

## **PRE-TRIAL CONFERENCE REPORT**

**(Criminal Code, s. 625.1)**

### **NOTE:**

1. This form must be completed in full in all cases, and signed by the assigned Crown counsel, or a Crown counsel authorized to bind the Crown, and by counsel of record for each accused person, before the first judicial pre-trial conference, unless otherwise ordered.
2. Crown and defence counsel are encouraged to discuss the issues to be addressed at the pre-hearing conference in advance of the conference.
3. Counsel must provide their position on each issue, and not indicate they “will advise”, or “not as yet”, etc.
4. Crown must complete this form and fax or deliver it to defence counsel of record. Defence counsel must fax or deliver their report to the Crown Attorney, regardless of whether the Crown has filed a form. In cases where the Crown has not filed the form, or has filed it late, defence counsel should complete the form to the extent possible.

Crown Report, prepared by:

Defence Report, prepared by:

(Counsel for:  
if multiple accused.)

Have counsel discussed the issues raised in this form after the committal for trial?

Yes  No

Charges:

**1. Chronology:**

- a. Date(s) of Offence(s):
- b. Date Charged:

**2. For of Judicial Interim Release**

- a. Is the accused detained in custody on this/these charges?  Yes  No
- b. Was bail applied for and denied?  Yes  No
- c. Is the accused detained in custody on any other charges?  Yes  No

**3. Disclosure:** Complete  Yes  No

- a. Outstanding issues
- b. Lost/destroyed:
- c. Withheld/delayed:

**4. Pre-Trial Motions**

- a. Quash comittal for trial  Yes  No
- b. Quash indictment  Yes  No
- c. Quash a count(s) in indictment:
  - i. Relying on s. 581(1)  Yes  No
  - ii. Relying on s. 581(3)  Yes  No

- d. Sever count(s) in indictment  Yes  No
- e. Sever accused  Yes  No
- f. Particulars  Yes  No
- g. Amendment(s)  Yes  No

### Crown pre-trial motions

#### 5. Statements of the Accused

- a. Is the Crown seeking to obtain rulings as to the admissibility of Statements to Persons in Authority?  Yes  No
- b. Is the Crown seeking to introduce the statement?  Yes  No
- c. Is the Crown seeking only a ruling as to admissibility?  Yes  No
- d. Does the defence dispute admissibility?  Yes  No
- e. Form of statement:  Oral  Written  Audiotaped  
 Videotaped
- f. If the statement is audio or video taped, is there a transcript?  Yes  No
- g. If no transcript is available, will the Crown provide one in advance of trial?  Yes  No
- h. Date to be made available?
- i. Length of statement(s)
- j. *Voir dire* required?  Yes  No
- k. *Voir dire* issues:
- i. Recipient as a person in authority  Yes  No
- ii. Voluntariness  Yes  No
- iii. S. 10(a)  Yes  No
- iv. S. 10(b)  Yes  No
- v. S. 7  Yes  No



i. Time estimate for *voir dire*

Evidence	Argument
Crown	Crown
Defence	Defence

- j. Is the Crown seeking to rely on disreputable conduct evidence, relying only on the counts in the indictment?  Yes  No

**7. Principled Exception to the Hearsay Rule**

- a. Does the Crown seek to introduce any evidence relying upon the principled exception to the hearsay rule?  Yes  No
- b. If so, what is the nature of the evidence?
- c. Does the defence contest admissibility?  Yes  No
- d. If yes, does the defence contest:      necessity       Yes       No  
    Reliability       Yes       No  
    Prejudicial effect/probative value       Yes       No
- e. How does the Crown propose to introduce the evidence on the *voir dire*?
- i. *Viva Voce* evidence       Yes       No
- ii. Agreed Statement of facts       Yes       No
- iii. Witness Statements       Yes       No
- iv. Transcripts       Yes       No
- f. Does the defence consent to the manner in which the Crown seeks to introduce the evidence on the *voir dire*?  Yes  No
- g. Comment:
- h. Time estimate for *voir dire*?

Evidence	Argument
Crown	Crown
Defence	Defence

**8. After the Fact Conduct Evidence**

- a. Will the Crown be seeking to tender any evidence of after the fact conduct by the accused?  Yes  No
- b. If so, what is the nature of the evidence?
- c. Does the defence contest admissibility?  Yes  No
- d. How does the Crown propose to introduce the evidence on the *voir dire*?
- i. *Viva Voce* evidence  Yes  No
  - ii. Agreed Statement of facts  Yes  No
  - iii. Witness Statements  Yes  No
  - iv. Transcripts  Yes  No
- e. Does the defence consent to the manner in which the Crown seeks to introduce the evidence on the *voir dire*?  Yes  No
- f. Comment:
- g. Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

**9. Intercepted Private Communications**

- a. Does the Crown seek to introduce wiretap evidence?  Yes  No
- b. Brief overview of evidence
- c. Does the defence require a *voir dire* to determine admissibility?  Yes  No
- d. Brief overview of defence position:
- e. Authorization: consent, s. 184.2  Authorization s. 186
- f. Other
- g. Issue to be litigated: facial validity  Sub-facial validity

- h. Other:
- i. Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

**10. Other legal issues requiring rulings Crown Counsel anticipates will arise:**

- a.
- b. Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

**11. Competency of Witnesses**

- a. Does the Crown/defence intend to call any witness who is under the age of 14?  
 Yes       No
- b. Does the Crown/defence intend to challenge the capacity of any witness on the basis of mental capacity?  
 Yes       No
- c. Name of witness, and basis of challenge:

**12. Manner in which evidence is to be introduced**

- a. Does the Crown or defence seek to have any witness's evidence introduced:
- i. By video link, pursuant to s. 714.1?       Yes       No
- ii. By reading in evidence previously taken pursuant to s. 715?  
 Yes       No
- iii. By videotaped evidence, pursuant to s. 715.1?       Yes       No
- iv. By videotaped evidence, pursuant to s. 715.2?       Yes       No
- v. Other means? Details

- b. Does the opposing party consent to the admissibility of the evidence in the manner proposed?  Yes  No
- c. If opposed, estimated time for:

Evidence	Argument
Crown	Crown
Defence	Defence

### 13. Testimonial Aids

- a. Will the Crown apply to have a witness testify with a support person, pursuant to s. 486.1(1)?  Yes  No

Details:

- b. Will the Crown apply to have a witness testify with a support person, pursuant to s. 486.1(2)?  Yes  No

Details:

- c. Does the defence oppose the order?  Yes  No

- d. Will the Crown apply to have a witness testify with a screen or from outside the courtroom, pursuant to s. 486.2?  Yes  No

Details:

- e. Does the defence oppose the order?  Yes  No

### 14. Exclusion of Public/Publication Bans/Deferred Publication Orders

- a. Will the Crown apply to have the public excluded or to have a witness' identity shielded from the public for all or part of the proceeding, pursuant to s. 486?  Yes  No

- b. Does the defence oppose the order?  Yes  No



- c. Does the Crown seek an order pursuant to ss. 486.31, 486.4 or 486.5 banning the publication of the complainant’s identity?  Yes  No
- d. Does the defence oppose the order?  Yes  No
- e. If opposed, estimated time for:

Evidence	Argument
Crown	Crown
Defence	Defence

- f. Does either party seek other publication bans or deferred publication orders?
  - Crown  Yes  No
  - Defence  Yes  No
- g. If yes, provide details of order sought, media to be notified, timing of hearing, time estimate for hearing:
- h. Does the other party oppose the application?  Yes  No
- i. If opposed, provide time estimate for evidence and separate time estimate for argument:

Evidence	Argument
Crown	Crown
Defence	Defence

**15. Privilege Issues**

- a. Will the Crown be raising issues of privilege?  Yes  No
- b. Will the defence be raising issues of privilege?  Yes  No
- c. If yes, please specify the nature of evidence and issue of privilege.
- d. Basis upon which the party seeking admission rely:
- e. How does the party claiming privilege seek to introduce the evidence on the *voir dire*?

- i. *Viva Voce* evidence  Yes  No
- ii. Agreed Statement of facts  Yes  No
- iii. Witness Statements  Yes  No
- iv. Transcripts  Yes  No
- f. Does the other party consent to the manner in which the evidence will be introduced on the *voir dire*?  Yes  No
- g. Comment:
- h. Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

**16. Application to Stay Proceeding based upon:**

- a. Abuse of Process
- b. Contravention of Charter section: s. 7
- c. S. 11(b)
- d. Other
- e. Estimate time for *voir dire* (evidence and argument)

Evidence	Argument
Crown	Crown
Defence	Defence

**17. Applications to Exclude Evidence based upon s. 24(2) alleging breaches of:**

- a. S. 7
- S. 8  warrantless search  search warrant
- Order  authorization  Issue: facial validity
- Sub-facial validity  execution  other
- s. 9  s. 10(a)  s. 10(b)  other

- b. Evidence sought to be excluded:
- c. Nature of breach:
- d. Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

**18. Third Party Records Applications**

Yes

No

- a. Relying upon: Mills, s. 278.2
- O'Connor

Yes

No

Yes

No

- b. Nature of Records:
- c. Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

- d. How long prior to trial does the applicant propose the motion be heard?

**19. Evidence of the Complainant's Prior Sexual Activity – s. 276**

Yes

No

- a. Nature of Evidence:
- b. Manner in which defence seeks to establish evidentiary basis on application:
- c. Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

**20. Evidence of Other Suspects**

- a. Nature of Evidence:
- b. How does defence propose to introduce evidence on *voir dire*?
- i. *Viva Voce* evidence  Yes  No
- ii. Agreed Statement of facts  Yes  No
- iii. Witness Statements  Yes  No
- iv. Other  Yes  No
- c. Does the Crown oppose admissibility?  Yes  No
- d. Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

## 21. Character of Victim

- a. Nature of Evidence:
- b. Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

## 22. Other Legal Issues defence counsel anticipate will arise at trial (e.g. Corbett application)

- a. Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

## 23. Expert witnesses

**24. Crown Witnesses**

- a. Does the Crown intend to call expert witnesses?  Yes  No
- b. Field(s) of expertise:
- c. Issues upon which the evidence will be introduced:
- d. Does the defence contest the admissibility of the expert evidence?  
 Yes  No
- e. Basis upon which admissibility of evidence contested:
- i. Witness is not an expert
  - ii. Area of expertise requires a voir dire
  - iii. Witness cannot give evidence sought
- f. Comments:
- g. Time estimate for *voir dire*;

Evidence	Argument
Crown	Crown
Defence	Defence

**25. Defence Witnesses**

- a. Does the defence intend to call expert witnesses?  Yes  No
- b. Field of expertise:
- c. Issues upon which the evidence will be introduced?
- d. Does the Crown contest the admissibility of the expert evidence?  
 Yes  No
- e. Basis upon which admissibility of evidence contested:
- i. Witness is not an expert
  - ii. Area of expertise requires a voir dire
  - iii. Witness cannot give evidence sought
- f. Comments:

- g. Time estimate for *voir dire*;

Evidence	Argument
Crown	Crown
Defence	Defence

## 26. Position of Accused in Court

- a. Will there be an application to have the accused sit at counsel table?  
 Yes       No
- b. Does the Crown consent?  
 Yes       No

## 27. Absence of Accused from the Court

- a. Will there be an application for the accused to be absent from the trial, pursuant to s. 486.2?  
 Yes       No
- b. If yes, what is the basis for the application?

## 28. Position of the Parties

- a. Crown: upon what evidentiary basis does the Crown seek to establish liability of each accused?
- b. Upon which section(s) of the Criminal Code does the Crown rely, to establish the liability of each accused?
- c. Does the Crown submit any offences are included in the count(s) in the Information?
- d. Does the defence submit any offences are included in the count(s) in the Information?
- e. Defence: What is the position of the defence?

## 29. Fitness to Stand Trial

- a. Will the Crown raise the issue of the accused's fitness to stand trial?  
 Yes       No
- b. Will the defence raise the issue of the accused's fitness to stand trial?  
 Yes       No
- c. If raised, will the application be opposed?  
 Yes       No

d. Time estimate for *voir dire*:

Evidence	Argument
Crown	Crown
Defence	Defence

### 30. Interpreters

- a. Does the accused require an interpreter?  Yes  No  
If yes, for which language(s)?
- b. Do any Crown witnesses require an interpreter?  Yes  No  
If yes, for which language(s)?
- c. Should two interpreters be required?  Yes  No

### 31. Courtroom Equipment Required

- a. Elmo projector  Yes  No
- b. Television and VCR  Yes  No
- c. Television and CD player  Yes  No
- d. Hearing devices  Yes  No
- e. Other  Yes  No

### 32. Other Potential Legal Issues

33. Is it reasonably anticipated that any of the following defences/triable issues will be raised?

- |  |   |
|--|---|
| <input type="checkbox"/> Accident            | <input type="checkbox"/> Intoxication               |
| <input type="checkbox"/> Alibis              | <input type="checkbox"/> Drugs                      |
| <input type="checkbox"/> Automatism          | <input type="checkbox"/> Alcohol                    |
| <input type="checkbox"/> Compulsion          | <input type="checkbox"/> Knowledge                  |
| <input type="checkbox"/> Defence of property | <input type="checkbox"/> Necessity                  |
| <input type="checkbox"/> Diminished capacity | <input type="checkbox"/> Not criminally responsible |

- Duress
- Entrapment
- Consent- Honest, but mistaken belief in consent
- Self-defence
- Possession
- Provocation
- Identity

**34. Non-contentious Issues:**

**Admitted**

**Not contested**

Jurisdiction	<input type="checkbox"/>	<input type="checkbox"/>
Identity of the accused	<input type="checkbox"/>	<input type="checkbox"/>
Continuity of exhibits	<input type="checkbox"/>	<input type="checkbox"/>
Medical Evidence	<input type="checkbox"/>	<input type="checkbox"/>
Documentary Evidence	<input type="checkbox"/>	<input type="checkbox"/>
Ownership	<input type="checkbox"/>	<input type="checkbox"/>
Value of Property	<input type="checkbox"/>	<input type="checkbox"/>
Accused as Driver	<input type="checkbox"/>	<input type="checkbox"/>
Death/injuries caused by accused	<input type="checkbox"/>	<input type="checkbox"/>
Expert's report	<input type="checkbox"/>	<input type="checkbox"/>
Age of Complainant	<input type="checkbox"/>	<input type="checkbox"/>
Nature of drug	<input type="checkbox"/>	<input type="checkbox"/>
Amount of drug is "for the purpose of trafficking"	<input type="checkbox"/>	<input type="checkbox"/>
Value of drug	<input type="checkbox"/>	<input type="checkbox"/>
Service of Notice	<input type="checkbox"/>	<input type="checkbox"/>
Photographs	<input type="checkbox"/>	<input type="checkbox"/>

**35. Other factual, evidentiary or legal admissions sought by the Crown, or conceded by defence:**

	Item	Does the Defence agree?
		<input type="checkbox"/> Yes <input type="checkbox"/> No



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**36. Affidavit Evidence**

a. Does the Crown intend to file affidavit evidence?  Yes  No

b. If so, please specify

c. Will the defence seek leave to have the witness testify?  Yes  No

**37. Time Estimates**

a. Anticipate Number of Crown Witnesses

b. Crown estimate for *voir dire* Evidence Argument

c. Crown time estimate for trial Evidence Argument

d. Defence time estimate for *voir dire* Evidence Argument

e. Defence Time estimate for trial Evidence Argument

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_