

If you were taken away from the immediate location where you were first stopped (i.e., to go to the station or "downtown") where exactly were you taken (if you know)?  
\_\_\_\_\_  
\_\_\_\_\_

Describe any conversation (not already discussed) you had with the police from the time you were stopped to the time you provided breath samples in a "regular" breathalyzer:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

How long after your arrival at the police station did you give your first sample on a "regular" breathalyzer machine?  
\_\_\_\_\_  
\_\_\_\_\_

If there was any delay from your arrival at the police station until your first breath test, indicate why (if you know):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If there was a delay from your arrival at the station until your first breath test, where were you during that time (i.e., in a locked room, talking to a police officer, etc.)?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Once at the police station, how many times did you blow into the breathalyzer machine?  
\_\_\_\_\_

If you did not provide breath samples to the police, why not?  
\_\_\_\_\_  
\_\_\_\_\_

If you did not provide breath samples, did you give any reason (truthful or not) to the police or breath technician as to why you were not providing samples?  
\_\_\_\_\_

If so, what did you say? \_\_\_\_\_  
\_\_\_\_\_

At any time in your dealings with the police, did you ask to phone or talk to anyone (i.e., not just lawyers)? \_\_\_\_\_ If so, were you able to? \_\_\_\_\_

Provide details of who you talked to and what was said:

\_\_\_\_\_  
\_\_\_\_\_

Did you take any prescription drugs or non-prescription drugs before driving?

\_\_\_\_\_

Were you on any medications or drugs? \_\_\_\_\_ Provide details: \_\_\_\_\_

\_\_\_\_\_

At the time of arrest, were you suffering from asthma? \_\_\_\_\_ Diabetes? \_\_\_\_\_

Did you have any other medical condition (i.e., a cold)?

\_\_\_\_\_  
\_\_\_\_\_

After giving breath samples, were you served with any certificate or documents?

\_\_\_\_\_

Describe in detail what you were served with, when you were served, where you were served, by whom you were served, what (if anything) was said about the documents being given you:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Were you actually given a copy of a certificate showing your breath test results, and, if so, what did you do with it? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Were you then released or were you held in jail for a period of time? \_\_\_\_\_

If held in jail, do you know why? \_\_\_\_\_

When were you eventually released? \_\_\_\_\_

## PART C - DETAILS OF DRINKING PATTERN

When did you last eat before being stopped by police?

---

What did you eat? \_\_\_\_\_

Describe your complete (alcohol) drinking through the entire day leading up to your being stopped by police.

Describe exactly the type of drinks you had as follows:

(A) If you drank beer, then describe:

- (1) The brand;
- (2) Whether it was a bottle or can, or draft beer from a glass;
- (3) How much the bottle, can or glass holds (if a bottle or can, this is written on the label; if draft beer in a glass, get a glass from the bar and personally measure how much liquid by volume it holds);
- (4) Total number of bottles, cans or glasses of draft you consumed;
- (5) When (i.e., over what time period) you drank the beer:

---

---

---

---

---

---

(B) If wine, then describe:

- (1) The brand and type (red or white):
- (2) Alcohol content by volume (from label):
- (3) Number of glasses you consumed:
- (4) Number of ounces per glass consumed (obtain one of the actual glasses if possible and measure)
- (5) When you drank the wine:

---

---

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(C) If hard liquor, then describe:

- (1) Brand of liquor;
- (2) Type of liquor (i.e., rye, rum, etc.);
- (3) Alcohol content by volume (from label);
- (4) How much alcohol in each of your drinks (i.e., one ounce per drink, one and a quarter ounce per drink, etc.);
- (5) The number of drinks you consumed;
- (6) When you consumed the hard liquor;
- (7) Was the liquor measured into your glass with a jigger, or just estimated?

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[NOTE: If possible, obtain original bar tab for drinks]

Time you first started drinking on the evening or day in question?

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The total time over which your drinks were consumed?

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Were you drinking more heavily at the beginning of your evening, at the end, or were your drinks in general evenly spaced through the evening?

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Time you finished your last drink?\_\_\_\_\_

Describe your activities from the time you finished your last drink until you were stopped by police?:

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What did you do on the evening before the day leading up to your being charged (i.e., went to a movie, stayed home, was drinking at the bar, etc.)? If you consumed any alcohol then, please indicate:

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Did you take or use any prescription or non-prescription drugs in the days before being stopped?

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If yes, what did you take or use, how much and when?

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What other intoxicants did you ingest? How much and when?

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Your height at time of being stopped for this offence?

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Your weight at time of being stopped for this offence?

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Your age at time of being stopped for this offence?

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Your best estimate of the precise time you were stopped by the police:\_\_\_\_\_

#### **PART D - NAMES & ADDRESSES OF WITNESSES WHO MAY BE ABLE TO ASSIST US**

Please include all persons you were drinking with, or who were in the car with you when you were stopped or who were in any other way involved, or who may be able to provide any relevant information to us to help defend your case.

[NOTE: We will not contact these individuals without discussing it with you first to obtain your permission].

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Character Reference Letters: Here provide the names of any persons who may be willing to supply character letters of reference to the court if required, to assist in sentencing if you were convicted. We have forms to assist such persons in writing an effective character reference letter. Note that these persons would have to be informed of the charge against you if a letter was requested from them. We will not contact them without clearing it with you first. Provide full names, addresses and phone numbers.

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If you have anything else to add that has not been covered elsewhere in this form that you feel may be relevant or helpful, please tell me now. If you are not sure whether or not it is important, include it anyway.

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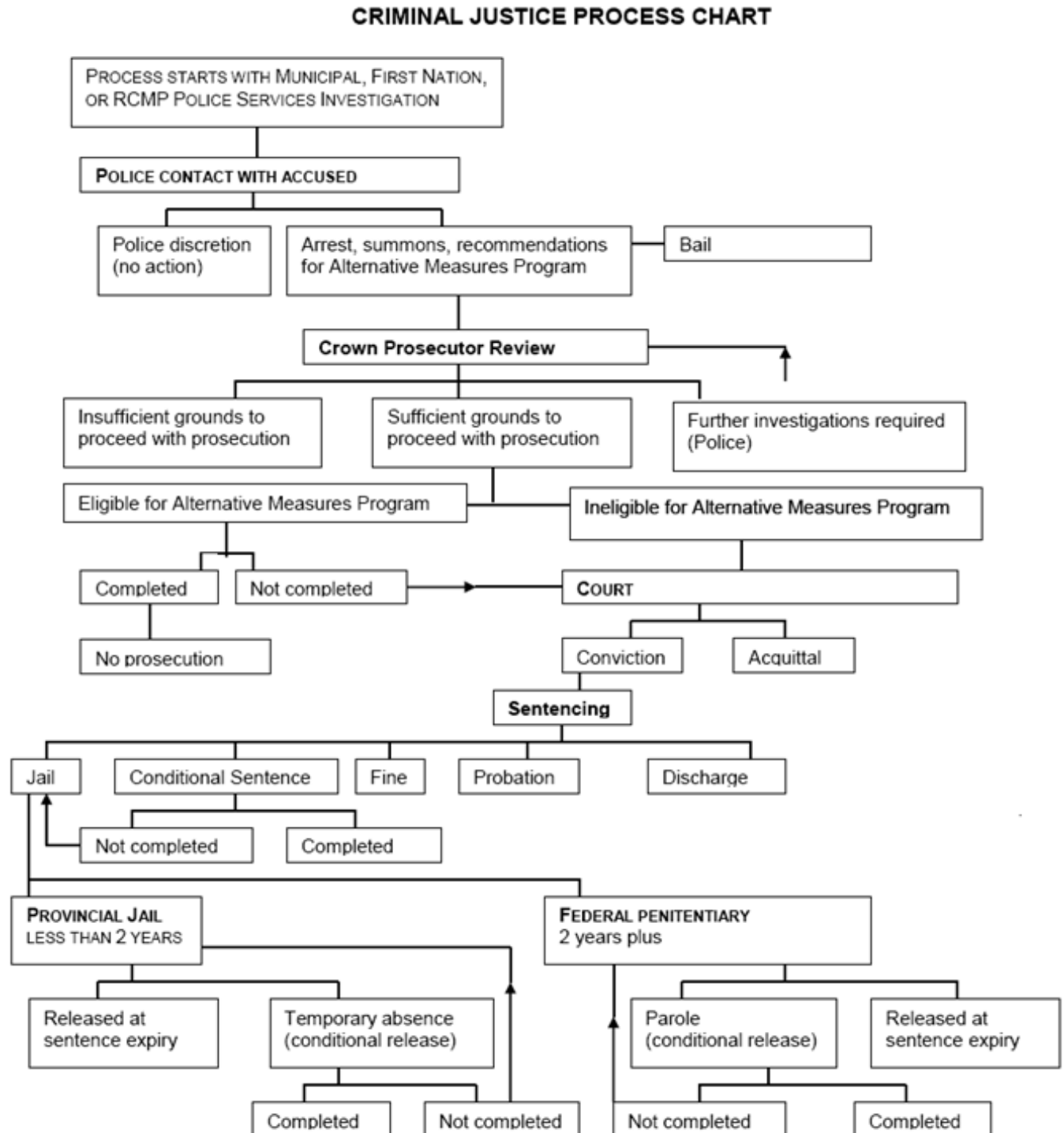
Name of Interviewer (please print):\_\_\_\_\_

Signature:\_\_\_\_\_

Date you completed this Interview:\_\_\_\_\_

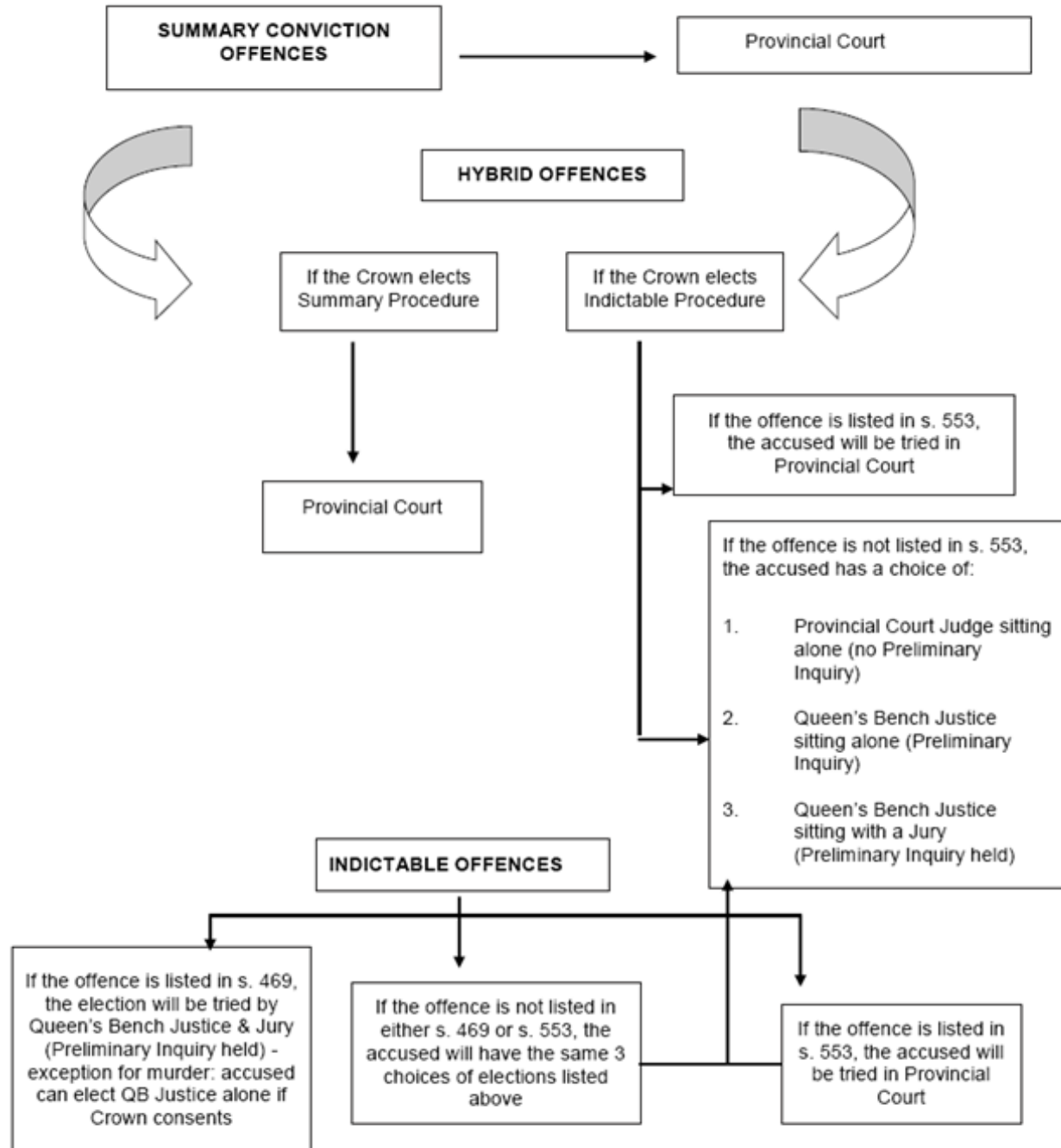
## 5. Criminal Justice Process Chart

This chart is a copyrighted publication of the Canadian Centre for Professional Legal Education and is used with the permission of the Legal Education Society of Alberta.



## 6. Elections Flowchart

This flowchart is a copyrighted publication of the Canadian Centre for Professional Legal Education and is used with the permission of the Legal Education Society of Alberta.



\* Please note that the Queen's Bench is now referred to as the King's Bench.

## **7. Notice of Application to Transfer Charges**

[Document follows on next page]

**NOTICE OF APPLICATION TO TRANSFER CHARGES  
WITH THE CONSENT OF THE CROWN  
INSTRUCTIONS FOR COUNSEL**

The application may be submitted:

1. in a courtroom, on the record;
2. at a Court Office by email by submitting the form, "Notice of Application to Transfer Charges with the Consent of the Crown"; or
3. at a Court Office in person, by submitting the form "Notice of Application to Transfer Charges with the Consent of the Crown".

**1. Application submitted in a Courtroom**

- Make submissions in favour of your application, with Crown consent.
- Presiding Judge will grant or deny the application.

Note: If the application is granted, the charges will remain on a docket in the originating court centre until a date has been arranged by counsel with the trial coordinator for the office where the charges are to be transferred, if the trial coordinator is involved in setting dates in the receiving jurisdiction.

**2. Application submitted by way of email at [pcj@gov.mb.ca](mailto:pcj@gov.mb.ca)**

- Email: [pcj@gov.mb.ca](mailto:pcj@gov.mb.ca). The subject line must include: TRANSFER REQUEST- Name of Accused (Originating Court Centre).
- Presiding Judge will review and will grant or deny the application.
- Judicial assistant will send an email to Counsel with a scanned copy of the Notice of Application advising whether the application was approved or denied.

Note: If the application is granted, the charges will remain on a docket in the originating court centre until a date has been arranged by counsel with the trial coordinator for the office where the charges are to be transferred, if the trial coordinator is involved in setting dates in the receiving jurisdiction.

**3. Application submitted at the Court Office in person**

- Submit the application at the front counter at the originating Court Centre. The form will be forwarded to Judges' chambers for review by the presiding judge.
- Presiding Judge will grant or deny the application.
- Judicial assistant will send an email to Counsel with a scanned copy of the Notice of Application advising whether the application was approved or denied.

Note: If the application is granted, the charges will remain on a docket in the originating court centre until a date has been arranged by counsel with the

**NOTICE OF APPLICATION TO TRANSFER CHARGES  
WITH THE CONSENT OF THE CROWN  
INSTRUCTIONS FOR COUNSEL**

trial coordinator for the office where the charges are to be transferred, if the trial coordinator is involved in setting dates in the receiving jurisdiction.

**Application Granted**

If the application has been granted, the charges to be transferred must be brought forward or adjourned by counsel to the receiving Court Centre once a date has been arranged with a trial coordinator, if the trial coordinator is involved in setting dates in the receiving jurisdiction.

**Transfers Granted from a Regional Court Office or Circuit to Winnipeg**

**Matters Transferred to Winnipeg for a Bail Hearing**

- Counsel will adjourn or the Crown will bring forward the charges from a future date to a 301AC or 301DV docket which commences at 9:30 a.m. Monday to Friday.
- Counsel will provide the presiding Staff Justice of the Peace (PTC) with a copy of the approved form or provide the date, location and name of the Judge who approved the transfer.

**Matters Transferred to Winnipeg for Disposition**

- For out-of-custody matters, counsel will obtain a date for the Waive-In docket from the Manitoba Court website. Counsel will then contact the DCD to confirm the scheduling of the disposition.
- For in-custody matters, once the application has been granted, counsel will contact the DCD and arrange a date/time and location for the disposition. This should be by way of email, either attaching the authorized form or advising the DCD of the date/time and location where the order was granted.

**Transfers Granted from a Circuit Location or Regional Court Office to a Regional Office other than Winnipeg**

Counsel will contact the Trial Coordinator for the court office where charges are transferred to in order to arrange for a date, if the trial coordinator is involved in setting dates in the receiving jurisdiction. They will either provide the trial coordinator with a copy of the approved form or advise the trial coordinator of the date, time, location and name of the judge who granted the application.

***Note: The Crown is responsible for bringing forward the charges from a future date once the application has been granted.***

## **8. Provincial Court Notice – Transferring Matters Between Judicial Court Centres (Amendment)**

[Document follows on next page]

## **NOTICE**

### **PROVINCIAL COURT OF MANITOBA**

#### **Re: Transferring Matters between Judicial Court Centres - Amendment**

Further to the Notice of July 25, 2019, Re: Transferring Matters between Judicial Court Centers, after receiving feedback from the Bench and Bar, the related "Instructions to Counsel" has now been amended to permit oral applications for transfer of a matter to be made in court, on the record. In those circumstances, the form entitled "Notice of Application to Transfer Charges with the Consent of the Crown" will not need to be filed with the Court. The form remains available for those cases where counsel wish to request approval to transfer charges in advance of the court date (which would facilitate the setting of the court date in receiving jurisdiction in advance of the date in the originating jurisdiction).

**ISSUED BY:**



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**For: Chief Judge Margaret Wiebe  
(Manitoba)**

**DATE: January 24, 2020**