

# Ontario Court of Justice Practice Direction: 12-Week Adjournment from First Appearance in Criminal Case Management Court for Counsel Matters

## Information

**Effective date: November 1, 2023**

**Locations: Brampton and Toronto**

The objective of this practice direction is to reduce unnecessary administrative appearances in case management courts. Rather than granting a series of short-term adjournments to confirm completion of individual steps, this practice direction establishes a standard 12-week adjournment for matters in which counsel is retained at the first appearance, or shortly thereafter. During the adjournment period, Crown and defence counsel are expected to take the necessary steps toward completion of the intake phase of the case and therefore be ready to resolve the case or set a trial or preliminary inquiry date.

## Application

1. This practice direction applies to all Ontario Court of Justice criminal cases involving out-of-custody accused persons in Brampton and Toronto as of November 1, 2023 in which the accused person has retained counsel (as described in paragraph 2) by their first appearance in case management court, or otherwise within four weeks of their first appearance.

2. This practice direction applies if counsel is retained, prepared to go on record, or otherwise confirms that they are prepared to represent the accused through the case management / intake phase, *i.e.* up to the setting of a trial or preliminary inquiry date. If counsel is not retained for a trial or preliminary inquiry, any trial or preliminary inquiry date must be set on a “with or without counsel” basis, and the accused must attend court when the trial or preliminary hearing date is formally set.
3. This practice direction applies to an accused person whose case involves a co-accused, even though a co-accused has not yet retained counsel. In such cases, the Court expects that Crown and defence counsel will work cooperatively with each other, and with any unrepresented accused person, to move the matter forward, such as coordinating scheduling judicial pre-trials and selecting trial or preliminary inquiry dates. This is particularly important if one or more co-accused is in custody. For clarity, the 12-week adjournment does not apply to the unrepresented co-accused.
4. This practice direction also applies to matters in which the accused person has retained a paralegal to represent them in connection with a summary conviction *Criminal Code* offence on which the paralegal is authorized to appear as agent under ss. 800 and 802.1(c) of the *Criminal Code*.
5. This practice direction does not apply to cases of young persons, self-represented accused persons or accused persons who are in custody or cases in specialized courts (e.g. drug treatment court), as these cases are more likely to require more active and individualized case management.

## 12-week adjournment

6. Subject to paragraphs 13 – 14, cases that meet the criteria set out in paragraphs 2 – 5 will be adjourned for a period of 12 weeks. If an appearance 12 weeks away would not fall on the appropriate case management date, the matter will, instead, be adjourned to the appropriate case management date that is approximately 12 weeks away. No adjournment, however, may be for a period of more than three months.
7. Both Crown and Defence counsel must make best efforts to move the case forward, within the adjournment period, to completion of the case management / intake phase, including the following:
  - i. The Crown will:
    - a. promptly screen the case and provide meaningful disclosure to defence counsel, if this has not already been done;
    - b. respond promptly to disclosure requests;
  - ii. Defence counsel will:
    - a. make diligent efforts to obtain and review disclosure;
    - b. promptly advise the Crown’s office of any additional outstanding disclosure and

be diligent in following up on any outstanding disclosure;

- iii. Both the Crown and defence counsel will work cooperatively to complete the following at the earliest reasonable opportunity:
  - a. schedule and conduct a Crown pre-trial meeting;
  - b. where required or otherwise appropriate, schedule and conduct a judicial pre-trial;
  - c. where the matter is resolving, make all necessary arrangements to implement the resolution, including identifying the date and courtroom for the resolution to be implemented; and
  - d. where the matter is proceeding to trial or preliminary inquiry, obtain a trial or preliminary inquiry date through the Trial Coordinator's office, which may be formally set at the accused person's next court date.
8. Subject to paragraph 10, the Court's expectation is that, on the return date from the 12-week adjournment, counsel will, at minimum, have addressed disclosure and conducted a meaningful Crown pre-trial and, unless a judicial pre-trial is required, be ready to do one of the following:
  - i. resolve the matter, or identify the courtroom and date to which the matter should be traversed or adjourned to implement the resolution; or
  - ii. set a trial or preliminary inquiry date.
9. If a judicial pre-trial is required, the Court's expectation is that the parties will have scheduled the judicial pre-trial by the return date from the 12-week adjournment.
10. If the return date is less than six months after the date the Information was sworn, and the parties have not completed all the steps set out in paragraph 8 (or if a judicial pre-trial has been scheduled but not yet conducted), the Court may grant a further adjournment to a date that is on or before the six-month Information sworn date to allow completion of the outstanding steps.
11. For clarity, within six months of the Information sworn date, both the Crown and the Defence are expected to be prepared to either resolve the matter or set a trial date, in compliance with the [Jordan-Compliant Trial Scheduling Practice Direction](#).
12. Matters adjourned in accordance with this practice direction may be brought forward at any time to be addressed before the Court. For example:
  - i. if either party encounters a problem with moving the case forward during the adjournment period, the parties are expected to communicate and cooperate with one another to address the issue. If they are unable to resolve the issue, either party should have the matter brought before the Court by either scheduling a judicial pre-trial or bringing the matter forward so that it can be addressed; or
  - ii. the parties may also bring the case forward for the purpose of resolution.

## Exceptional circumstances

13. The Court recognizes that there may be cases in which, due to unique circumstances of that particular case, a 12-week adjournment is not feasible or appropriate. Counsel should advise the judicial officer presiding in case management court if such circumstances exist in their case, so that the judicial officer may determine the appropriate adjournment period and otherwise provide direction. For example, in an impaired driving case where the accused person may be interested in participating in Stream A or D of the Ministry of Transportation's [Reduced Suspension with Ignition Interlock Conduct Review Program](#), counsel may seek to have the matter adjourned directly into a resolution court, in order to resolve the matter within the Program's 90-day deadline.
14. If either counsel is not in a position, for whatever reason, to move the case toward the end of the intake / case management phase during the adjournment period, they are expected to advise the Court before the matter is adjourned.

Chief Justice Sharon M. Nicklas

Ontario Court of Justice