

**SUPERIOR COURT OF JUSTICE (ONTARIO)**  
**PRE-TRIAL CONFERENCE REPORT**

*(Criminal Code, s. 625.1)*

*(Criminal Proceedings Rules, Rule 28)*

(Form 17)

**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: \_\_\_\_\_

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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) *Viva voce* evidence Yes  No

(ii) Agreed Statements of Fact Yes  No

(iii) Witness statements Yes  No

(iv) Transcripts Yes  No

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*:

Evidence Argument

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*: Evidence Argument  
 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
- e) Overview of Defence position : \_\_\_\_\_

f) Overview of Crown position: \_\_\_\_\_

g) 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: \_\_\_\_\_

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e) Nature of breach: \_\_\_\_\_

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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: \_\_\_\_\_

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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 Suspects**a) 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 Victim**a) 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: \_\_\_\_\_

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

e) Basis upon which admissibility of evidence contested:

- Witness is not an expert   
 Area of expertise requires a *voir dire*   
 Witness cannot give evidence sought

f) Comments: \_\_\_\_\_

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g) 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? \_\_\_\_\_

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d) Does the Crown 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: \_\_\_\_\_

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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                               |   |

**36. 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"/>

**37. 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"/>

**38. 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

**39. 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 known to the Crown

\_\_\_\_\_

\_\_\_\_\_