



April 21, 2017

Our Reference #: CRIM-001

Dear Counsel:

***Superior Court of Justice
New Provincial Practice Direction Regarding Criminal Proceedings***

The Superior Court of Justice has established a new [Provincial Practice Direction Regarding Criminal Proceedings](#), which will be in effect as of May 1, 2017.

The new Practice Direction is available (in French and English) on the Superior Court of Justice website:

English: <http://www.ontariocourts.ca/scj/practice/practice-directions/criminal/>

French: <http://www.ontariocourts.ca/scj/fr/pratique/directives-de-pratique/criminel/>

The objective of the Practice Direction is to enhance the timeliness, appropriate scheduling and trial readiness of criminal proceedings in the Superior Court of Justice. The procedural issues addressed by the new Practice Direction include the following:

- (i) **Appearances on Indictments** – The Court expects counsel and self-represented accused to be prepared to identify and address s. 11(b) issues at all court appearances (e.g. whether any past delay or current adjournments should be attributed to the defence or exceptional circumstances, as defined in *R. v. Jordan*).
- (ii) **Factums** - Unless otherwise directed by a judge, factums will be required for certain pre-trial applications, including applications seeking to admit or exclude evidence. The issue of factums will be specifically canvassed at the judicial pre-trial conference.
- (iii) **New Pre-trial Conference Report (Form 17)** - The pre-trial conference report (form 17) completed by counsel/self-represented accused prior to the pre-trial conference has been revised. Among the changes are (i) the addition of a section canvassing s. 11(b) issues; (ii) questions canvassing the issue of factums for pre-trial applications; and (iii) the form has been reformatted to make it easier for counsel to complete the form jointly and electronically (which is encouraged).

The [revised pre-trial conference report](#) is available (in French and English) on the [OntarioCourtForms website](#). Counsel are required to use the revised form as of May 1, 2017. As indicated in the Practice Direction, as of May 15, 2017, the Court may refuse to accept older versions of the pre-trial form.

- (iv) **Pre-trial conferences** - The Practice Direction clarifies other procedural aspects of pre-trial conferences, including the pre-trial judge's authority to direct that a pre-trial be held by video

or telephone conference, and to canvass/make directions regarding factums, supporting materials and time limits for oral argument on pre-trial applications.

- (v) **Consent Bail Variations under s. 515.1 of the Criminal Code** - A standardized written procedure for consent bail variations under s. 515.1 of the *Criminal Code* has been established, including a new form (10B) to streamline such applications.
- (vi) **11(B) applications** - The provisions of the section 11(b) application practice direction established in September 2016 have been incorporated into this practice direction, with one addition: the factums are to include a chart summarizing the periods of delay in the case (as is currently common practice).

The enhancements introduced in this new Practice Direction will further strengthen the rigorous and effective case management regime introduced in 2006, and bring criminal proceedings to a fair and timely disposition.

Notice of the new Practice Direction will be published in the April 28 issue of the Ontario Reports. In the meantime, on behalf of the Chief Justice, I ask you to share this announcement with your organization's members so that they are prepared to begin complying with the Practice Direction on May 1, 2017.

Please feel free to contact my office should you have any questions about the new Practice Direction.

The Superior Court of Justice looks forward to continuing to work collaboratively with other justice system partners, including the criminal Bar, to reduce criminal trial delay and enhance the effectiveness and timeliness of criminal proceedings.

Yours truly,



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Executive Legal Officer

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