

Practice Note

Southern Region – Criminal Court

The Court is committed to enhancing access to justice by improving its case management protocols and reducing unreasonable delay. The objective of this practice note is to promote an efficient and effective use of court resources by reducing the number of appearances and length of delay in docket court.

The changes will come into effect on **June 10th, 2024** and affect those cases with a first appearance date of June 10th or later.

Only adult criminal matters are affected by these changes.

All practices referenced in this note remain subject to the discretion of the presiding Justice.

CASE MANAGEMENT OFFICE (CMO)

CMO will continue to operate with a limit of three (3) adjournments or two (2) months, whichever comes first.

Where an accused has been subject to a warrant with respect to a specific Information, this Information will thereafter be dealt with in the criminal docket court and not at CMO.

Defence Counsel emailing CMO for a trial/preliminary hearing date must include the following information in their request:

- Docket number; Accused name; Defence counsel's name
- Defence counsel's availability for trial and if there is assigned Crown, their availability as well
- Confirmation that Resolution discussions have occurred
- Confirmation that the accused is aware of their Language rights and their choice of a trial/preliminary hearing in English, French or both

CRIMINAL DOCKET COURT

Standardized Initial Adjournments: (applicable only where counsel has been retained)

Once counsel has been retained, if they seek an adjournment it will be granted for a standard length of **3 months**. It is expected that counsel will complete all matters necessary within this time frame in order to be prepared to take the next step on the following court date:

- resolve the case;
- fix a date for resolution; or
- fix a date for trial/preliminary hearing

If a case is particularly complex (eg. multiple accused or voluminous disclosure), an initial or additional adjournment may be granted for a total adjournment period of **5 months**.

Cases Brought Forward:

- Where an accused is in custody and eligible for a **bail hearing**, if Defence counsel requests an initial adjournment, the 3 month standard will apply. Defence may however bring the matter forward for a bail hearing in docket court at any time by providing one day's notice to the Crown. The Crown may choose to waive this notice.

This practice is premised on the accused consenting to remain in custody and will not prevent the accused from seeking a bail hearing at the earliest opportunity.

- Where an initial adjournment has been granted but Defence counsel are **prepared to take the next step sooner** (resolution or fixation of a hearing date), they are expected to bring the matter forward to be spoken to at the earliest opportunity.
- Where an initial adjournment has been granted but Defence counsel determine that they are **unable to continue to act** for the accused, they are expected to bring the matter forward to be spoken to at the earliest opportunity, having given proper notice to the accused.
- Counsel may bring a matter forward at any time to seek direction from the court.

Information to the Court: Counsel should always be prepared, as they are reasonably able, to advise the Court of:

- the Information-sworn date of the original (versus replacement) Information
- periods during which the accused was at warrant
- when Defence counsel was retained
- how long the case has been in docket court
- whether there have been previous counsel, how many, and when
- whether and when the case was previously scheduled for a trial/preliminary hearing

Confirmation Court Appearances:

These are docket court appearances where the accused and/or counsel are required to attend to confirm that they are prepared to proceed with the trial/preliminary hearing as scheduled. It applies in Domestic Violence Court as well as the regular Criminal Court.

When CMO schedules a trial/preliminary hearing date, it will also schedule a Confirmation Court Appearance date in the following circumstances:

1. Where the Accused is self-represented, or
2. In other circumstances where the Court directs it

A Confirmation Court Appearance will be **6 – 8 weeks in advance** of the trial/preliminary hearing date. No Confirmation Court Appearance date will be set if the lead time to trial/preliminary hearing is less than 4 months.

The Self-Represented Accused should be given verbal notice in the docket courtroom and will be given written notice at CMO as follows:

You must appear in person for the Confirmation Court Appearance. If you fail to do so, it may result in a warrant being issued for your arrest and your trial/preliminary hearing may be cancelled.

Confirmation of notice given will be endorsed by the clerk in the courtroom and at CMO.

Information Sheet for Self-Represented Accused: CMO will provide self-represented accused with an Information Sheet that provides contact information for the Crown office, the Legal Aid office, and other agencies and online services that may be of assistance. These Information sheets will also be made available in the courtroom.

Confirmation Court Appearances requested by counsel or directed by the Court:

These may occur where there is justifiable uncertainty in relation to any of the following:

- whether the accused will maintain contact with their counsel,
- whether the accused will attend for trial/preliminary hearing as required to do so,
- whether Crown witnesses can be located,
- where there are other outstanding issues to be resolved that lead to uncertainty as to whether the trial/preliminary hearing can proceed as scheduled, or
- other similar reasons

Waiver of Confirmation Court Appearances by desk application: Where the accused is represented by counsel and a Confirmation Court Appearance has been set, it may subsequently be waived upon application to the Court. This may occur by way of desk application providing sufficient reasons.

DOMESTIC VIOLENCE TRIALS (Lethbridge)

Currently, each Wednesday courtroom #4 is designated for Domestic Violence trials.

In order to reduce lead times, another Domestic Violence trial day will be added to the schedule:

1st Monday of each month, courtroom #7, commencing at 9:30 a.m.
effective October 7, 2024

Dated this 29th day of May, 2024

S. L. Oishi

Assistant Chief Justice, Southern Region