

**SUPERIOR COURT OF JUSTICE
PRE-TRIAL CONFERENCE REPORT**

(Criminal Code, s. 625.1)

(Criminal Proceedings Rules, Rule 28)

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 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-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 and the Superior Court Trial Office, not later than 10 days before the date scheduled for the pre-hearing conference. Defence counsel must fax or deliver their report to the Crown Attorney and the Superior Court Trial Office not later than 5 days before the date scheduled for the pre-hearing conference, 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.
5. If any party changes the position taken on this form, which will be provided to the trial judge, they must provide written notice to the other party and the Superior Court Trial Office of the change in position, in addition to any notice required by the Rules of Court. If counsel have not indicated an application will be brought, the presumption is that it will not be heard. The failure to notify the other side and the Trial Office 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 application may proceed.
6. The Crown’s copy of the report must be accompanied by a brief synopsis of the allegations.

Regina v. _____

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 of Arrest: _____

c) Date of Committal for Trial: _____
_____d) Date Indictment filed: _____
_____**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 **3. Preliminary Inquiry:** Waived: Yes No Length: _____

Transcript: Available _____ Date Ordered _____

4. Disclosure: Complete: Yes No a) Outstanding Issues: _____

b) Lost/destroyed: _____

c) Withheld/delayed: _____

5. Mode of Trial: Current Election: Judge and jury Judge alone a) Will there be a re-election to be tried by: Judge and jury Judge alone b) Will the Crown consent? Yes No c) Additional comments regarding re-elections: _____
_____d) Challenge for Cause: Yes No e) i) *Parks* Yes No ii) publicity Yes No

iii) other, please specify _____

f) Does the accused have or seek an order under s. 530 that his/her trial be held in French or as a bilingual trial?

Yes No g) Does the Crown oppose or dispute the order? Yes No **6. Pre-Trial Motions on the Indictment**a) Quash committal 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) Change of venue Yes No
- h) Amendment(s) Yes No

Crown pre-trial motions

7. 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) Brief summary of circumstances surrounding taking statement: _____

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 dispute admissibility? Yes No

f) Brief summary of defence position: _____

g) Form of statement: Oral Written Audiotaped Videotaped

h) If the statement is audio or video taped, is there a transcript? Yes No

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

j) Date to be made available: _____

k) Length of statement(s): _____

l) *Voir dire* required Yes No

m) *Voir dire* issues: recipient as a person in authority Yes No

Voluntariness Yes No

s. 10 (a) Yes No

s. 10 (b) Yes No

s. 7 Yes No

n) Number of witnesses to be called on *voir dire*: Crown _____

Defence _____

o) Time estimate for *voir dire*: Evidence Argument

Crown _____ Crown _____

Defence _____ Defence _____

p) If there is more than one issue, do counsel agree that a blended *voir dire* is appropriate?

Crown Yes No

Defence Yes No

8. Other Disreputable Conduct Evidence, including Similar Fact

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 in pre-trial motion? Yes No

d) If the Crown does not seek to obtain a ruling before trial starts, when does the Crown wish to have the *voir dire*? _____

e) Does the defence dispute admissibility? Yes No

f) How does the Crown seek to introduce the evidence on the *voir dire*?

- | | | |
|--------------------------------|------------------------------|-----------------------------|
| (i) <i>Viva voce</i> evidence | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (ii) Agreed Statement of facts | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (iii) Witness statements | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (iv) Transcripts | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

g) Does the defence consent to the manner in which the Crown seeks to introduce the evidence on the *voir dire*? Yes No

h) Comment: _____

i) Time estimate for <i>voir dire</i> :	<u>Evidence</u>	<u>Argument</u>
	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

9. 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? _____

11. 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 <i>voir dire</i> :	<u>Evidence</u>	<u>Argument</u>
	Crown _____	Crown _____
	Defence _____	Defence _____

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

a) _____

b) Time estimate for <i>voir dire</i> :	<u>Evidence</u>	<u>Argument</u>
	Crown _____	Crown _____
	Defence _____	Defence _____

13. 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: _____

14. 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) as vulnerable witness, pursuant to s. 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:

	<u>Evidence</u>	<u>Argument</u>
Crown	_____	Crown _____
Defence	_____	Defence _____

15. Support Person

Will any Crown witness require a support person, pursuant to s. 486.1(1)? Yes No

Details: _____

Will any Crown witness require a support person, pursuant to s. 486.1(2)? Yes No

Details: _____

Does the defence oppose the order? Yes No

16. Publication Bans/Deferred Publication Orders

a) Does the Crown seek an order pursuant to s. 486(3) or (8), banning the publication of the complainant's identity? Yes No

b) Does the defence oppose the order? Yes No

c) If opposed, estimated time for:

	<u>Evidence</u>	<u>Argument</u>
Crown	_____	Crown _____
Defence	_____	Defence _____

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

Crown Yes No

Defence Yes No

e) If yes, provide details of order sought, media to be notified, timing of hearing, time estimate for hearing: _____

f) Does the other party oppose the application Yes No

g) If opposed, provide time estimate for evidence and separate time estimate for argument:

Evidence _____ Argument _____

17. 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) Bases upon which the party seeking admission rely: _____

e) How does the party claiming privilege seek to introduce the evidence on the *voir dire*?

- | | | |
|--------------------------------|------------------------------|-----------------------------|
| (i) <i>Viva voce</i> evidence | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (ii) Agreed Statements of Fact | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (iii) Witness statements | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (iv) Transcripts | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

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*:

	<u>Evidence</u>	<u>Argument</u>
Crown	_____	Crown _____
Defence	_____	Defence _____

18. Defence Pre-trial Applications

a) **Challenge to Legislation:** Specifics of challenge: _____

b) Does the Crown oppose the application? Yes No

c) Time estimate for *voir dire*:

	<u>Evidence</u>	<u>Argument</u>
Crown	_____	Crown _____
Defence	_____	Defence _____

19. Applications to Stay Proceedings based upon:

- a) Abuse of Process
- b) Contravention of *Charter* section: s. 7
- c) s. 11(b)
- d) Other

f) Overview of Defence position : _____

g) Overview of Crown position: _____

h) Time estimate for *voir dire* (evidence and argument):

Crown - _____

Defence - _____

20. 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) Overview of defence position: _____

c) Overview of Crown position: _____

d) Evidence sought to be excluded: _____

e) Nature of breach: _____

f) Time estimate for *voir dire*:

	<u>Evidence</u>	<u>Argument</u>
Crown	_____	Crown _____
Defence	_____	Defence _____

21. Third Party Records Applications

Yes No

a) Relying upon: *Mills*, s. 278.2 Yes No *O'Connor*

Yes No

b) Nature of Records: _____

c) Time estimate for *voir dire*:

	<u>Evidence</u>	<u>Argument</u>
Crown	_____	Crown _____
Defence	_____	Defence _____

d) How long prior to trial does the applicant propose the motion be heard? _____

22. 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*:

	<u>Evidence</u>	<u>Argument</u>
Crown	_____	Crown _____
Defence	_____	Defence _____

23. Evidence of Other Suspectsa) Nature of Evidence: _____
_____b) How does defence proposed to introduce evidence on *voir dire*?

- | | | |
|---------------------------------|------------------------------|-----------------------------|
| (i) <i>viva voce</i> evidence | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (ii) agreed statements of facts | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (iii) witness statement | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (iv) other _____ | | |

c) Does the Crown oppose admissibility? Yes No

d) Time estimate for <i>voir dire</i> :	<u>Evidence</u>	<u>Argument</u>
	Crown _____	Crown _____
	Defence _____	Defence _____

24. Character of Victima) Nature of Evidence: _____

b) Time estimate for <i>voir dire</i> :	<u>Evidence</u>	<u>Argument</u>
	Crown _____	Crown _____
	Defence _____	Defence _____

25. Other Legal Issues defence counsel anticipate will arise _____

a) _____

b) Time estimate for <i>voir dire</i> :	<u>Evidence</u>	<u>Argument</u>
	Crown _____	Crown _____
	Defence _____	Defence _____

26. Expert Witnesses**26.1 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 Crown contest the admissibility of the expert evidence? Yes No

e) Does the defence contest the admissibility of the expert evidence? Yes No

f) Basis upon which admissibility of evidence contested:

Witness is not an expert

Area of expertise requires a *voir dire*

Witness cannot give evidence sought

g) Comments: _____

h) Time estimate for <i>voir dire</i> :	<u>Evidence</u>	<u>Argument</u>
	Crown _____	Crown _____
	Defence _____	Defence _____

26.2 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) Does the defence contest the admissibility of the expert evidence? Yes No

e) Basis upon which admissibility of the evidence is contested:

Witness is not an expert

Area of expertise required a *voir dire*

Witness cannot give evidence sought

f) Comments: _____

g) Time estimate for <i>voir dire</i> :	<u>Evidence</u>	<u>Argument</u>
	Crown _____	Crown _____
	Defence _____	Defence _____

27. 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

28. Absence of Accused from 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? _____

29. Positions 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 indictment? _____

d) Does the defence submit any offences are included in the count(s) in the indictment? _____

e) Defence: What is the position of the defence? _____

30. 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*:

	<u>Evidence</u>	<u>Argument</u>
Crown	_____	Crown _____
Defence	_____	Defence _____

31. Interpreters

- 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) Should two interpreters be required? Yes No _____
-

32. Additional 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 _____

33. Courtroom Security Issues

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

b) Details: _____

34. Other Potential Legal Issues

35. 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 |
| <input type="checkbox"/> Duress | <input type="checkbox"/> Possession |
| <input type="checkbox"/> Entrapment | <input type="checkbox"/> Provocation |
| <input type="checkbox"/> Honest, but mistaken belief in consent | <input type="checkbox"/> Self-defence |
| <input type="checkbox"/> Identity | |

30. 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"		
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"/>

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

	<u>Does the defence agree?</u>
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"/>

37. 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

38. Time Estimates

a) Anticipated Number of Crown Witnesses _____

b) Crown estimate for *voir dire* Evidence _____ Argument _____

c) Crown time estimate for trial _____

d) Defence time estimate for *voir dire* Evidence _____ Argument _____

e) Defence time estimate for trial _____

Dated _____ Signed _____

This page is to be removed before the form is provided to the trial judge

Accused: _____

Corbett Application:

What is the accused's criminal record: _____

Does the accused intend to bring a Corbett application? Yes No

Sentence Position:

Crown position on sentence on plea(s) of guilty before trial based upon information currently known to the Crown:

Plea(s) on which counts: _____

Sentence: _____

Is the Crown's position based on a joint submission? Yes No

Is the Crown's position in addition to, or subject to reduction, for pre-trial custody? _____

Corollary Orders Sought by Crown:

1. DNA Order
2. s. 109 prohibition , duration _____
3. s. 161 Order , duration _____, delayed parole _____,
4. special conditions on probation _____
5. s. 259 Driving Prohibition , duration _____
6. Sex Offender Registry Order , duration: _____

Crown's Position on sentence after trial based upon information currently know to the Crown

