

## **Ontario Court of Justice Pandemic Response Plan - Criminal Directive Regarding Matters in Criminal Case Management Court**

Public health officials have recommended that measures be taken to reduce the amount of time individuals spend in large crowds or in crowded spaces to help reduce the transmission of COVID-19 in a community. With that in mind, the Chief Justice of the Ontario Court of Justice has directed the following procedure to reduce the number of people who attend for case management court.

This directive is effective as of March 16, 2020.

### **COURTHOUSES WILL REMAIN OPEN**

We have a constitutional role that must be exercised on a continuing basis. For the time being, all courthouses will remain open, but we are taking every step to reduce the number of people attending at the courthouse.

### **OVERVIEW OF THE PROCESS**

**Accused persons will be advised that they do not need to attend case management court appearances.** Matters in criminal case management courts (matters “to be spoken to”, first appearance, set date, pre-enquêtes, peace bonds, etc.) that are scheduled on or between **March 16, 2020 and April 3, 2020** will be adjourned without a personal appearance to a specific date 10 weeks from the appearance date. For example, matters scheduled for Monday March 16 will be adjourned to Monday May 25; matters scheduled for Thursday March 19 will be adjourned to Thursday May 28, etc.

In courthouses where case management court has an irregular schedule (e.g. Wawa, where case management court is held once a month), case management matters will be adjourned to a date at least 10 weeks away identified by the Regional Senior Judge or designate. (This will be noted in public messaging.)

A bench warrant with discretion, returnable on the new date, will be issued to retain jurisdiction over the matter ([please see details below](#)).

### **DETAILED BREAKDOWN OF THE PROCESS**

#### **Before the court date and ongoing public messaging**

There will be communication on the OCJ and MAG websites advising accused persons with case management court dates that they are not required to attend court unless they need to do so due to urgent situations. If they choose not to attend, their matter will be adjourned to a future date.

## On the court date - signage

Signage on the exterior courthouse door (where feasible) and courtroom door will advise accused persons that they have the following options.

- 1) They can choose **not** to attend in court to speak to their matter. If no one attends to speak to their case, it will be adjourned to a specific date and courtroom (e.g. Monday May 25, 2019 at 10 am in courtroom 103), as specified on the signage. A bench warrant with discretion will be issued returnable on that date.
- 2) If their matter is urgent, they can choose to go into court and speak to their matter. As long as the courthouse hasn't been closed (e.g. by order of the local medical officer of health), accused persons with urgent matters should have the option of having their matter addressed in court. For example, an accused person may want to: (i) have their matter traversed to plea court; (ii) request a different return date; (iii) wish a quicker return date as they are considering Stream A for an impaired driving charge; or (iv) have their matter otherwise addressed (e.g. they expect to have their matter withdrawn that day due to completion of diversion or from discussions with the Crown), or speak to the court for some other reason.
- 3) Accused persons who have questions about the procedure will be directed to phone the courthouse where they are supposed to appear.

## Process to be followed in case management court

### (1) General announcement to clear the court

Set out below (in italics) is suggested language that the presiding judicial officer can state at the beginning of court (or at the beginning of each case management tier, if applicable).

For case management courts that also include bail matters, the presiding judicial officer should note that the message is not intended for people who are attending for bail or other custody matters.

Before addressing the courtroom, the presiding judicial officer (or clerk) should review the docket to see if any matters are scheduled for bail hearing, trial or preliminary inquiry to address those separately.

Suggested text for announcement:

*"I have an announcement to make to the entire courtroom. Please listen carefully. In light of recommendations by public health officials concerning the coronavirus pandemic and upon the direction of the Chief Justice of the Ontario Court of Justice, all matters scheduled for this courtroom today [and then specify the courtroom number] other than bail or other in-custody matters are being adjourned to xxxxxx [specify the date, time and courtroom]. A bench warrant with discretion will be issued returnable on that date for all matters. A bench warrant with discretion means that you will **not** be arrested **unless** you fail to attend court on the next court date of xxxxxx. [repeat the court date above]. Everyone is free to leave without addressing the court, but you must return to court on xxxxxxxx [repeat the same court date as above]."*

*However, if anyone wishes to speak to their matter in the courtroom today because it is urgent, you may remain in court to do so. Here are some examples of why you may wish to remain in the courtroom and speak to your matter today:*

- *you may wish to plead guilty before xxxxxx date [repeat date above];*
- *you may wish to request a different return court date;*
- *you may wish a quicker return court date as you may be considering Stream A for an impaired driving charge;*
- *or you may expect that your matter is being withdrawn today due to completion of diversion or based upon your discussions with the Crown Attorney or your lawyer or duty counsel.*

*There may be other reasons why you wish to stay in court and speak to your matter that I have not mentioned.*

*I will now pause for a moment to allow those of you who wish to leave the courthouse to do so.*

The process for endorsing the Informations for these matters will be addressed in [step 4, below](#).

The judicial officer, Crown, court reporter, court clerk and duty counsel (where applicable) will remain in the case management court to address and endorse the Informations.

## **(2) Addressing individual matters where accused persons are present in the body of the court (to clear the courtroom)**

Subject to addressing any in-custody matters (see step 3, below), judicial officers then address individual matters where accused persons have remained in court because they want to have their matter addressed individually because they consider it urgent.

## **(3) Address any in-custody matters**

If there are in-custody matters (e.g. in-person case management appearances, video remand appearances or bail appearances), the presiding judicial officer must ensure that these matters are addressed as soon as they are ready to be addressed and ensure that any video time slots are respected.

**NOTE: The presumptive 10-week adjournment does not apply to accused persons who are in custody.**

## **(4) Addressing jurisdiction over and adjourning all matters on the docket in the absence of the accused**

Once individual matters have been addressed (steps 2 and 3), the judicial officer will address the Informations for all other matters on the docket (in the absence of the accused) in order to retain jurisdiction over each case. This will be done on the record in the courtroom.

Once the judicial officer is satisfied that there is jurisdiction over the matter (i.e., that the accused person's matter is properly before the court), the officer must:

- Adjourn the matter to the specified date; and
- Issue a bench warrant with discretion under sections 512(1) and 511(3) of the *Criminal Code*

Here is some suggested text:

*The court is satisfied that it is in the public interest to adjourn this matter to [insert date]. A discretionary bench warrant will issue under sections 512(1) and 511(3) of the Criminal Code.”*

The presiding judicial official should direct that the bench warrant with discretion be endorsed on the Information with the judicial officials’ initials; a separate bench warrant with discretion should **not** be prepared by court staff.

#### **(5) In case other accused persons arrive at court late**

If any other individuals arrive in the courtroom while this is taking place, those matters can be addressed on the record in the courtroom.

The judicial officer, Crown, court reporter, court clerk and duty counsel (where applicable) will remain in the case management court, or otherwise available in the courthouse so that they can return to the courtroom, in case some accused persons arrive late to speak to their matter, believing that case management court generally takes many hours or a full day to complete.

#### **Further information, revisions and future court dates**

This directive may be revised, extended or developed further as the situation develops. Further information, including guidance for judicial officers who are presiding on the return date 10 weeks later, will be provided.