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Superior Court of Justice	1
Bail Reviews/90 Day Reviews - Point Form Information	1
Local SCJ Practice Direction: Hastings and Prince Edward Counties in Relation to Criminal Matters in the Superior Court of Justice	3
SCJ - Judicial Pre-trials	4
SCJ - Pleas	5
Bail/90 Day Reviews-Consent Releases	6
Contested Hearings	7

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Current as of April 20, 2020.

Superior Court of Justice Hastings and Prince Edward County

Trial Coordinator: Tanya-Swan Fox / email: tanya.swan.fox@ontario.ca / phone: (613) 771-8967

Bail Reviews/90 Day Reviews - Point Form Information

*Please contact the trial coordinator to advise of your intention to schedule a bail review/90 day review

*The trial coordinator will then schedule a preliminary teleconference with defence counsel, the Crown and an SCJ Jurist to discuss timing of the hearing, nature of the hearing, numbers of witnesses to be called, whether there is a possibility of a consent release and will narrow the issues. If the matter is to proceed by way of a contested hearing timelines will be discussed in terms of filing material (notice of application etc.) and timing of Crown's response materials.

*The trial coordinator will then contact counsel with a date for the teleconference hearing.

*All materials are to be filed upon the Crown and the Court (to be sent to the SCJ trial coordinator and the Crown) electronically by way of email.

*All Bail Reviews/90 Day Reviews are being conducted entirely by teleconference.

*The Jurist, the surety/sureties, the Crown and defence counsel will all be calling into the same teleconference line.

*Your client can also appear by audio to be part of this teleconference line (this will have to be arranged with the detention centre, the local practice right now is to have a Judge's Order signed and sent to the detention centre for this purpose).

*Surety/Sureties' can be affirmed and examined by way of teleconference.

*Surety/Sureties' do not need to attend at defence counsel's office for the purpose of testifying. .

*Surety/Sureties' do not need to be at the courthouse either - surety/sureties' have been providing their driver license number/health card/SIN number over the phone to be verified.

*There will be time limits imposed by the Court on these hearings - the Court is asking that counsel focus their arguments in their written materials as the Court will primarily be relying upon those.

Please see the comprehensive SCJ Local Directive Below (p. 16)

Local SCJ Practice Direction: Hastings and Prince Edward Counties in Relation to Criminal Matters in the Superior Court of Justice

THIS PROTOCOL ONLY APPLIES IN CUSTODY MATTERS

This information is updated as of March 27, 2020

All out of custody matters have been adjourned to June 2, 3, or 4, 2020 pursuant to the order of Chief Justice Morawetz and will be dealt with at that time.

Matters Currently Being Heard:

- Chief Justice Morawetz's Notice to the Profession provides that only urgent matters are being heard at this time. The list of matters that qualify as urgent is very narrow.
- The determination of "urgency" will be made by the judge receiving a request for a hearing or determination.
- Judges are presently addressing cases remotely, in writing or by teleconference. Judges do not presently have access to court files – either the physical file or scanned copies of court documents.
- Matters deemed urgent will be addressed based on the written record or after hearing by teleconference. Judges cannot hold an in-person hearing without first obtaining the consent of the Chief Justice. No counsel or parties will attend at the courthouse for those hearings. Each case will be decided on its own merits and directions for how to proceed will be tailored to the individual matter.

SCJ - Judicial Pre-trials

1. Counsel (i.e. Crown counsel/Federal Crown and counsel for the defendant) will communicate with each other to confirm that they wish to participate in a JPT.
2. Counsel will send an email to the trial coordinator's office using the generic email address (PSRHastingsPEC@ontario.ca). The other party (or parties) are to be copied on this email.
3. The trial coordinators will schedule a date and time for the JPT.
4. The JPT will be assigned to a Superior Court Justice based upon availability.
5. Crown counsel/Federal Crown will provide documents required for the pre-trial: synopsis, PTCR, criminal record, etc. These materials will be provided to the court and to defendant's counsel.
6. The teleconference information and the name of the presiding judge will be provided to the parties by the Trial Coordinator.
7. The JPT will not be recorded.
8. The Trial Coordinators will be advised of the result of the pre-trial upon its completion. For example, if it is to continue, advise promptly of the time and date.
9. The accused is not required to be present for a JPT. If counsel wish to have the accused present, they should advise the trial coordinator why in a brief letter.

SCJ - Pleas

1. Counsel will communicate with each other to confirm that a plea is required.
2. Crown counsel/Federal Crown will send an email to the trial coordinator's office using the generic email address in #2 above. Counsel will copy each other.
3. Crown counsel/Federal Crown will provide all necessary documentation required for the plea.
4. The Trial Coordinator will schedule a date and time for the plea.
5. Crown counsel/Federal Crown will advise the institution so that the inmate can be available to participate in the teleconference. If the institution cannot accommodate the plea, another date and time may need to be scheduled.
6. The registrar's office will be advised by the trial coordinator so that a registrar can be assigned.
7. A court reporter may also be available to record the proceedings.
8. The teleconference information will be provided by the trial coordinator to all interested parties.
9. If a court reporter is not available, the teleconference line must be one that is recorded so there is a record of the plea. Once completed, the recording will be available on the DRD system.
10. The registrar will complete the required forms. He or she will arrange for the necessary signatures to be obtained. The documents will be provided to the institution and interested parties.

Bail/90 Day Reviews-Consent Releases

1. Counsel will consult each other about the possibility of a bail/90-day review.
2. Counsel can fill out the paperwork (i.e. conditions of release and surety declaration – both forms are available electronically).
3. The paperwork will be provided to the trial coordinator's office:
PSRHastingsPEC@ontario.ca.
4. The paperwork will be forwarded by the trial coordinator's office to the registrar's office and the registrar will complete the paperwork. The paperwork will then be provided to the parties for their signature. During this time, we are willing to accept a written confirmation from counsel that they have 'witnessed' the sureties' signatures (whether it be over the phone, via Facetime, Skype, etc.).
5. The paperwork will be sent to Hurley, J or delegate for authorization. It should be noted that s. 3(2) of the Criminal Code permits a clerk of the court to sign any document if the judge sends an email authorizing the signature. Specifically, s. 3 provides,

3(2) CLERK OF THE COURT – Unless otherwise provided or ordered, if anything is done from the bench by a court, justice or judge and it is reduced to writing, the clerk of the court may sign the writing.

6. The signed documentation will be returned to the registrar.
7. The signed documentation will be provided to the institution for release.
8. Copies will be sent to all interested parties.

Contested Hearings

1. Counsel are to consult each other about the necessity of booking a time for a contested bail/90-day review.
2. Counsel for the defendant will send to the trial coordinator's office a one-page letter setting out why the matter is urgent along with the nature of the charges, criminal record, plan of release and grounds for review.
3. Once the matter has been deemed urgent, the trial coordinator's office will consult with counsel to arrange a time and date for the hearing.
4. The judges reserve the right to limit the time for the hearing. It is anticipated that hearings will take no more than two hours. If both counsel believe that more time is required, one of them may send an email to the trial coordinator's office setting out the reason why more time is necessary.
5. The Trial coordinator will assign a judge to hear the matter.
6. Counsel are to provide any necessary documentation electronically to the trial coordinator's office.
7. The trial coordinator will then forward the materials to the assigned judge along with the date and time of the hearing.
8. The registrar's office will be advised by the trial coordinator of the date and time of the hearing and a registrar will be assigned to the matter.
9. The trial coordinator's office will also advise the court reporter's office that a court reporter is required for the hearing. In the event a court reporter is not available, the teleconference line must be one that is capable of recording so there is a record of the plea. Once completed, the recording will be available on the DRD system.
10. The trial coordinator will provide the interested parties with the teleconference information.
11. Counsel should complete the "terms of release" form and circulate it to the other parties in advance of the hearing.
12. The judge hearing the bail/90-day review will advise of his or her decision orally and the registrar will endorse the indictment on behalf of the judge with a brief outline of the result of the hearing.

13. It is anticipated that the proposed sureties would be in the counsel's office either in person or virtually during the teleconference hearing. Counsel should ensure that the person who is virtually present is in fact the person being proposed as a surety.
14. The defendant need not be present. However, if counsel wish their client to participate by telephone, they must make arrangements with Crown who will contact the institution and make the request. If an order to produce is required to ensure the defendant's participation by telephone, the judge will sign the order by email.
15. If released, the registrar will complete the paperwork, scan it and forward it to the parties for signature. As stated above, during this time, we are willing to accept a written confirmation from counsel that they have 'witnessed' the sureties' signatures (whether it be over the phone, via Facetime or Skype, etc.).
16. The release documents will then be scanned and sent to the judge for review and authorization. As stated above, it should be noted the s. 3(2) of the *Criminal Code* permits a clerk of the court to sign the document if the judge makes an order in writing. Section 3 provides:

3(2) CLERK OF THE COURT – Unless otherwise provided or ordered, if anything is done from the bench by a court, justice or judge and it is reduced to writing, the clerk of the court may sign the writing.
17. The paperwork will then be forwarded to the institution.

LINKS:

- Chief Justice Court Order – Adjourning Criminal Matters, March 15, 2020
<https://www.ontariocourts.ca/scj/by-order-of-chief-justice-morawetz/>
- Notice to the Profession, the Public and the Media Regarding Civil and Family Proceedings, by Chief Justice Morawetz dated March 15, 2020 (re Civil and Family matters).
<https://www.ontariocourts.ca/scj/covid-19-suspension-fam/>
- Notice to Accused Persons, Profession, Crown, Public Prosecution Service of Canada, Correctional Institutions, Witnesses, Jurors, The Public and The Media Regarding Criminal Operations March 15, 2020
<https://www.ontariocourts.ca/scj/covid-19-suspension-crim/>

Further notices may be issued regarding criminal actions.

