

SUPREME COURT OF NOVA SCOTIA
CRIMINAL PRE-TRIAL CONFERENCE REPORT
(Criminal Code, s. 625.1)

NOVA SCOTIA
SUPREME COURT

Region

Court File No. (if known)

PLEASE 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, or unless the accused has advised that they will definitely be pleading guilty and the only issue to be addressed at the judicial pre-trial conference is sentence.
2. Crown and defence counsel are encouraged to discuss the issues to be addressed at the pre-trial conference in advance of the conference and to jointly file this form.
3. Counsel must provide their position on each issue, and not indicate they “will advise”, or “not as yet”, etc.
4. Crown and defence counsel are encouraged to jointly complete this pre-trial conference form, with the Crown completing it first, saving the file before emailing it to defence counsel no later than 10 calendar days before the date scheduled for the pre-trial conference. After defence counsel have completed their entries, the form is to be faxed to the Supreme Court no later than 5 calendar days before the date scheduled for the pre-trial conference. In cases where the Crown has not completed their portion of the form and sent it to defence counsel, or has filed it late, defence counsel should complete the form to the best of their ability and file it no later than 5 calendar days before the pre-trial conference. These are the timelines, unless otherwise directed by a judge.
5. There is an ‘Additional Notes’ section at the end of this document that can be used to provide additional information for any questions in this form. If used, please indicate the specific question the additional information relates to.
6. This form will be provided to the trial judge. If any party changes the position taken on this form, they must provide written notice to the other party and the Supreme Court of the change in position as soon as they determine their position has changed, in addition to any notice required by the Rules. Where the change will involve an additional application and/or will require more court time than determined at the pre-trial, counsel making the change shall arrange for a further judicial pre-trial conference forthwith. Failure to notify the other side and/or the Supreme Court of any application not indicated on this form will be a factor considered by the trial judge in determining whether the new position has prejudiced the other party, and whether any such application may proceed.
7. The Crown’s copy of the report must be accompanied by a brief synopsis of the allegations.
8. Section references in the form refer to the Criminal Code, unless otherwise indicated.

REX

-v-

☐ Crown Report, prepared by:

☐ SYNOPSIS ATTACHED

☐ 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 offences(s):

b) Date of arrest:

c) Date original Information sworn:

d) Date of replacement Information, if any:

e) Date of committal for trial or if a direct Indictment under s.577, a date Indictment preferred:

f) Date Indictment filed:

g) The *Jordan* presumptive ceiling date (30 months from the date the initial Information was sworn):

2. Form of judicial Interim Release

- a) Is the accused detained in custody on this/these charges? ☐ Yes ☐ No
- b) Is the accused detained in custody on any other charges? ☐ Yes ☐ No
- c) If the accused is on release, indicate the form of release order:
- ☐ Summons
 - ☐ Promise to Appear
 - ☐ Undertaking
 - ☐ Release Order

3. Preliminary Inquiry

- ☐ Length: _____
- ☐ Waived
- ☐ Direct Indictment

Transcript(s) available: ☐ Yes ☐ No Date ordered: _____

4. Disclosure

Complete: Crown: ☐ Yes ☐ No
Defence: ☐ Yes ☐ No

a) Outstanding issues:

b) Lost/Destroyed:

c) Withheld/Destroyed:

If disclosure is not complete, considering any issues outlined above, when will disclosure be provided:

5. Mode of trial

- a) ☐ Current Election
☐ Judge and Jury
☐ Judge Alone
- i) Will there be a re-election to be tried by:
Judge and Jury ☐ Yes ☐ No
Judge Alone ☐ Yes ☐ No
- ii) Is there any prospect of a re-election? ☐ Yes ☐ No
- iii) Will the Crown consent? ☐ Yes ☐ No
- iv) Additional comments regarding re-elections:
- b) Does the accused have or intend to seek an order under s. 530 that their trial be held in the official language of Canada that is the language of the accused or, if the circumstances warrant, in both official languages? ☐ Yes ☐ No
- i) If yes, please specify which official language:
☐ French
☐ English
☐ Both
- ii) Does the Crown oppose or dispute the order? ☐ Yes ☐ No
- iii) If opposed, how does the defence intend to establish the evidentiary basis for the application(s)?
- iv) Does the Crown oppose the proposed method of introducing the evidence?
☐ Yes ☐ No
- c) Challenge for Cause: ☐ Yes ☐ No
If yes, what is the basis:
- i) *Parks* Challenge ☐ Yes ☐ No
(i) Standard *Parks* question ☐ Yes ☐ No

(ii) Modified Parks question: ☐ Yes ☐ No
If modified, proposed question:

ii) Media Publicity: ☐ Yes ☐ No

iii) Other (please specify):

d) Will there be an application by the accused or Crown under s. 640(2) for an order excluding all jurors, sworn and unsworn, from the courtroom until it is determined whether the ground of challenge is true?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

If yes, please specify:

e) Does the Crown consent to the application for challenge for cause noted above?

☐ Yes ☐ No

f) Does the other party consent to the application under s. 640(2) for exclusion of jurors?

☐ Yes ☐ No

g) Will there be an application for the judge to select substitute or alternate jurors under s. 631(2.1) to attend at the commencement of the presentation of evidence and to be excused at that time if they are not required, pursuant to s. 642.1(2)?

☐ Yes ☐ No

h) Does the other party consent to the order?

☐ Yes ☐ No

i) Will there be an application for the judge to direct that 1 or 2 additional jurors be sworn under s. 631(2.2) so that 13 or 14 jurors hear the evidence?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

j) Will there be a request under s. 631(3.1) for the judge to order the names and numbers of jury panel members to be called out in court?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

- k) Does the Crown or defence intend to bring any procedural or substantive applications in regard to the standby provision in s. 633?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

Please specify the nature of the application:

- l) Comments:

6. Overview of s. 11(b) *Charter* Status

- a) Has there been any defence delay (as described in *R. v. Jordan*) to date?

Crown: ☐ Yes ☐ No

If yes, please specify, including length of time:

Defence: ☐ Yes ☐ No

If different from Crown, please specify:

- b) Have there been any exceptional circumstances (as described in *R. v. Jordan*) to date?

Crown: ☐ Yes ☐ No

If yes, please specify, including length of time:

Defence: ☐ Yes ☐ No

If different from Crown, please specify:

- c) Counsel's Net *Jordan* Date:

Crown:

Defence:

- d) Does the defence intend to bring a stay application for a s. 11(b) *Charter* breach?
☐ Yes ☐ No
- e) When will the defence file the Notice of Application?
- f) Does either party intend to rely on evidence other than written materials on the application?
 Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No
 If yes, please provide details:

- g) Time estimate for application:

Evidence

Argument

Crown:

Defence:

- h) Comments:

7. Pre-Trial Motions on the Indictment

- | | <u>Crown</u> | <u>Defence</u> |
|---|--|--|
| <input type="checkbox"/> Not Applicable | | |
| a) Quash committal for trial | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| b) Quash Indictment | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| c) Quash a count(s) in Indictment: | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| i) relying on s. 581(1) | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| ii) relying on s. 581(3) | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| d) Sever count(s) in Indictment | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| e) Sever accused | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| f) Particulars | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| g) Change of venue | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| h) Amendment(s) | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| i) Comments: | | |

CROWN PRE-TRIAL APPLICATIONS

8. Statements of the Accused

☐ Not Applicable

a) Is the Crown seeking to obtain rulings as to the admissibility of statements to persons in authority? ☐ Yes ☐ No

b) Brief summary of important contents of the statement(s):

c) Is the Crown seeking to introduce the statement?

☐ Yes ☐ No

d) Is the Crown seeking only a ruling as to admissibility?

☐ Yes ☐ No

e) Does the Defence contest admissibility?

☐ Yes ☐ No

f) Brief summary of the Defence position:

g) Form of statement:

☐ Oral

☐ Written

☐ Audio recorded

☐ Video recorded

h) If the statement is audio or video recorded, is there a transcript?

☐ Yes ☐ No

i) If no transcript is available, will the Crown provide one in advance?

☐ Yes ☐ No

j) Date transcript to be made available:

k) Length of statement(s):

l) Application required? ☐ Yes ☐ No

m) Application issues:

	<u>Crown</u>	<u>Defence</u>
Recipient as a person of authority	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Voluntariness	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Charter</i> , s. 10 (a)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Charter</i> , s. 10 (b)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Charter</i> , s. 7	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

n) Number of witnesses to be called on application:

Crown:

Defence:

o) Time estimate for application:

Evidence

Argument

Crown:

Defence:

p) If there is more than one issue to be determined with regards to admissibility, do counsel agree that a blended application is appropriate?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

q) Comments:

9. Other Disreputable Conduct Evidence, including Similar Fact

☐ Not Applicable

a) Is the Crown seeking to introduce prior disreputable conduct evidence, relying on incidents not covered by the indictment? ☐ Yes ☐ No

b) Nature of Evidence:

c) Does the Crown seek to have admissibility determined at a time other than as a pre-trial application? ☐ Yes ☐ No

d) If so, when does the Crown wish to have the application heard?

e) Does the Defence contest admissibility? ☐ Yes ☐ No

- f) If so, please summarize the Defence position:
- g) How does the Crown propose to introduce the evidence on the application?
- i) Agreed statement of facts ☐ Yes ☐ No
 - ii) Witness statements ☐ Yes ☐ No
 - iii) Transcripts ☐ Yes ☐ No
 - iv) *Viva voce* evidence ☐ Yes ☐ No
 - v) Other:
- h) Does the Defence consent to the matter proposed for introducing the evidence on the application? ☐ Yes ☐ No
- i) Is the Crown seeking to rely on disreputable conduct evidence, relying only on the counts in the indictment? ☐ Yes ☐ No
- j) Time estimate for application:
- | | <u>Evidence</u> | <u>Argument</u> |
|----------|-----------------|-----------------|
| Crown: | | |
| Defence: | | |
- k) Comments:

10.1 Hearsay Evidence

- ☐ Not Applicable
- a) Does the Crown seek to introduce any evidence relying upon a common law exception to the hearsay rule? ☐ Yes ☐ No
- b) If so, what is the nature of the evidence?
- c) What is the common law exception upon which the Crown relies? (e.g. dying declaration, spontaneous exclamation, declarations in furtherance of common unlawful design):
- d) Does the Defence contest admissibility? ☐ Yes ☐ No

- e) If so, please summarize the Defence position:
- f) How does the Crown propose to introduce the evidence on the application?
- i) Agreed statement of facts ☐ Yes ☐ No
 - ii) Witness statements ☐ Yes ☐ No
 - iii) Transcripts ☐ Yes ☐ No
 - iv) Viva voce evidence ☐ Yes ☐ No
 - v) Other:
- g) Does the Defence consent to the matter proposed for introducing the evidence on the application? ☐ Yes ☐ No
- h) Time estimate for application:
- | | <u>Evidence</u> | <u>Argument</u> |
|----------|-----------------|-----------------|
| Crown: | | |
| Defence: | | |
- i) Comments:

10.2 Principled Exception to the Hearsay Rule

- ☐ Not Applicable
- 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 application?

- i) Agreed statement of facts ☐ Yes ☐ No
- ii) Witness statements ☐ Yes ☐ No
- iii) Transcripts ☐ Yes ☐ No
- iv) Viva voce evidence ☐ Yes ☐ No
- v) Other:
- f) Does the Defence consent to the manner proposed for introducing the evidence on the application? ☐ Yes ☐ No
- g) Time estimate for application:

<u>Evidence</u>	<u>Argument</u>
Crown:	
Defence:	
- h) Comments:

11. After the Fact Conduct Evidence

- ☐ Not Applicable
- a) Does the Crown intend to tender any evidence of after the fact conduct by the accused?
☐ Yes ☐ No
To what element(s) does the Crown say this evidence is admissible?
- b) If so, what is the nature of the evidence?
- c) Does the Defence agree the evidence is admissible, with its potential use to be determined based on submissions at the end of the trial?
☐ Yes ☐ No
- d) Is the Defence seeking to have this evidence excluded? ☐ Yes ☐ No
- e) If so, please summarize the Defence position:

f) If so, how does the Defence propose to introduce the evidence on the application to exclude?

i) Agreed statement of facts ☐ Yes ☐ No

ii) Witness statements ☐ Yes ☐ No

iii) Transcripts ☐ Yes ☐ No

iv) *Viva voce* evidence ☐ Yes ☐ No

v) Other:

g) Does the Crown consent to the manner proposed for introducing the evidence on the application? ☐ Yes ☐ No

h) Time estimate for application:

Evidence

Argument

Crown:

Defence:

i) Comments:

12. Intercepted Private Communications

☐ Not Applicable

a) Does the Crown seek to introduce wiretap evidence? ☐ Yes ☐ No

b) Brief overview of evidence:

c) Does the Defence require an application to determine admissibility? ☐ Yes ☐ No

d) Brief overview of the Defence position:

e) Authorization:

☐ Consent, s.184.2

☐ Authorization, s. 186

Other:

f) Issue to be litigated:

☐ Facial validity

☐ Sub-facial validity

Other:

g) Will the Defence apply for leave to cross-examine the affiant or the sub-affiants?

☐ Yes ☐ No

If yes, please specify, including basis upon which application will be brought:

h) Time estimate for application:

Evidence

Argument

Crown:

Defence:

i) Comments:

13. Other Legal Issues Requiring Rulings Anticipated by the Crown

☐ Not Applicable

a) i)

ii)

iii)

b) Does the Defence contest the ruling(s) sought?

i) ☐ Yes ☐ No

ii) ☐ Yes ☐ No

iii) ☐ Yes ☐ No

c) If contested, position of the Defence:

d) Time estimate for application:

Evidence

Argument

Crown:

Defence:

e) Comments:

APPLICATIONS BY EITHER PARTY

14. Competency of Witnesses

☐ Not Applicable

a) Does the Crown/Defence intend to call any witness who is under the age of 14?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

Does the Crown/Defence intend to challenge the capacity of any witness on the basis of mental capacity? Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

b) Name of witness and basis of challenge:

c) Time estimate for application:

Evidence

Argument

Crown:

Defence:

d) Comments:

15. Manner in Which Evidence is to be Introduced

15.1 Audio and Video Conference Links

☐ Not Applicable

a) Does the Crown or Defence seek to have any witnesses' evidence introduced by:

Crown

Defence

i) Audio conference or video conference under s. 714.1 – witness in Canada ☐ Yes ☐ No ☐ Yes ☐ No

If yes, please specify:

Crown:

Defence:

- ii) Video conference under s. 714.2 – witness outside Canada ☐ Yes ☐ No ☐ Yes ☐ No
- iii) Audio conference under s. 714.3 – witness outside Canada ☐ Yes ☐ No ☐ Yes ☐ No
- iv) Video recorded evidence under s. 715.1 ☐ Yes ☐ No ☐ Yes ☐ No
- v) Closed circuit link or behind screen under s. 486.2 ☐ Yes ☐ No ☐ Yes ☐ No

If yes, please specify:

b) Basis upon which the applicant seeks to have the ruling made:

c) Does the opposing party consent to the admissibility of the evidence in the manner proposed? ☐ Yes ☐ No

d) If any issue is contested, estimated time for:

Evidence

Argument

Crown:

Defence:

15.2 Reading-In Evidence

☐ Not Applicable

Previously taken under s. 715: Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

a) Previously taken of a police officer under s. 715.01:

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

b) Does the opposing party consent to the admissibility of the evidence in the manner proposed? Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

c) If any issue is contested, estimated time for:

Evidence

Argument

Crown:

Defence:

d) Comments:

15.3 Affidavit and Certificate Evidence

☐ Not Applicable

a) Does either party intend to file affidavit evidence?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

If yes, please specify and provide the authority relied upon:

Crown:

Defence:

b) Does either party intend to file certificate evidence?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

If yes, please specify and provide the authority relied upon:

Crown:

Defence:

c) Will the other party seek leave to have the witness testify?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

d) Does the opposing party consent to the admissibility of the evidence in the manner proposed? ☐ Yes ☐ No

e) If any issue is contested, estimated time for:

Evidence

Argument

Crown:

Defence:

f) Comments:

15.4 Appointment of Counsel to Cross-Examine

☐ Not Applicable

a) Will the Crown or any witness apply for an order under s. 486.3, appointing counsel to cross-examine a witness(es), if the accused is not represented by counsel?

☐ Yes ☐ No

b) Does the accused contest the order? ☐ Yes ☐ No

15.5 Use of PowerPoints

☐ Not Applicable

a) Will counsel or their witnesses require the use any PowerPoint presentations or other visual aids? Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

If yes, please specify:

Crown:

Defence:

Directions:

16. Support Person

☐ Not Applicable

a) Will any Crown witness require a: ☐ support person ☐ support dog under s. 486.1(1)?

b) Details:

c) Will any Crown witness require a: ☐ support person ☐ support dog under s. 486.1(2)?

d) Details:

e) Does the Defence oppose the order(s)? ☐ Yes ☐ No

If yes, basis upon which opposed:

f) If opposed, estimated time for:

Evidence

Argument

Crown:

Defence:

g) Comments:

17. Publication Bans / Deferred Publication Orders

☐ Not Applicable

a) Does the Crown seek an order under s. 486.4 or 486.5 banning the publication of any evidence that could identify the victim or witness? ☐ Yes ☐ No

b) Is the publication ban: ☐ Mandatory on request ☐ Discretionary

c) If the publication ban is discretionary, does the Defence oppose the order?

☐ Yes ☐ No

d) Were any publication bans or deferred publication orders made in the Provincial Court of Nova Scotia? ☐ Yes ☐ No

If yes, please specify:

e) Does either party seek other publication bans or deferred publication orders?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

f) If a discretionary publication ban is being sought, provide details of the order sought, how media are to be notified, timing of the hearing, and the estimated time for the hearing:

g) Does the other party oppose the application? ☐ Yes ☐ No

h) If the order/application is opposed, estimated time for:

Evidence

Argument

Crown:

Defence:

i) Comments:

18. Privilege Issues

☐ Not Applicable

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 the evidence and issue of privilege
Crown:

Defence:

d) Basis upon which the party seeking admission of the evidence relies:

e) How does the party claiming privilege seek to introduce the evidence of the application?

i) Agreed statement of facts ☐ Yes ☐ No

ii) Witness statements ☐ Yes ☐ No

iii) Transcripts ☐ Yes ☐ No

iv) *Viva voce* evidence ☐ Yes ☐ No

v) Other:

f) Does the other party consent to the manner proposed for introducing the evidence on the application? ☐ Yes ☐ No

g) Time estimate for application:

Evidence

Argument

Crown:

Defence:

h) Comments:

DEFENCE PRE-TRIAL APPLICATIONS

19. Challenge to Legislation

☐ Not Applicable

a) Specifics of challenge:

b) Does the Crown oppose the application? ☐ Yes ☐ No

c) When does the accused seek to have the challenge determined?

i) ☐ On a pre-trial motion

ii) ☐ At the conclusion of the evidence

iii) ☐ Other

Please specify:

d) Does either party intend to rely on evidence other than written materials?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

If yes, please provide details:

Crown:

Defence:

e) Time estimate for application:

Evidence

Argument

Crown:

Defence:

f) Comments:

20. Application to Stay Proceedings (other than s. 11(b)), Based Upon:

☐ Not Applicable

a) Abuse of process ☐

Charter breach, s. 7 ☐

Entrapment (after finding of guilt) ☐

Other:

b) Overview of Defence position:

c) Overview of Crown position:

d) Does either party intend to rely on evidence other than written materials?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

If yes, please provide details:

Crown:

Defence:

e) What date will the defence file the application?

f) Time estimate for application:

Evidence

Argument

Crown:

Defence:

g) Comments:

21. Applications to Exclude Evidence other than a Statement Based Upon *Charter*, s. 24(2) Alleging Breaches of:

☐ Not Applicable

a) *Charter*, s.7 ☐

Charter, s.8 ☐ Warrantless search ☐ Search warrant ☐ Order ☐ Authorization ☐

Issue: Facial Validity ☐

Sub-facial validity ☐

Execution ☐

Other:

Charter, s.9 ☐

Other:

b) Defence position(s) regarding nature of breach and evidence sought to be excluded:

i) Appl. #1:

ii) Appl. #2:

iii) Appl.#3:

c) Crown position(s) regarding nature of breach and evidence sought to be excluded:

i) Appl. #1:

ii) Appl. #2:

iii) Appl. #3:

d) If more than one application, do counsel agree the applications can be heard in a combined application? Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

e) Will the Defence apply for leave to cross-examine the affiant or sub-affiants?

☐ Yes ☐ No

If yes, please specify, including the basis upon which the application will be brought:

f) How does the Defence propose to introduce the evidence on the application:

i) Agreed statement of facts ☐ Yes ☐ No

ii) Witness statements ☐ Yes ☐ No

iii) Transcripts ☐ Yes ☐ No

- iv) *Viva voce* evidence ☐ Yes ☐ No
- v) Other:
- g) Does the Crown consent to the manner proposed for introducing the evidence on the application? ☐ Yes ☐ No
- h) Time estimate for application:
- | | <u>Evidence</u> | <u>Argument</u> |
|----------|-----------------|-----------------|
| Crown: | | |
| Defence: | | |
- i) Comments:

22. Third Party Records Applications: s. 278.2; s. 278.3; s. 278.92; s. 278.93; s. 278.94

☐ Not Applicable

By Defence: ☐ Yes ☐ No

a) Relying upon:

Mills, s.278.2 ☐

O'Connor ☐

Records in Possession of Accused ☐

b) Nature of records and position of the Applicant:

c) Position of other party:

d) Should the application be heard in advance of the trial? ☐ Yes ☐ No

e) Does either party intend to rely on evidence other than written materials?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

If yes, please provide details:

Crown:

Defence:

23. Evidence of the Complainant's Other Sexual Activity (includes any communication for a sexual purpose or whose content is sexual) – s. 276; s. 278.93; s. 278.94; common law:

☐ Not Applicable

By Crown at common law: ☐ Yes ☐ No

By the Defence: ☐ Yes ☐ No

If yes, please specify basis of the application:

a) Nature of evidence:

b) Does the Crown contest admissibility? ☐ Yes ☐ No

c) Dates for filing material:

d) How does the applicant(s) propose to introduce the evidence on the application?

i) Agreed statement of facts ☐ Yes ☐ No

ii) Witness statements ☐ Yes ☐ No

iii) Transcripts ☐ Yes ☐ No

iv) *Viva voce* evidence ☐ Yes ☐ No

v) Other:

- e) Does the other party consent to the manner proposed for introducing the evidence on the application? ☐ Yes ☐ No

24. Evidence of Other Suspects

☐ Not Applicable

a) Nature of evidence:

- b) Does the Crown contest admissibility? ☐ Yes ☐ No

c) How does the Defence propose to introduce evidence on the application?

i) Agreed statement of facts ☐ Yes ☐ No

ii) Witness statements ☐ Yes ☐ No

iii) Transcripts ☐ Yes ☐ No

iv) *Viva voce* evidence ☐ Yes ☐ No

v) Other:

- d) Does the Crown consent to the manner proposed for introducing the evidence on the application? ☐ Yes ☐ No

e) Time estimate for application:

Evidence

Argument

Crown:

Defence:

f) Comments:

25. Character of Complainant/Victim

☐ Not Applicable

a) Nature of evidence:

- b) Does the Crown contest admissibility? ☐ Yes ☐ No

c) How does the Defence propose to introduce evidence on the application?

i) Agreed statement of facts ☐ Yes ☐ No

- ii) Witness statements ☐ Yes ☐ No
- iii) Transcripts ☐ Yes ☐ No
- iv) *Viva voce* evidence ☐ Yes ☐ No
- v) Other:
- d) Does the Crown consent to the manner proposed for introducing the evidence on the application? ☐ Yes ☐ No
- e) Time estimate for application:

Evidence

Argument

Crown:

Defence:

- f) Comments:

26. Corbett Application

☐ Not Applicable

- a) Does the accused intend to bring a Corbett application? ☐ Yes ☐ No
- b) If yes, what is the accused's criminal record?

27. Other Legal Issues Requiring Rulings Anticipated by the Defence

☐ Not Applicable

- a) i)
- ii)
- iii)
- b) Does the Crown contest the ruling(s) sought?
- i) ☐ Yes ☐ No
- ii) ☐ Yes ☐ No
- iii) ☐ Yes ☐ No
- c) If contested, position of the Crown:
- d) Time estimate for application:

Evidence

Argument

Crown:

Defence:

e) Comments:

28. Crown Witnesses

☐ Not Applicable

a) Does the Crown intend to call expert witnesses? ☐ Yes ☐ No

b) Field(s) of expertise:

c) Issue 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 is contested:

i) ☐ Legal relevance

ii) ☐ Absence of exclusionary rule

iii) ☐ Logical relevance

iv) ☐ Expert's qualifications

v) ☐ Necessity in assisting trier of fact

vi) Other:

f) Time estimate for application:

Evidence

Argument

Crown:

Defence:

g) Comments:

28.2 Defence Witnesses

☐ Not Applicable

a) Does the Defence intend to call expert witnesses? ☐ Yes ☐ No

b) Field(s) of expertise:

- c) Issues upon which the evidence will be introduced:
- d) Basis upon which admissibility of evidence is contested:
- i) ☐ Legal relevance
 - ii) ☐ Absence of exclusionary rule
 - iii) ☐ Logical relevance
 - iv) ☐ Expert's qualifications
 - v) ☐ Necessity in assisting trier of fact
 - vi) Other:
- e) Time estimate for application:

Evidence

Argument

Crown:

Defence:

- f) Comments:

29. Position of Accused in Court

☐ Not Applicable

- a) Will there be an application to have the accused sit at counsel table? ☐ Yes ☐ No
- b) Does the Crown consent? ☐ Yes ☐ No
- c) If opposed, what is the reason?

- d) Time estimate for application:

Evidence

Argument

Crown:

Defence:

- e) Comments:

30. Absence of Accused from Court

☐ Not Applicable

a) Will there be an application for the accused to be absent from the trial, under s. 650(2)?

☐ Yes ☐ No

b) If yes, what is the basis for the application?

c) Does the Crown consent? ☐ Yes ☐ No

d) Time estimate for application:

Evidence

Argument

Crown:

Defence:

e) Comments:

31. Fitness to Stand Trial

☐ Not Applicable

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 application:

Evidence

Argument

Crown:

Defence:

e) Comments:

32. Interpreters

☐ Not Applicable

a) Does the accused require an interpreter? ☐ Yes ☐ No

b) If yes, for which language(s)

c) Do any Crown witnesses require an interpreter? ☐ Yes ☐ No

- d) If yes, for which language(s)?
- e) Do any Defence witnesses require an interpreter? ☐ Yes ☐ No
- f) If yes, for which language(s)?
- g) Should two interpreters be required? ☐ Yes ☐ No
- h) Were there any issues with interpretation/interpreters at the preliminary hearing?
Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No
☐ Not Applicable (no preliminary inquiry held)
- i) If yes, please specify:
- j) Comments:

33. Additional Courtroom Equipment Required

☐ Not Applicable

Note: Below is a list of what the Court is able to offer for trial. Counsel are expected to bring their own laptops and other equipment required to play their evidence on the equipment in the courtroom.

- a) Elmo projector ☐ Yes ☐ No
- b) Video monitor ☐ Yes ☐ No
- c) Hearing devices ☐ Yes ☐ No
- d) Teleconference facilities ☐ Yes ☐ No
- e) Videoconference facilities ☐ Yes ☐ No
- f) Other:
- g) Comments:

34. Courtroom Security Issues

☐ Not Applicable

- a) Does any party believe that increased courtroom security issues are raised in this case?
Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

b) Does either party seek an order closing the courtroom to the public, under s. 486(1)?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

c) Does the Crown seek an order under s. 486.31 (non-disclosure of witness's identity) or s. 486.7 (security of witnesses)? ☐ Yes ☐ No

d) Details:

35. Other Potential Legal Issues

☐ Not Applicable

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

Accident: Crown ☐ Defence ☐

Accused as party to the offence: Crown ☐ Defence ☐

Alibi: Crown ☐ Defence ☐

Automatism: Crown ☐ Defence ☐

Causation: Crown ☐ Defence ☐

Compulsion: Crown ☐ Defence ☐

Consent: Crown ☐ Defence ☐

Defence of property: Crown ☐ Defence ☐

Did the alleged event occur? : Crown ☐ Defence ☐

Diminished capacity: Crown ☐ Defence ☐

Duress: Crown ☐ Defence ☐

Entrapment: Crown ☐ Defence ☐

"Evidence to the contrary":	Crown <input type="checkbox"/>	Defence <input type="checkbox"/>
Honest, but mistaken belief in communicated consent:	Crown <input type="checkbox"/>	Defence <input type="checkbox"/>
Identity:	Crown <input type="checkbox"/>	Defence <input type="checkbox"/>
Intent:	Crown <input type="checkbox"/>	Defence <input type="checkbox"/>
Intoxication:	Crown <input type="checkbox"/>	Defence <input type="checkbox"/>
Alcohol:	Crown <input type="checkbox"/>	Defence <input type="checkbox"/>
Drugs:	Crown <input type="checkbox"/>	Defence <input type="checkbox"/>
Knowledge:	Crown <input type="checkbox"/>	Defence <input type="checkbox"/>
Necessity:	Crown <input type="checkbox"/>	Defence <input type="checkbox"/>
Not criminally responsible:	Crown <input type="checkbox"/>	Defence <input type="checkbox"/>
Possession:	Crown <input type="checkbox"/>	Defence <input type="checkbox"/>
Was possession for the purpose of trafficking?	Crown <input type="checkbox"/>	Defence <input type="checkbox"/>
Provocation:	Crown <input type="checkbox"/>	Defence <input type="checkbox"/>
Self-defence:	Crown <input type="checkbox"/>	Defence <input type="checkbox"/>
Other:		
Comments:		

37. Will the pre-trial applications determine the case?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

38. Non-Contentious Issues

Admitted by Defence

- ☐ Jurisdiction
- ☐ Identity of the accused
- ☐ Continuity of evidence
- ☐ Medical evidence
- ☐ Documentary evidence
- ☐ Ownership
- ☐ Value of property
- ☐ Accused as driver

- ☐ Death/injuries caused by accused
- ☐ Expert's report
- ☐ Age of complainant
- ☐ Nature of drug
- ☐ Amount of drug is "for the purpose of trafficking"
- ☐ Value of drug
- ☐ Service of notice
- ☐ Photographs

Comments:

39. Other Factual, Evidentiary or Legal Admissions Sought by the Crown, or Conceded by the Defence:

- ☐ Not Applicable

Does the Defence agree?

- | | | |
|----|------------------------------|-----------------------------|
| 1. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 5. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

Comments:

40. Case Management Judge

- ☐ Not Applicable

- a) Will there be an application for the appointment of a case management judge, under s. 551.1? By the Defence: ☐ Yes ☐ No By the Crown: ☐ Yes ☐ No
- b) Does the other party consent? ☐ Yes ☐ No

- c) Issues that counsel suggest should be determined by the case management judge:
- d) Will there be an application for an order for a joint hearing of issues in common from separate prosecutions, under s. 551.7?
By the Defence: ☐ Yes ☐ No By the Crown: ☐ Yes ☐ No
- e) Common issues that counsel suggest should be determined by the case management judge:
- f) Comments:

41. Positions of the Parties

- a) Upon which basis does the Crown seek to establish liability of each accused (e.g. Principle or Party)?
- 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 indictment?
☐ Yes ☐ No
If yes, please specify:
- d) Does the Defence submit any offences are included in the count(s) in the indictment?
☐ Yes ☐ No
If yes, please specify:
- e) Defence: What is the position of the Defence?
- f) Comments:

42. Time Estimates

a) Anticipated number of Crown witness for trial:

b) Crown time estimate for applications:

Evidence:

Argument:

Crown to attach to this form a proposed tentative schedule for its applications.

c) Crown time estimate for trial:

Crown to attach to this form a proposed tentative daily schedule for the trial.

d) Defence time estimate for applications:

Evidence:

Argument:

Defence to attach to this form a proposed tentative schedule for its applications

e) Defence time estimate for trial:

f) If there are multiple pre-trial applications, can they be heard at the same time?

Crown: ☐ Yes ☐ No Defence: ☐ Yes ☐ No

g) If not, what is the order in which they should be heard?

Crown:

Defence:

h) Comments:

43. Additional Notes:

Counsel – Crown

Dated:

Signed:

Electronic signature permitted if form is completed electronically

Counsel – Defence

Dated:

Signed:

Electronic signature permitted if form is completed electronically