

# Ontario Court of Justice Practice Direction

## *Jordan-Compliant Trial Scheduling*

**Effective date: November 1, 2023**

**Locations: Province-wide**

The objective of this practice direction is to ensure the Court offers a criminal trial date that complies with the obligations set out in *R. v. Jordan*, in accordance with the Court's authority over scheduling and its obligation to ensure an accused person's constitutional right to a trial within a reasonable time is respected.

### **Application**

1. Part I of this practice direction applies to all criminal cases in the Ontario Court of Justice with an Information sworn date of November 1, 2023, or later.
2. Part II of this practice direction applies to all criminal cases with an Information sworn date before November 1, 2023.
3. This practice direction applies, with any necessary modifications, to self-represented accused.

### **Part I – Cases entering the system on or after November 1, 2023**

#### ***Jordan-compliant trial dates***

4. When a criminal matter is scheduled for trial, the Court will offer a trial date that complies with the timelines set out in *R. v. Jordan*. The Court will offer a trial date that is expected to result in the trial being completed within 15 months of the date the Information was sworn.
5. Nothing in this practice direction precludes the Court from offering trial dates that are anticipated to result in a criminal case being completed in less than 15 months from the Information sworn date. Cases involving accused persons who are in custody and young persons, as defined in the *Youth Criminal Justice Act*, will continue to receive scheduling priority.
6. Either the Crown or Defence may request to waive or otherwise decline the trial date offered by the Court. Any such waiver must be clearly stated on the record or otherwise documented in the court record. In scheduling the trial date, it will be up to the Court whether to grant the request.

#### ***Setting trial dates within six months of the Information sworn date***

7. The 15-month trial scheduling directive is only feasible if cases are scheduled for trial sufficiently early in the 15-month period.
8. Within six (6) months of the Information sworn date, both the Crown and the Defence are expected to be prepared to either resolve the matter or set a trial date.

9. More particularly, the Court's expectation is that, unless otherwise directed by the Court, at the first court appearance following the six-month Information sworn date, both parties will, at minimum, have addressed disclosure, conducted a meaningful Crown pre-trial and judicial pre-trial (if necessary), and be ready to do one of the following:
  - i. resolve the matter, or identify the courtroom and date on which the matter should be traversed or adjourned to implement the resolution; or
  - ii. set a trial or preliminary inquiry date.
10. Where possible, the parties should obtain a trial date through the Trial Coordinator's office before the court appearance, which can be formally set at the next court appearance.
11. If the parties are not yet ready to resolve the matter or have not yet determined whether it will be resolved, the Court will expect them to set a trial date pending further resolution discussions.
12. The parties will be expected to set a trial date based on their discussions at the Crown pre-trial, even though certain matters, such as discrete items of disclosure, retainer issues or potential resolution discussions, remain outstanding. The parties must identify any such outstanding issues at the time the trial is set, so that an intervening confirmation hearing date may be scheduled. The parties will be expected to take the necessary steps to address the outstanding issues before the confirmation date, which may include one or more of the following:
  - i. bringing the matter forward; and
  - ii. scheduling a judicial pre-trial to seek direction from the Court.
13. If the trial time estimate needs to be adjusted after it has been set due to subsequent developments, parties are required to advise the Trial Coordinator's office in writing, at the earliest opportunity. These cases may need to be brought forward to be addressed on the record or to schedule a judicial pre-trial.
14. Nothing in this practice direction prevents a judicial officer from directing or ordering the parties to take any step(s) in a proceeding earlier than six months from the Information sworn date, where the judicial officer considers it warranted in the circumstances, for example, in a matter involving accused persons in custody.
15. If the parties anticipate that a judicial pre-trial is going to be required in a case, the parties should schedule the judicial pre-trial within four months of the Information sworn date. A judicial pre-trial must be scheduled if substantial disclosure has not been received within four months of the Information sworn date. If necessary, the parties can schedule the judicial pre-trial before the Crown pre-trial has been conducted, if they undertake to conduct the Crown pre-trial before the date of the judicial pre-trial.

**Part II - Transitional cases (i.e., cases already in the system as of November 1, 2023)**

16. This part applies to “transitional cases”, *i.e.*, criminal cases with an Information sworn before November 1, 2023.
17. Where possible, the Court will offer a trial date in transitional cases that is expected to result in the trial being completed within 15 months of the date the Information was sworn.
18. However, applying the 15-month trial scheduling directive will not be feasible in a number of transition cases due to the length of time that has already lapsed since the Information sworn date. In such cases, the Court will offer a trial date that is expected to result in the trial being completed as close as possible to 15 months of the Information sworn date.
19. Paragraphs 4 to 15 apply to transitional cases, with any necessary modifications. More particularly, the Court expects that, if more than six months have elapsed since the Information sworn date, the Crown and Defence will be prepared to either resolve the matter or set a trial date at the next court appearance.

Chief Justice Sharon M. Nicklas  
Ontario Court of Justice