

RELEASE DATE : SEPTEMBER 17, 2009

Date Setting Protocol for Trials/Prelim's, Pre-trials & Pleas

1. Trial/Preliminary Hearing dates are expected to be set in advance or the morning of the next scheduled Court "A" date. A Trial/Preliminary Hearing date cannot be set without having first completed resolution discussions with the Crown. The resolution meeting/Crown Pre-Trial should occur at the latest prior to the third appearance (post release) of the individual. Trial/Preliminary Hearing dates will only be set once a completed Trial Readiness Certificate is filed with the trial coordinator. This form will be completed by the crown attorney at the time of the resolution discussions with defence counsel.
 - a. A resolution meeting/Crown Pre-Trial should include matters related to plea/resolution as well as trial. This meeting may be conducted in person or over the phone from an office. Follow-up matters can be conducted by email or phone. Crowns can be contacted at:
 - Monday – Youth matters CLD.LondonCrown.YCJA@ontario.ca
 - Tuesday – A:E surnames CLD.LondonCrown.AtoE@ontario.ca
 - Wednesday – F:L surnames CLD.LondonCrown.FtoL@ontario.ca
 - Thursday – M:Z surnames CLD.LondonCrown.MtoZ@ontario.ca
 - Friday - Federal Statute Charges jennifer.monk@ppsc-sppc.gc.ca
 - Domestic Matters - CLD.LondonCrown.Dmst@ontario.ca
 - Provincial Crowns office phone number: **519.660.3003**
 - Federal Crowns office phone number: **519.645.2650**
 - b. The Crown may make a time-limited 'bonus offer' regarding sentence that has been communicated to the client via counsel (where appropriate). Wherever possible, the Crown and Defence counsel are expected to discuss elements that would be included in a joint submission. Crown and Defence counsel should also discuss elements of a trial/preliminary hearing (see #3 below).
 - c. Unrepresented accused are not required to have a resolution meeting with the Crown if they plan to set a date for trial/preliminary hearing. They should appear in Cr. #3 the morning of their "A" court appearance to confirm schedules/availability of witnesses and arrange a trial/preliminary hearing date with the trial coordinator. (see Unrepresented Individuals below).
2. Upon decision of a guilty plea, pleas will be traversed from Court "A" into Courtroom #2 (designated guilty plea court) operating that same day. The preferred method of resolution by guilty plea is to be traversed the same day into Courtroom #2. If required, the Justice partners can request a future date for sentencing.
 - a. Should Defence counsel or the accused not be available to attend guilty plea court that day, the matter can be adjourned to a future date, in Courtroom #2 @ 9:30am (the designated guilty plea court), on consent.
3. When a plea/resolution cannot be reached during the resolution meeting/Crown Pre-Trial, Crown and Defence counsel are expected to discuss the trial issues, evidence, witnesses and other matters, concluding with agreement on the expected length of the trial/preliminary hearing.
 - a. Where resolution discussions result in a decision to go to trial/preliminary hearing, a completed Trial Readiness Certificate will need to be provided to the Trial Coordinator upon setting a date. Counsel will then sign the completed Trial Readiness Certificate, which will then be attached to the court information.
4. The Trial Readiness Certificate should include the following acknowledgements:
 - That a resolution meeting has been held to discuss the elimination of unnecessary witnesses, to admit evidence that is not in dispute, to accurately estimate the length of trial/prelim., and to arrange the earliest possible date
 - The proper spelling of the accused's name (as it appears on the information), and counsel's name
 - Indicate if the accused is an adult or youth

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- Indicate if the accused is in or out of custody
 - Indicate if there is red flag crown with carriage of the case
 - Crown to indicate the total number of police and civilian witnesses
 - Defence to indicate the total number of defence witnesses
 - That any potential Charter issues have been identified and will be discussed at resolution meetings and that any charter applications will be served and filed 40 days in advance of the trial date with the crown's having 10 days to respond. The need for and timing of a factum will be based on the discretion of the presiding judge
 - That disclosure has been completed
 - Indicate if interpreters, testamentary aids (closed circuit), video electronic assistance are required
 - Indicate if an out-of-town judge is required
 - Any other matter that may affect the appropriate and timely scheduling of the matter.
5. Should Crown Counsel, Defence Counsel, Member of the Judiciary or designate of the Judiciary wish, a Judicial pre-trial (JPT) and/or Focus Hearing may be **initiated upon request** through the Assistant Trial Coordinator in advance of a trial/preliminary hearing.
- a. The purpose of a JPT is to narrow the number of issues, consent to selected admissions, review evidence, sentence preview and streamline the number of victims/witnesses/experts testifying.
 - b. Focus hearings will also be initiated, where required, upon the request of Crown Counsel, Defence Counsel, Judiciary and/or Designate of the Judiciary.
 - c. JPT's and Focus Hearings will be scheduled 6-8 weeks in advance of the trial/preliminary hearing date. During the course of these meetings the Judiciary will confirm with counsel that all witnesses have been subpoenaed, all charter issues have been raised and that both counsel are prepared to adequately utilize their estimated trial/preliminary hearing time.
6. Once a matter is set for trial/preliminary hearing or referred to a Judge for case management it shall remain before that Judge unless that Judge or the LAJ directs that it be assigned to another Judge.

Unrepresented Individuals:

- 7. Judicial Pre-Trials must occur on the record in a courtroom only if they are unrepresented.
- 8. Where a pretrial with a Crown Counsel has been conducted with an unrepresented person, the accused person must sign a Trial Readiness Certificate, in advance of the "set date" appearance.
- 9. Unrepresented persons not seeking counsel and who decline to have a pretrial with Crown counsel or decline to complete a Trial Readiness Certificate with the Crown, shall have their trial or hearing date established in the remand court.
- 10. Where a person is represented by an agent, the accused person must sign a Trial Readiness Certificate on his/her own behalf, acknowledge that the agent is not a lawyer in good standing with the Law Society of Upper Canada who may or may not be allowed to appear by the trial or hearing Judge and undertake to proceed on the date set for trial or hearing, with or without the agent's assistance.