

**Judicial Case Manager’s Manual
Provincial Court of British Columbia
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A. THE ROLE AND FUNCTIONS OF A JUDICIAL CASE MANAGER

1.1 Objectives

The Judicial Case Manager is responsible and accountable for providing effective and efficient court scheduling and coordination of all matters within a designated Judicial District that appear before a Provincial Court Judge. The Judicial Case Manager manages the flow of all Provincial Court appearances. This position must ensure that all Judicial resources are effectively utilized in a manner which minimizes court down-time and is consistent with the policies and practices of the Chief Judge. The Judicial Case Manager is authorized by the Chief Judge to carry out this function for the Judiciary.

The Judicial Case Manager must hold a Justice of the Peace appointment and exercise judicial discretion and authority within that commission as required. This position is also required to preside as a Justice pursuant to the Criminal Code and to ensure compliance with the Criminal Case Flow Management Rules (CCFM). The Judicial Case Manager plays a significant role in the administration of criminal proceedings and in the coordination of other Provincial Court matters, attending to the rights of all court users by ensuring cases are scheduled in a timely and just manner so that each court appearance is a scheduled, meaningful event.

Judicial Case Managers are critical in terms of criminal process reforms introduced in the Provincial Court as of 2007, including: remand/bail triage; expanded role in terms of CCFM appearances; centralized video-bail; and scheduling for Compliance and Administrative Courts. These reforms require expanded assignments for Judicial Case Managers and result in the position taking on a number of additional judicial responsibilities.

The formal objectives of trial coordination are set out below:

1. To schedule in a way that allows optimum utilization of available court time while ensuring cases are scheduled in a timely and just manner so, with each substantive court appearance being a scheduled, meaningful event.
2. To minimize, where possible the hardships or costs for trial court participants.
3. To assist the Court in ensuring cases receive timely disposition.
4. To encourage the commitment of justice system participants to effective case management.

1.2 Background

Formal approval to establish a joint Court Services/Provincial Trial Coordination Programme was reached on October 5, 1981 by the Attorney General and the Chief Judge of the Provincial Court. Subsequently, the positions' duties and responsibilities were described and classified at the Administrative Officer 1 level. Eight positions went to the panel process in

the early part of 1982. The successful candidates entered a two-week training programme on March 15th and commenced their duties at six locations on April 1st, 1982. The locations were:

Burnaby	1 position
Kamloops	1 position
Kelowna	1 position
Surrey	1 position
Vancouver (Criminal)	3 positions
Victoria	1 position

In its early years, the programme was under shared management. While the Trial Coordinators came under the direct supervision of the Judiciary and were responsible to His Honour Chief Judge Goulet, the staffing, salaries, and other administrative costs were the responsibility of Court Services Branch.

From 1990 to 2004, additional Trial Coordinator positions were created within the Judiciary in order to expand geographically and to cover Family, Youth and Small Claims coordination throughout the province. As of 2011, there is a total provincial complement of 43 positions with a full time equivalent of 39 headquartered in the following locations:

	FTE
Abbotsford	1.8
Campbell River/Courtenay	0.8
Chilliwack	1.0
Cranbrook	0.8
Duncan	1.0
Kamloops	1.0
Kelowna	2.0
Nanaimo	1.0
Nelson	0.8
New Westminster	1.0
North Vancouver	1.0
Penticton	1.0
Port Coquitlam	2.8
Prince George	2.0
Prince Rupert	0.5
Quesnel	1.0
Richmond	1.0
Smithers	0.5
Surrey	4.2
Terrace	1.0
Vancouver (Criminal)	5.0
Vancouver Family & Small Claims	2.5
Vernon	1.0
Victoria	3.0

In addition to these formal positions on the payroll of the Provincial Judiciary, there are from time to time other secondment and Court Services' positions which augment the programme.

The classification of the position has been reviewed on three occasions, moving in October, 1985 out of the Administrative Officer series and into Management Exclusion, followed by a re-classification in 1988 to the level of Excluded Job Level 1, then followed by a re-classification in 1993 to the present level of Excluded Job Level 2. The expansion and heightening classification levels of the position reflect the growing importance of Trial Coordination in the courts and the recognition of its effectiveness. The implementation of the Criminal Caseflow Management Rules in October 1999 and ever-growing management of all provincial court appearances, led to a job title change in the fall of 1999. The title of Trial Coordinator was changed to Judicial Case Manager (JCM) to more accurately reflect the new role of the JCM.

1.3 *The Role of the Judicial Case Manager*

Policy

It is the policy of the Provincial Court of British Columbia that all judges may be required to sit in all court locations, and to hear all categories of matters and all cases assigned to them by the Administrative Judge, whether in their own district or when sitting in another district under temporary assignment.

Each administrative judge, in carrying out his/her administrative duties, exercises a delegated power of the Chief Judge's constitutional and statutory power of assignment, when drafting the Court's rota and when assigning cases to individual judges.

In the event a judicial case manager receives an instruction from an individual judge other than the administrative judge which appears to be inconsistent with the foregoing policy (typically declining to perform assigned duties), the judicial case manager must report the matter to the local administrative judge and to the Office of the Chief Judge through the Administrative JCM.

The Judicial Case Manager is responsible and accountable for providing effective and efficient court scheduling and coordination of all matters within a designated judicial district that appear before a Provincial Court Judge. The Judicial Case Manager manages the flow of all Provincial Court appearances. The position must ensure all judicial resources are effectively utilized in a manner that minimizes court down-time and is consistent with the policies and practices of the Chief Judge. The Judicial Case Manager is authorized by the Chief Judge to carry out this function for the judiciary.

The Judicial Case Manager must hold a Justice of the Peace appointment and exercise judicial discretion and authority within that commission as required. This position is also required to preside as a Justice pursuant to the Criminal Code over non-custodial appearances prior to the arraignment hearing and to ensure compliance with the Criminal Caseflow Management Rules (CCFM). The Judicial Case Manager plays a significant role in the administration of criminal proceedings and in the coordination of other Provincial Court

matters, and attends to the rights of all court users and ensures cases are scheduled in a timely and just manner and each court appearance is a scheduled, meaningful event.

1.4 Specific Accountabilities

- Manage and maintain Provincial Court appearances using a computerized case tracking system; analyze data from a number of sources to quickly assess and determine scheduled events that utilize judicial resources; provide effective and efficient case management for a designated Provincial Court district or court location; meet local needs and comply with the Chief Judge's policy requirements.
- Preside as a Justice in an informal court setting and conduct non-custodial appearances in the youth and adult criminal process, prior to the arraignment hearing under CCFM.
- Receive and facilitate the filing of arraignment reports while presiding in the Initial Appearances room.
- Direct and manage the video conferencing resource for adult criminal, youth, family and small claims, by daily coordination and scheduling of available sites, courtrooms and equipment.
- Direct and control the active monitoring of all adult criminal, youth, family, small claims and traffic matters that are scheduled before a Provincial Court Judge.
- Generate and analyze reports produced from the case management system to assist in effective monitoring of all scheduled events.
- Produce and maintain accurate judicial resource records and statistics and provide reports for the Chief Judge as required.
- Provide technical support and expert advice to Judges and technical direction, leadership, policy and expert advice to Crown Counsel, defence counsel, police agencies, Court Services, Crown Counsel staff, and the public relating to procedures for scheduling all trials or other matters requiring judicial and courtroom time before a Provincial Court Judge.
- Build and maintain the Provincial Court Judges rota under the direction of the Administrative Judge.
- Provide leadership, technical direction and oversee all components of trial scheduling in satellite/circuit locations to all court services trial schedulers and JCM backups within the Judicial Case Manager's Judicial District.
- Perform judicial duties individually authorized by the Chief Judge as a Justice of the Peace.

A complete, detailed Job Description is available.

SEE APPENDIX D – Judicial Case Manager Job Description (Updated 2007)

1.5 Some Legal Aspects of the Judicial Case Manager

Judicial Case Manager's Role

The *Canadian Charter of Rights and Freedoms* came into force on April 17, 1982. The Charter is contained in the *Constitution Act, 1982* and as such, forms part of the supreme law of Canada. The Charter has impacted dramatically on the administration of justice and its influence extends to the role performed by the Judicial Case Manager.

Of direct interest to the Judicial Case Manager is section 11(b) of the Charter, which provides that "any person charged with an offence has the right to be tried within a reasonable time." The phrase 'charged with an offence' has been interpreted to mean criminal proceedings under both federal and provincial statutes. It also includes quasi-criminal offences that result in penal consequences.

The single most important case on section 11(b) is *R. v. Askov* (1991), 59 C.C.C. (3d) 449. In that case, the Supreme Court of Canada upheld a decision by a trial Judge to enter a stay of proceedings because excessive trial delay had resulted in a violation of Charter rights. The court indicated that there were four relevant factors to consider when determining if there was unreasonable delay:

1. Length of delay (the longer the delay, the harder it is to justify).
2. Explanation for the delay (whether the delay is attributable to the Crown, to 'the system' or to the accused).
3. Waiver of Charter rights by the accused (mere silence by the accused or simple resignation to the lack of court time is not a waiver).
4. Prejudice to the accused (long delays create an inference of prejudice that the Crown may rebut).

Askov and cases subsequent to it have highlighted the need for efficient and creative use of judicial resources. The Judicial Case Manager plays a critical role in identifying delays and taking steps to reduce them. The Judicial Case Manager should be alert to situations that would prejudice an accused, such as being in custody for an inordinate length of time because of scheduling problems, long continuances or seemingly endless adjournments.

The Judicial Case Manager will hold a Justice of the Peace commission granted by order of the Lieutenant Governor in Council. The office of Justice of the Peace is an old and honourable one and is judicial in character. In a variety of federal and provincial statutes, jurisdiction is given to "justices" (a term which usually means both JPs and Judges) in many civil and criminal matters. However, pursuant to section 6.1(1)(a) of the *Provincial Court Act*, the Chief Judge has the power and duty to supervise justices of the peace and may designate the case of matter, or class of cases or matters, in which a Justice of the Peace may act. This designation is in the form of assignment of duties given to each JP which defines the areas in which the Judicial Case Manager may act while performing the function of a Justice of the Peace.

The Judicial Case Manager is perceived as an extension of the judiciary. Moreover, when acting as a JP, the Judicial Case Manager is exercising a judicial function. The very basis of

a fair justice system is judicial independence, which most will correctly think of as including freedom from influence and the ability to act in an impartial manner. However, it is not sufficient to act in a fair and impartial manner if the perception is that this is not the case. It is therefore important to avoid even the appearance of a conflict of interest. It is difficult to list all possible conflicts of interest which may arise, but a personal relationship, business relationship or a financial stake in the outcome of litigation may create a real or perceived conflict of interest.

Some conflicts of interest arise gradually. The Judicial Case Manager interacts on many levels and professionalism dictates that good relations be maintained with members of the criminal justice community. Occasionally, such interactions lead others to believe that the Judicial Case Manager is "part of their team," and from here it is a short step to the appearance of bias.

Where the Judicial Case Manager believes there may be a conflict of interest, the Judicial Case Manager should refer to the procedure set forth in this manual.

1.6 Standards of Conduct

The Judicial Case Managers are an extension of the Judiciary and:

1. [Shall be bound by the Code of Ethics of the Justice of the Peace of the Province of British Columbia. \(See Appendix E or click on this link to take you there\)](#)
2. Shall not show favouritism or prejudice towards anyone.
3. Shall be forthright, honest, courteous and cooperative.
4. Shall respect confidentiality.
5. Shall not pre-judge the accused nor encroach on his/her rights.
6. Shall ensure due process of law by being as expeditious as possible.
7. Shall endeavor to schedule trials to minimize inconvenience to all parties.
8. Shall dress in accordance with accepted court practice.
9. Shall understand and adhere to the limitations of the office.
10. Shall conduct him or her self in a professional manner at all times.

B. SCHEDULING MATTERS

2.1 Standards for Scheduling

In the Provincial Court of British Columbia 2007-2008 Annual Report, the Management Committee endorsed a timeline for setting trials in all Provincial Court Jurisdiction matters. These timelines do not include 1st appearances or waiting for counsel. They are strictly timelines for non-priority cases that are ready to be set for trial.

Adult Criminal Trials:

½ day Criminal trials to be set within 6 months

2 day Adult Criminal trials to be set within 8 months

Youth Trials: 4 months

Small Claims Trials: 4 months

Settlement Conferences: 2 months

Child Protection Matters: 3 months

Family Hearings: 4 months

Family Case Conferences: 2 weeks, 30 days max

2.2 Trial Scheduling – Overbooking

In Criminal Court, trials are scheduled only after an arraignment hearing is conducted pursuant to the [Criminal Caseflow Management Rules](#). Trial time estimates are decided at the arraignment hearing stage by the Judge for indictable cases or by the JCM sitting in the initial appearance room for summary cases. The time estimate may be revisited by the Judge presiding at the trial confirmation hearing.

Pursuant to various practice directives from the Office of the Chief Judge, many JCMs in various locations have been authorized to deal with virtually all administrative and remand matters including arraignment and trial confirmation hearings. This includes both summary and indictable matters. It also allows the JCM to take pleas and elections at the arraignment hearing.

[SEE APPENDIX F FOR LINKS TO PRACTICE DIRECTIONS OF THE CHIEF JUDGE](#)

Trial time estimates can be conveyed to the Judicial Case Manager in a number of ways. One is the use of an Arraignment Hearing Scheduling Memo, completed by the clerk in the arraignment hearing courtroom and given to the Judicial Case Manager at the conclusion of the arraignment hearing. This determination and subsequent review of the trial schedule is intended to promote greater accuracy in scheduling, reduce the possibility of scheduled trials

collapsing on the day they are to proceed, and consequently reduce the tendency to overbook trial days.

*Trials should be scheduled in accordance with the time estimate approved by the arraignment hearing Judge or as agreed to in writing by counsel at the initial appearance stage at a rate of 2.5 times the time available for trial. (If no other events will occur that day, there are five hours available, but if bail or other events will be occurring in that room, the time available should be determined at a reduced level.) This 2.5 times scheduling standard assumes a modest "rate of collapse" before or at the trial confirmation hearing. **To be reviewed***

When fixing a trial date in criminal court, the Judicial Case Manager shall set a trial confirmation hearing on the file in accordance with the [Criminal Caseflow Management Rules](#). The trial confirmation hearing shall be scheduled approximately 30 days prior to the scheduled trial date.

The scheduling standard after the trial confirmation hearing but before the day of the trial is 1.5 times the "time available". If the rate of collapse before or at the trial confirmation hearing is less than 1.5 times, then additional matters may be scheduled.

(Note: consideration was given to "real time" trial scheduling standards in which there is no overbooking, but because there will be legitimate reasons for well-managed cases to collapse on the day of the trial, the standard is set at 1.5.)

In Small Claims Court, since all cases that are set for trial have had a settlement conference, it is presumed that most cases will proceed to hearing. The settlement conference Judge sets out the time estimate for each case. Overbooking is therefore kept to a minimum and should correlate with the number of small claims trial courts sitting on the same day. For example, in multi-court locations, the more Judges you have sitting on small claims trials, the more small claims trials you may be able to schedule per courtroom.

As a guideline, a total of approximately 8 – 10 hours of trial time should be scheduled in each small claims trial court. If settlement conferences and/or small claims applications are scheduled into the trial rooms, a reduced amount of trial hours should be set down.

Effective January 10, 2005, when scheduling trials for all divisions of the Court, the JCM or CSB trial scheduler must schedule matters to commence in both the morning and afternoon court sessions, depending upon time estimates and counsel availability. This policy pertains to all staffed registry locations and locations with resident judges; it does not apply to "circuit courts". An Administrative Judge may send a written request to the Chief Judge asking for an exemption from this policy for a specific location within his or her district.

Beginning in April 1991, the Chief Judge has requested that the following types of information be recorded for the purpose of being in a position to answer an *Askov* application in a particular area:

- a) trial dates offered and trial dates refused (and refused by whom);
- b) reasons for request for adjournments; and,
- c) who requested the adjournment.

This information is to be written on the court file copy of the trial notice or on scheduling memo and entered in JUSTIN on the "remarks" field.

Criminal Trials:

A number of factors may have to be taken into consideration when scheduling a criminal trial. Some of which are:

- Time estimate
- Is the matter a trial or preliminary hearing
- Police availability
- Judge/courtroom availability
- Counsel availability
- Separate witness/expert availability
- Custodial status
- Seriousness of case
- Age of case
- Any previous adjournments

For a full procedural discussion on scheduling criminal trials, please see the JUSTIN Systems Manual at:

<http://portal01/Judicial%20Manual/Justin%20System%20Manual.pdf>

Please also refer to "Priority Scheduling in Criminal Court" at section 2.8 and "Priority Scheduling in Youth Court" at section 2.10.

Small Claims:

Small Claims trials should be scheduled upon completion of the settlement conference. As a general practice, the JCM should coordinate the flow of litigants and lawyers to go directly from a settlement conference room to the JCM office to arrange a trial date or further settlement conference date as required.

In June 2009, the Management Committee established the following with respect to civil settlement conferences and has directed the following:

- that ALL settlement conferences be scheduled for 45 minutes in length;
- that there be a standard set of 7 settlement conferences per court day (or simply 45 minutes each in smaller locations with a "mixed list");

- that an Administrative Judge on their own initiative may "vet" their own court files to determine if a particular case should be scheduled for a longer 1.5 hour timeslot. If that occurs, then the scheduler will simply use 2 of the 7 time slots, or a 1.5 hour time slot on a "mixed list", for that purpose.

If a future small claims trial date or settlement conference date is required to be scheduled in the absence of litigants and/or counsel, the JCM is not required to make prior contact with counsel or litigants to seek out their available trial dates. Rather, litigants and counsel should be invited to provide their up-to-date available or unavailable dates to the JCM who should then record these dates through JUSTIN or by some other means and must refer to these dates when scheduling the trial. If counsel or litigants have not supplied any dates, the assumption should be that the trial or settlement conference date can be scheduled on a date convenient to the Court. The registry will then notify all parties by way of a Notice.

It is realized that in some situations, the JCM must contact counsel to arrange a mutually convenient date. Examples of these situations would be for unusually lengthy trials and continuations.

Family:

Overbooking trial lists in Family and Small Claims is recognized as being a necessary practice.

Please also refer to "Priority Scheduling in Family Court" at section 2.9.

A number of factors will dictate the extent to which a Judicial Case Manager overbooks:

- type and profile of case
- Counsel
- Judge
- Litigant
- Familiarity with the local situation.

The experience of the resident Judicial Case Manager will be an important factor in determining the extent of overbooking.

Family Assize

The word assize is defined as a "periodic judicial proceeding". Family assize is performed in some court locations. Matters involving counsel needing 2-5 days of court time are set into assize court (generally up to 4 trials for each assize court) with a pre-trial conference scheduled two weeks prior where the Judge determines the priority list

On the first day of the Family assize week, the Judge determines which matter will proceed first and the other parties are told to return on another day that week.

In British Columbia, many court locations operate the Assize System for family hearings. This means that hearings/trials are scheduled to be heard during a 1 or 2 week sitting of the court. The hearings/trials may be scheduled to start any day during that time frame.

2.3 Crown Prosecutor Availability

Section 2.2 outlined a number of factors which may need to be taken into consideration when scheduling a trial date. One of these factors is "counsel availability".

If an individual prosecutor's office requires a Judicial Case Manager or trial scheduler to consider a particular crown's availability when assigning a trial date, the JCM will only accept suggested available trial dates from federal and provincial prosecutors in 3 forms:

- 1) Crown or their designate attends personally at the JCM or scheduling office with their available dates for each file;
- 2) Crown will send a letter for each individual file no earlier than the day before the arraignment hearing or "fix date" stating the accused name, file number and their availability for trial.
- 3) Crown uses the LEA component of JUSTIN to enter, attach and keep up-to-date their specific Crown availability for the JCM or trial scheduler to view when assigning a trial date to a specific file.

If the JCM or trial scheduler does not receive available trial dates from Crown, there will be an assumption that Crown is allowing the trial to be scheduled with no input as to their availability. The date will then be scheduled at the discretion of the JCM or trial scheduler.

2.4 Defence Counsel Availability

As of February 2009, the Office of the Chief Judge introduced a new portion to JUSTIN Scheduling called Counsel Availability.

JCM's are required to input defence counsels name into JUSTIN while scheduling trial time to ensure that defence counsel are not scheduled to be in more than one court for a substantial matter on the same date in the same session.

Business Rules for the Counsel Tracking System

All Judicial Case Managers, Backup Judicial Case Managers and Court Services trial schedulers who schedule adult and/or youth criminal matters in the Provincial Court of British Columbia in every Provincial Court location within the Province use the counsel tracking system in JUSTIN/TSS. The use of the counsel tracking system is used to gain control of our

constitutionally acquired responsibility for scheduling and controlling the processes of the court by ensuring that defence counsel are not scheduled to be in more than one court for more than one substantial matter on the same date in the same session period.

The counsel tracking system is used for all Provincial Court, adult and youth matters only that have the following appearance reasons:

- FT = For Trial.
- CNT = Continuation.
- HR = Hearing.
- PI = Preliminary Hearing.
- CSH = Conditional Sentence Hearing (new code).
- DOH = Dangerous Offender Hearing.
- LTH = Long Term Offender Hearing.
- VD = Voir Dire.
- TH = Transfer Hearing.

There are no time estimate limitations.

The counsel tracking system is accessed through the "Schedule Criminal Trial Module" in JUSTIN/TSS.

In this module you will find a "selection list" of counsel to choose and click when a Judicial scheduler is scheduling a trial. Every trial date that is booked is "committed" against the particular counsel on record. As each counsel is selected, the Judicial scheduler has the ability to see if counsel already has a trial (or other appearance reason above) committed for that day; no matter where the trial is.

1.) IF COUNSEL IS ALREADY COMMITTED

- a) If there is a date already committed for counsel by another, previously scheduled matter, and there is time available in *the same courtroom* which will not over-book that court by any measure, the Judicial scheduler has the discretion to schedule the matter (ie: case currently before the Judicial scheduler) for the same day in the same courtroom.
- b) If there is a date already committed for counsel by another, previously scheduled matter, and there is time available in a different courtroom during the same session period (a.m. / p.m.), the Judicial scheduler has NO discretion to schedule the matter and MUST search for another available day.
- c) If the previously scheduled matter is scheduled for more than a ½ day (ie: scheduled to continue from the morning session into the afternoon session), the Judicial scheduler has NO discretion to schedule the matter in any courtroom for the same day and MUST search for another available day.

2.) REFERRAL TO ADMINISTRATIVE COURT /ADMINISTRATIVE JUDGE

- a) If counsel are in disagreement with the Judicial scheduler and insist on scheduling their matter on the same day as a previously scheduled matter, the Judicial scheduler **MUST** refer the request to the Administrative Court (or designated courtroom) or Administrative Judge for the purpose of scheduling their matter on the same day as a previously scheduled matter. If counsel are referred to an Administrative Court (or designated courtroom), counsel are to return to the Judicial scheduler that same day. If the request is referred to an Administrative Judge, the fix date may need to be adjourned while the scheduler awaits a reply by the Administrative Judge.
- b) The Judicial Scheduler will follow the directions of the presiding judge for scheduling purposes and make all necessary notes surrounding these directions in their "remarks" field within the Trial Module of JUSTIN TSS (trial tab).
- c) The Judges directions will be conveyed to the Judicial scheduler by way of local practice.

3.) COUNSEL NO LONGER RETAINED / NEW COUNSEL RETAINED / TRIAL DATE CANCELLED

- a) If counsel or the Court advise the Judicial scheduler that a particular counsel is no longer representing an accused, no longer retained or the trial date is cancelled for that counsel, the Judicial scheduler shall remove that counsel from the particular case through the "Investigating Officer Screen" to reflect the change and make an appropriate note to that effect in the "remarks" field. Counsel can only advise the Judicial scheduler of this change if it involves them personally (ie: not on behalf of another lawyer).
- b) If new counsel is retained, the Judicial scheduler must update the file in JUSTIN TSS by adding them to the file through the "Investigating Officer Screen". The Judicial scheduler must ensure that there are no previous commitments for this counsel on this date.
- c) If JUSTIN TSS identifies a previously scheduled commitment for this counsel on the same date, the Judicial scheduler **MUST** contact the Administrative Judge for directions if Rule 1 (b) or (c) apply.
- d) Whether adding or deleting counsel from a file, the Judicial scheduler must also update the counsel entry in the Witness tab of JUSTIN TSS.

4.) COUNSEL NAME NOT APPEARING ON PICK-LIST, CHANGES REQUIRED TO THE COUNSEL LIST

- a) If a Judicial scheduler does not find a counsel's name on the list and requires it to be added, the Judicial scheduler is to send a detailed e-mail to the JUSTIN Program Manager (Kevin Purdy) and ask that the list be updated. The e-mail is to include the Case Information number and court location of the file they are scheduling along with the full name of counsel.
- b) The Judicial scheduler is to continue to schedule the matter without the counsel tracking information.
- c) Once the JUSTIN Program Manager updates the counsel list, he will reply to the the Judicial scheduler informing that the update is complete. The Judicial scheduler must then update the file by attaching the counsel to the file.
- d) Any other changes (ie: deletion of counsel, correction of spelling, etc.) are also directed to the JUSTIN Program Manager by way of detailed e-mail.

JCM Guidelines – Counsel Availability

PURPOSE OF THESE GUIDELINES

These guidelines have been drafted for JCM's and Judicial Schedulers to assist in the practical application of this program. They are meant to anticipate and identify problematic or challenging scenarios and outline creative "work-arounds" that they might consider. For the purposes of these guidelines, the term "JCM" refers to Judicial Case Managers, Backup Judicial Case Managers and Court Services Trial Schedulers.

GUIDELINES

1) Recording offered dates.

The ability to have the counsel availability information before a JCM electronically should not prevent a JCM from having a "scheduling conversation" with counsel and making the offer of the first available date in the usual course, even if the JCM pre-determines that counsel are unavailable. The first offered date has always been, and should continue to be, when the judiciary has a courtroom and judge available to hear the case.

Beginning in April, 1991, the Chief Judge has requested that the following types of information be recorded **for the purpose of being in a position to answer an Askov application in a particular area:**

- a) trial dates offered and trial dates refused (and refused by whom);
- b) reasons for request for adjournments; and
- c) who requested the adjournment.

If counsel accepts the offered date, the Business Rules will apply and the scheduler may schedule the trial if it complies with the definitions or they may need to refer it to Administrative Court.

2) Holding dates.

Each JCM has the ability to hold a date electronically pending approval of the Administrative Court. Whether a date is held or not is at the discretion of the JCM.

3) Smaller Court Locations.

It is recognized that a JCM overseeing a small court location may be presented with counsel availability challenges that are not seen in other locations (ie: there are a small amount of lawyers who have multiple matters on any given trial list). Upon referral to the Administrative Court (or designated courtroom), the JCM will follow the directions of the presiding judge for scheduling purposes and make all necessary notes in their remarks field.

4) Communicating counsel changes with CSB.

Each JCM should revisit their lines of communication with Court Services to ensure when counsel advise a clerk or registry that they are no longer acting for an accused, that this information is immediately conveyed to the JCM who must then update their Counsel availability screen.

5) Changing counsel within the same law firm.

If counsel is changing within a law firm, on a file located within your own court location(s), the JCM can change the lawyer without a judges' direction. The JCM cannot make this change on a file located in a different district, however the JCM should (a) make notes in their remarks if they've been informed of a change in counsel in a different District, (b) the JCM should inform counsel that they (counsel) should be contacting the other JCM as it is defence counsel's responsibility and (c) the JCM may want to contact the other JCM (in the other district) to inform them.

6) Counsel not updated in another district.

If a JCM notes a counsel committed into a different district, but the JCM is informed by counsel that the file has now ended, the JCM can go into the Court Inquiry tab in JUSTIN to determine if it has been disposed of. Upon confirmation, the JCM has the discretion of booking the date outright or simply hold the date electronically. The JCM may want to send an e-mail to the other district JCM to inform them and ask that they update their counsel availability tab. The JCM should also inform counsel that they should be contacting other JCM as it is defence counsel's responsibility.

7) *Forms.*

When referring counsel to a courtroom to seek directions on double-booking, an explanation on a form should always be used so the PCJ knows why the case is coming to them. The JCM should use an appropriate form when referring counsel to Court. In JCM Reform locations, that form could be the existing Administrative Court form; in all other locations, that form could be the Trial Scheduling Instruction sheet. Each JCM should determine whether these forms require any added information to be included to clearly state why the case is being referred. The JCM should inform their registry of the need to provide the judges' directions back to the JCM.

8) *Counsel requesting their calendar*

The JCM is not to provide any JUSTIN/TSS reports to counsel regarding their own commitments and availability. This system shall not replace counsel's personal calendar.

2.5 *Trial Calendar*

Policy When scheduling matters into the JUSTIN Calendar, the Judicial Case Manager must follow the policies and procedures set out in the JUSTIN Manual. The Judicial Case Manager should ensure that the following informational items are included in the standard information:

- file number
- last name of accused/young person
- style of cause (for Family and Small Claims Court cases)
- estimated time
- name of counsel
- reason for appearance (e.g., preliminary hearing, trial, continuation, etc.)
- type of action
- Judicial Case Manager's remarks
- priority status (e.g. In-custody, K-file, Second Trial date, etc.)

Additional informational items which are strongly recommended are:

- the date when the matter was set
- the number of times the matter has been set previously (if applicable)
- settlement conference or case conference Judge

(See discussion below regarding these additional recommended informational items.)

For a full procedural discussion on scheduling a trial into a trial calendar, please see the JUSTIN Systems Manual at:

<http://portal01/Judicial%20Manual/Justin%20System%20Manual.pdf>

Discussion The informational item of when the matter was set is useful because it allows the Judicial Case Manager to have an immediate awareness of the approximate case age.

The informational item of the number of times the matter has been set previously alerts the Judicial Case Manager to the fact this case might require a priority status.

[Refer to Policy 2.2 for scheduling standards and overbooking.](#)

2.6 Police Witness

Policy Trials should be scheduled so as to minimize the need to have police appear as witnesses when either the date is scheduled at a time which may jeopardize the execution of their policing duties (i.e. night shifts) or when their time is paid at a premium (regular days off).

To the extent possible, Judicial Case Managers will schedule trials involving police witnesses such that police schedules are prioritized on the following basis:

1. day shift
2. afternoon
3. day 1 of weekly night shift
4. regular days off
5. remainder of weekly night shift (excluding day)
6. holidays/ training days. This is to be done only after consultation with Crown Counsel.

Changes to this policy may be made by local agreement between the Administrative Judge and the local police agency.

Discussion Police witness information is available to Judicial Case Managers through the personnel availability screen of JUSTIN.

2.7 Witness Availability

Policy	<p>Scheduling of witnesses should be done to minimize, wherever possible, hardship, costs or inconvenience.</p> <p>Special care should be taken to avoid inconvenience and unreasonable costs to civilian witnesses to the extent possible based on the information provided to the Judicial Case Manager.</p> <p>Judicial Case Managers are directed to book impaired trials in all locations without reference to the availability of experts. If someone needs a trial with an expert, that request must go to the Administrative Judge. As well, wherever possible, any expert should be accommodated by a video link rather than requiring a personal appearance. The intention is not to require leave for experts to testify generally; just to ensure that dates are set without factoring in their availability [to the extent that doing so would delay the trial date set].</p>
Discussion	<p>Information with respect to witnesses are available from these sources:</p> <ul style="list-style-type: none">• Crown• Defence• Police• Court Registry, e.g., for interpreters, disabled persons, etc.• Counsel for the Director, for <i>Child, Family and Community Service Act</i> hearings• Settlement Conference and Case Conference Record Sheet in Small Claims and Family Courts• Arraignment Hearing Scheduling Memos

2.8 Priority Scheduling in Criminal Court

Policy	<p>In-custody (detained) cases will be scheduled at the earliest available time. Priority must be given to in-custody cases over non-custodial cases. The desired standard is within 30 calendar days from time of detention on a particular charge.</p> <p>If the accused has been given bail but bail has not been perfected, the JCM should schedule the trial as if the accused was not in custody. The Provincial Court Judge may give specific direction to set these</p>
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types of matters on an in custody basis if it is determined that it is very unlikely that the accused will perfect bail.

If the accused consents to remain in custody the JCM should schedule on a not in-custody basis unless again there is a direction by the sitting Provincial Court Judge.

If the accused is in custody on other charges, but not the one being set, the trial should not be scheduled on a priority basis.

Breach of conditional sentence hearings **must** be scheduled within 30 days.

Continuation dates are to be scheduled in accordance with the [Practice Direction of the Chief Judge dated February 9, 2007](#). When a matter has been scheduled for hearing and has not been completed in the time provided, it will be scheduled to conclude within 30 days unless otherwise approved by the relevant Administrative Judge on advise of the local Judicial Case Manager. (See also section 2.17 of this Manual)

When scheduling cases involving violence, including cases where the victim is at risk, priority must be given to these cases over the general trial list. The desired standard for scheduling a case involving **domestic violence** ("K" Files) is within 60 days.

Where cases have to be moved between courtrooms, consideration will be given to serious cases and/or to those cases involving special preparation by the Crown.

Adjourned trials (i.e. previously adjourned for lack of court time, 2nd trial date and continuations) should also be given priority.

Two priority trials should not be scheduled to commence at the same time, date and courtroom unless time permits to have both heard.

Procedures

To meet these time standards, the local Judicial Case Manager should:

1. save trial time (i.e., fasttrack);
2. create trial time by re-scheduling non-custodial cases;
3. request additional sitting time through the Administrative Judge;
4. look at other divisions (e.g., Family Court, Small Claims Court) to determine if court time is available.

Discussion The Judicial Case Manager will review the scheduling memo completed by the arraignment hearing court to assess any special remarks or directions regarding priority.

If it is not possible to schedule a priority matter within the desired standard, it is recommended that the matter be sent back to the courtroom for further directions by the Judge.

The Judicial Case Manager should inform the Judge(s) as to the priority status of any matter on their list.

2.9 Priority Scheduling in Family Court

Policy Priority scheduling in Family Court must be given to hearings under Sections 28 (Protective Intervention Order), 35 (Interim Custody) and 98 (Restraining Order) of the *Child, Family and Community Service Act (CFCSA)*, Sections 37 and 38 (Restraining Order) of the *Family Relations Act (FRA)* as well as the setting aside of that order and Section 16 (set aside Attachment Order) of the *Family Maintenance Enforcement Act (FMEA)*.

When scheduling cases involving violence, including cases where the victim is at risk, priority must be given to these cases over the general trial list.

Where cases have to be moved between courtrooms, consideration will be given to serious cases and/or those cases involving special preparation.

The priority trials should not be scheduled to commence at the same time, date and courtroom unless time permits to have both heard.

The Judicial Case Manager will ensure that:

1. Protective Intervention and Restraining Order applications will be heard on the same day they are filed or as soon as is reasonably possible;
2. Contested presentation hearings under Section 35 *CFCSA*, will be scheduled within two weeks (maximum 30 days);
3. *FRA* Restraining Order applications will be heard on the same day as they are filed;
4. *FMEA* applications to set aside an Attachment Order will be given

the priority of an early date.

At the conclusion of a family application or notice of motion, a judge may ask the Judicial Case Manager (JCM) to schedule the matter for a trial date. In order to accurately schedule this matter through the new civil component of JUSTIN, the JCM must use the file number and emphasize 'document number(s)' which are indicated on the Court list. The program will not let you fix a date without selecting parties and the sequence number. These lists are printed and produced by Court Services.

Trial time estimates, document numbers and sequence numbers to be scheduled can be conveyed to the JCM in a number of ways. One is the use of the 'Trial Scheduling Memo' for CFCSA and FRA matters. This short form is to be completed by the clerk in the family remand courtroom or from the case conference room and given to the JCM at the conclusion of the application, notice of motion or conference. Other options may be developed by local practices.

If the JCM is not informed as to the time estimate and/or the proper document number(s) and sequence number(s) to be scheduled, the JCM should refer the matter back to the courtroom. This determination is to promote greater accuracy in scheduling and to reduce miscommunication and uncertainty between the judiciary and court services.

Some court locations set family assizes. In these locations, all matters are set into assize court. They are set starting the first day of assize with at pre-trial conference two (2) weeks prior. At the pre-trial conference the Judge determines a priority list. A letter goes out to parties to determine their start time. Generally only matters with counsel go to assize.

**Procedures
(General)**

To meet these time standards, the local Judicial Case Manager should:

1. Save trial time (i.e. Fast track);
2. Create trial time by re-scheduling non-priority matters;
3. Request additional sitting time through the Administrative Judge;
4. Look at other divisions (Criminal Court, Small Claims Court) to determine if court time is available.

If it is not possible to schedule a priority matter within the desired standard, it is recommended that the matter be sent back to the courtroom for further directions by the Judge.

The Judicial Case Manager should inform the Judge(s) as to the priority status of any matter on their list.

The following guidelines and procedures should be used when handling family files.

Child, Family and Community Services Act (CFCSA):

Presentation Hearings:

When a child(ren) are removed from their parents, a report must be presented to the Court within 7 days. At that time, the parents either:

- Consent to the child(ren) remaining in the Ministry's care on an interim basis;
- Or, consent to a supervision order without removing the child(ren);
- Or, contest the child(ren) remaining in the Ministry's care and schedule a contested "Presentation Hearing". This hearing should only require 2 hours of time (unless a judge directs otherwise) and is required to be scheduled **within 30 days**. You may have to book it on top of an existing trial(s), but a contested presentation hearing will take priority over what is booked;
- Or, it may be that the judge may direct a family case conference in lieu of a contested presentation if an earlier case conference date can be secured. (**Note: if the case conference does not result in a consent order, the judge will direct a trial on the issue, and again, this should be set within a short period of time.)

Temporary/Supervision Orders and Extensions:

- Once the time has run out on an interim order, the Ministry must apply for a temporary order or a supervision order. These orders usually run for 3 to 6 months. If the application for a temporary/supervision order is contested, the Court must adjourn the parties to fix a family case conference **prior to any trial dates being set**.

All family case conferences should be scheduled within 30 days or as close to it as possible.

- If the parties do not consent to the temporary order at the family case conference, the parties/counsel will be directed to the Judicial Case Manager's office to fix dates for trial – these trials are usually multiple days, if not weeks, and should be fixed according to the Court's and counsel's availability.
- When scheduling trial dates after a family case conference, please note that **the judge who conducted the case conference cannot hear the trial**. This may be a problem in small court locations and your direction should come from your administrative judge with regard to this.
- At the family case conference, the judge may settle most issues but one and order a mini-hearing – focusing on only one issue. Mini-hearings should be set to dates that would be earlier dates than counsel would get if fixing multiple trial dates. In other words, not as urgent as a presentation hearing but should be given more priority than a trial.
- Once the temporary order has expired, the Ministry may apply for an extension of that order and the same process as the original temporary order would apply.

Continuing Care Orders:

- When the temporary order or extension of that order has expired, the ministry will make an application for continuing care. This is the final permanent order putting the child(ren) in the care of the Ministry. If consent is not reached, the judge will order the parties to either set a family case conference or to forego the family case conference and schedule trial dates. **If there is a family case conference held, the case conference judge cannot hear the trial**. Again, in small court locations, your local administrative judge will give direction on this. These trial dates should be set with court's and counsel's availability.

Last Chance Orders

- You may have continuing care trial dates scheduled and the ministry may offer the parent(s) a Last Chance Order. It is just how it sounds. They will "hold off" on asking for permanent

custody and give the parent(s) one more chance to improve their situation and re-schedule trial dates usually 6 months away.

Protective Intervention Orders/Restraining Orders:

- These applications under the CFCSA must be scheduled in court as soon as possible. There may be occasions that Director's counsel request time the same day and they should be accommodated if at all possible.

Procedures:

- When scheduling **CFCSA multiple day trials**, it is advantageous to schedule: **a pre-trial conference 6 weeks prior to trial and a trial confirmation 2 weeks prior to trial.** These two dates will assist the JCM in organizing their trial lists.
- When scheduling any family matter, **remarks are very important to keep for the file in JUSTIN/ CEIS.** These files need as many abbreviated notes as you can add – especially when there are other JCM's booking in your location as back-ups or for Court Services back-ups.

Family Relations Act/Family Maintenance Enforcement Act:

- It is always recommended that the parties attend court on a first appearance so the Court can ascertain if the application is contested or consented to. If contested, the parties will be directed to the Judicial Case Manager's office to fix a trial date(s) or a family case conference.
- The timelines on FRA/FMEA are not like CFCSA – there is no urgency for a case conference or trial unless directed by a judge. First available date(s) are recommended according to the court and counsel's/self-represented availability.
- Once the trial dates are scheduled there may be a requirement for counsel to get before a judge (not the trial judge) prior to trial to have a hearing on some issues – e.g. Interim access or maintenance. Counsel would be required to file a Notice of Motion (applications for interim relief) and we would schedule them time prior to the trial dates.

****Note:** Notice of Motions book **hearings** and applications book **trials.** Hearings deal with interim matters and trials more permanent orders.

Ex Parte Applications:

- Applications for ex parte interim orders should be placed before a judge in court on the same day as they are filed. These should be dealt with on a priority basis. In locations with no PCJ sitting that day, arrangements can be made through the Office of the Chief Judge for a judge by video.
- When ex parte interim orders are made, the judge will usually indicate a “set aside time.” This is when the party who the order was made against (who wasn't present) wants to apply to set aside or change the ex parte interim order. They will have to give the party who got the order any where from 2 to 7 days notice (depending on what the judge ordered) of their application to set aside.
- Application to change the order. If there was no “set aside” time indicated by the court, then 2 days would be standard notice. When scheduling the hearing, ask the counsel/party what the order indicated as to “set aside” time and these hearings should be scheduled within that time period. Find out when service on the other party will be and then schedule accordingly. For example, if “Set aside” time is 3 days, counsel attend your office on Monday and will serve Tuesday – look for a date on the Friday or as soon as is practicable. That gives the Respondent proper notice – Tuesday/Wednesday/Thursday – 3 days.

2.10 Priority Scheduling in Youth Court

Policy

In-custody cases will be scheduled at the earliest available time. Priority must be given to in-custody cases over non-custodial cases. The desired standard is within 30 calendar days from time of detention on a particular charge.

Reviews under Sections 59 (non-custodial reviews), 94 (custodial reviews and 76 (placement on adult sentence) of the Youth Criminal Justice Act (“YCJA”) will be scheduled at the earliest time available.

When scheduling cases involving violence, including cases where the victim is at risk, priority must be given to these cases over the general trial list. The desired standard for scheduling a case involving **domestic violence** (“K” Files) is within 60 days.

Continuation dates are to be scheduled in accordance with the [Practice Direction of the Chief Judge dated February 9, 2007](#). When a matter has been scheduled for hearing and has not been completed in the time provided, it will be scheduled to conclude within 30 days unless otherwise approved by the relevant Administrative Judge on advise of the local Judicial Case Manager. (See also section 2.17 of this Manual)

Where cases have to be moved between courtrooms, consideration will be given to serious cases and/or to those cases involving special preparation by the Crown.

Adjourned trials should also be given priority.

Two priority trials should not be scheduled to commence at the same time, date and courtroom unless time permits to have both heard.

Procedures To meet the standard, the local Judicial Case Manager will:

1. Save trial time (i.e., fast track);
2. Create trial time by re-scheduling non-custodial cases;
3. Request additional sitting time through the Administrative Judge;
4. Look at other divisions (e.g. Adult Court, Family Court, Small Claims Court) to determine if court time is available.

Discussion The Judicial Case Manager will review the scheduling memo completed by the arraignment hearing court to assess any special remarks or directions regarding priority.

If it is not possible to schedule a priority matter within the desired standard, it is recommended that the matter be sent back to the courtroom for further directions by the Judge.

The Judicial Case Manager should inform the Judge(s) as to the priority status of any matter on their list.

Generally, non-priority youth trials should receive earlier trial dates than non-priority adult trials.

2.11 Priority Scheduling in Traffic Court

Policy: The goal for scheduling cases in Traffic Court is to allow an adequate amount of time to ensure that cases are heard in an effective and efficient manner for all parties concerned, while booking to the

collapse rate for cases in a given location.

This policy establishes a provincial standard. It is recognized, however, that locations have varying collapse rates and other characteristics which commend local adjustments. Court Managers/Administrators are encouraged to consult with Judicial Justices ("JJ's") in their location to identify such adjustments, but deviations from the provincial standard require the approval of the Administrative JJ or the Director of Judicial Administration at the Office of the Chief Judge (the "OCJ").

Scheduling Guidelines:

Scheduling of Traffic and Bylaw Matters Before Provincial Court Judges and Judicial Justices

In those court locations where a Judicial Justice presides, traffic matters are to be scheduled before Judicial Justices and Provincial Court Judges in accordance with the following directive:

A. Provincial Matters

1. All Violation Tickets under the Offence Act issued to adults or youths for offences under provincial enactments shall be set for hearing before a Judicial Justice, in any court location where a Judicial Justice presides, unless otherwise ordered by a Provincial Court Judge.
2. All Informations under the Offence Act issued for offences under provincial enactments shall be scheduled for hearing before a Provincial Court Judge.

B. Municipal Bylaw Matters

1. All traffic-related municipal bylaws, including MTIs (municipal ticket informations) and bylaws prosecuted by way of informations under the Offence Act, shall be scheduled for hearing before a Judicial Justice, unless otherwise ordered by a Provincial Court Judge.
2. All non-traffic municipal bylaw matters shall be for hearing before a Provincial Court Judge.

C. Federal Traffic Matters

1. If the defendant is an adult, traffic offences under the Government Property Traffic Regulations (Canada) shall be scheduled for hearing before a Judicial Justice, unless otherwise ordered by a Provincial Court Judge. If the defendant is a youth, the matter shall be scheduled for hearing

before a Provincial Court Judge sitting as Youth Court judge.

D. Exclusive Jurisdiction of Judge

Under section 2.1 of the Provincial Court Act only a judge may:

- a. commit for contempt of court;
- b. hear a matter for which notice under section 8 of the *Constitutional Question Act* is required;
- c. hear a matter that involves a determination of aboriginal or treaty rights or claims;
- d. hear a matter that involves a determination of aboriginal or treaty rights or claims;
- e. hear a matter arising under the *Canadian Charter of Rights and Freedoms* for which notice under section 8 of the *Constitutional Question Act* is not required; and,
- f. preside over the trial of a person charged with an offence for which, on conviction, the person is liable to be sentenced to a term of imprisonment.

E. Scheduling Charter Arguments before PCJs on Violation Tickets

Violation Ticket cases referred to a JCM for the scheduling of *Charter* arguments before a Provincial Court Judge are to be assigned up to a one hour hearing slot on a date when the investigating officer is available. If the court rules against the *Charter* application for a judicial stay of proceedings, the judge presiding at the hearing may choose to proceed with the trial immediately after the *Charter* argument has been dealt with. If the judge deals only with the Charter argument and then adjourns the case, the JCM will be provided with the required trial scheduling information including whether the judge who dealt with the Charter argument has held that he or she is seized of the case. In the event the judge who dealt with the *Charter* application does not consider him/herself seized, the matter is to be scheduled before a Judicial Justice in the normal course, either through the registry or the VT Centre, depending on location.

The Violation Ticket legislation does not permit the Court to direct that these ticket hearings be subject to the Criminal Caseflow Management Rules (which require arraignment and trial confirmation hearings). Moreover, the expedited nature of

these disputes supports the practice of not requiring pre-trial appearances. Should Crown Counsel wish to obtain details relating to the nature of an anticipated *Charter* argument, it may be open to their office to seek such information from the disputant in a manner which does not require a court appearance.

Priority in Scheduling

For a full discussion on priority scheduling for traffic court, please refer to Appendix C, Priority Scheduling in Traffic Court at:

[Ticket Processing Manual Appendix C Priority Scheduling in Traffic Court](#)

(From the link above, click on Manuals and go to the Ticket Processing Manual – see section 1.9 Setting a Hearing Date – Appendix C)

JJ Assignment of Duties: If there is any question or concern about the types of cases that can be set for hearing before a Judicial Justice, refer to the Chief Judge's revised Assignment dated October 26, 2006 and then, if necessary, contact the Administrative JJ or the Executive Director of Judicial Administration of the Provincial Judiciary.

2.12 Videoconferencing

Policy Videoconferencing equipment is to be used first and foremost for court purposes to reduce security risks, reduce costs of the administration of justice, and enhance access to justice.

Where ordered or permitted by a court, appropriate circumstances for court videoconferencing include:

- criminal matters where moving the in-custody accused can be avoided;
- criminal and civil matters where judge travel can be reduced or where a judge who is familiar with a specific case can continue that case from another location;
- criminal and civil matters where workload can be reallocated to a judge to handle by videoconference to avoid adjournment.

The local Judicial Case Manager or their backup is the person

responsible for scheduling the videoconference court event.

Procedure **Videoconferencing Communication Flow Chart:** View this at the Videoconferencing Policy and Procedures Manual click on the website below (which will bring you to the CSB portal main page) then click on Admin selection on the banner tab and select Videoconferencing. Select the Videoconferencing Policy and Procedures manual and select Chapter 5 and then VC Communication Flow. To confirm your logon id please contact the AG helpdesk at 250.356.2864. (You will use your IDIR login to access this site)

Discussion For a full discussion on Videoconferencing, please refer to the Videoconferencing policy and Procedure Manual or the Video Conferencing User Guide at:

http://portal.ag.gov.bc.ca/portal/page/portal/Banner_Home/CSB_Home/Blue/Admin/Videoconferencing

(Follow the directions above to access the Videoconferencing information)

The current version of the [Court Video Conferencing Directory](#) is also available at the link above.

2.13 Justice Centre Booking for Bail Hearings and other matters

Practice Direction The Chief Judge's Practice Direction dated February 9, 2009, sets out the Hearing of Bail Applications and relates to the hearing of bail matters through the Justice Centre ([See Appendix C](#)).

Bail Applications occurring within court sitting hours are assigned to be heard by judges in locations where judges are sitting (regardless of the nature of the sitting) and where the bail hearing may reasonably be heard within court hours. In addition, bail applications during court sitting hours can (and bail applications outside court sitting hours, shall) be referred to the Justice Centre for a bail hearing in which the accused will be present before the Judicial Justice ("JJ") by means of any suitable telecommunication device, including telephone or closed circuit television, that is satisfactory to the JJ.

Discussion Bail hearings, including applications to detain prisoners pending trial, and adjournments to have a prisoner remanded in custody to the next court hearing date (pursuant to Section 516 of the Criminal Code) may

be conducted during the weekdays through the Justice Centre in the following situations:

- When there is no Judge available to hear the matter in court. This includes locations where a court house is not in a reasonable proximity to the police detachment, a Judge is not sitting at a local court house and nights, weekends and holidays when the court house is closed. A Peace Officer and/or Crown Counsel may have a bail hearing to determine whether an accused may be released (this includes consent release) or detained, or whether the matter is serious enough to require an adjournment to transport to a distant court location.
- A matter has been adjourned from the weekend to the police station Monday morning pending instructions from Crown Counsel to either have the accused transported to court or released on bail conditions.

The Justice Centre is equipped with a telephone system that allows the hook-up of assorted parties at different locations. Counsel, parents, interpreters and other directly interested parties may be linked by telephone for the purposes of conducting the hearing.

The Justice Centre is also equipped with video conferencing ability. They have the ability to connect up to 4 locations using video conference. To arrange a video conference bail hearing, contact should be made to the Justice Centre to arrange for the time and unit number. At that time, the JCM should discuss the logistics with respect to courtroom availability, clerking ability and confirm with the Justice Centre the parties for the bail hearing.

The Justice Centre Calendar in JUSTIN, can be used to book the appearance in JUSTIN (but should not be relied upon to determine if the Justice Centre has time available) and the video resources at the same time. The primary location should indicate the location where the "record" is being completed.

Daytime Search Warrants – The Justice Centre also deals with applications for search warrants and other orders which can be done in person or by telecommunication. APPENDIX B – Daytime Search Warrant Applications

Procedure in an emergency situation in which it is necessary to bring an after hours application before a Provincial Court Judge -

The Justice Centre clerks are available from 8:00 am to midnight each

day to assist with contacting a Provincial Court judge after court hours for emergency applications. The direct phone number to the Justice Centre clerks is 604-660-3263.

All paperwork such as applications, orders, etc, should be produced by counsel as the Justice Centre clerks may not have the necessary forms. The clerks are able to link up a number of parties via telephone if that is acceptable to the presiding Provincial Court judge and have the ability to record the proceedings if the matter needs to be recorded.

From midnight to 8:00 am each day, there are no clerks available so counsel will have to page a Judicial Justice through RCMP E Division 604-264-2470. The night Judicial Justice works from home so can only assist in the contacting of a judge.

2.14 Pre-trial Conferences

Policy	When fixing a Family or Small Claims trial date, the Judicial Case Manager should bring to the attention of the Administrative Judge those cases which are likely to be multi-day in duration and hence, should be pre-trialed. After the trial dates (and for criminal matter a trial confirmation hearing date) are set, the Judicial Case Manager or judge may set a pre-trial conference.
Procedures	<p>When fixing a lengthy trial/hearing for Family or Small Claims court, the Judicial Case Manager will set a pre-trial conference date 4 to 6 weeks in advance.</p> <p>The Judicial Case Manager makes the arrangements for the setting of the pre-trial conference, according to local policy.</p>
Discussion	<p>A pre-trial conference will assist in several ways:</p> <ol style="list-style-type: none">1. it will define the issues;2. it will assist in estimating the time required for the hearing;3. it will determine if there are any voluntary admissions or agreed statement of facts;4. it may allow for pre-marking exhibits;5. it will identify security concerns;6. it will identify whether an interpreter is required. <p>For very lengthy trials, thought should be given to assigning a “pre-trial</p>

management judge". This refers to a judge, assigned by the Administrative Judge, to hear all pre-trial matters on a given file.

2.15 Case Conferences in Family Court

Policy

Rule 2 of the *Child, Family and Community Service Act* Rules, directs that a case conference be scheduled on any contested protection hearing case under section 40 of the *Child, Family and Community Service Act*. A judge may also direct the scheduling of a case conference at any other time if a party requests one or a judge considers it necessary.

The case conference should be set on the date of the commencement of the protection hearing if it is not a consent order. The date for the conference should be set approximately 30 days from the commencement of the protection hearing. No other matters should be scheduled on the list with the case conferences.

Procedures

Case conferences are scheduled for one hour each. The suggested start times for them are 9:30 a.m., 10:30 a.m., 1:30 p.m. and 2:30 p.m. These start times can be worked out with the Administrative Judge.

Mini-hearings will likely be conducted by the same judge who heard the case conference. Mini-hearings should be scheduled prior to any date that a full hearing could be scheduled.

Where possible, one judge will deal with all pre-hearing matters in a case. The judge who presides at the presentation hearing should preside at the protection hearing commencement, the case conference(s) and any mini-hearing that is directed, for a given case. If, however, the matter is not settled at the case conference or mini-hearing and it is scheduled for a full hearing, the judge who heard the case conference and/or mini-hearing should not be the same judge sitting at the full hearing.

Having one judge deal with all the pre-hearing matters in a case will require a regular rotation of the judges in the *C.F.C.S.A.* list days and case conference days as well as reserving some time for the judges to conduct mini-hearings. Judges from each location may have volunteered for this assignment and the Judicial Case Manager should discuss this matter with the Administrative Judge.

Discussion

Generally, the persons who attend a case conference are the parent(s), counsel for the parent(s), counsel for the Director of Child, Family and Community Services, and the social worker. A judge

facilitates the conference with a court clerk present. For security purposes, a deputy sheriff must be available, but not present in the conference room, unless the judge directs otherwise.

If a matter is not resolved at the case conference, one of three events will occur: the judge may require a second case conference if resolution is close, the judge may refer unresolved issues to be scheduled for a mini-hearing, or the judge may order the matter to be set for a full hearing.

If a mini-hearing is to be held, the judge, at the case conference, will direct what evidence or submissions will be made at the mini-hearing. The evidence will be set out at the conference and agreed to in writing by counsel and the judge, who will also agree to a realistic time estimate for the mini-hearing.

2.16 *Adjournments*

Policy Every effort should be made to minimize the number of adjournments for any particular case, especially in Criminal Court and Youth Court matters, thereby reducing the number of appearances per case.

In Family Court, however, adjournments may contribute to resolution of contested issues. As these are non-criminal matters, consent orders may be forthcoming or negotiations under way.

In Small Claims Court, adjournments of trials must be spoken to in open court, while settlement conferences may be adjourned by consent.

Procedures Efforts to be made are as follows:

1. The Judicial Case Manager should alert the presiding Judge to concerns where case age is being affected by adjournments.
2. Where the Judicial Case Manager is informed by counsel or the court that a case is to be adjourned, the Judicial Case Manager should take steps to bring the matter forward at the earliest possible date for rescheduling.
3. The Judicial Case Manager should give special attention to cases that have been in the system for an unreasonable length of time.
4. The Judicial Case Manager should review the court list so as to be aware of the case age of the various matters on the list.

5. While conducting initial appearances under CCFM, the Judicial Case Manager should ascertain what the accused requires in order to make an informed decision as to what they intend to do with the charge, and to secure commitment to a course of action which will ensure that the matter proceeds in a timely manner with a minimum amount of appearances.

Discussion A major emphasis of Case Management is to avoid the number of costly and lengthy adjournments.

For criminal matters, the CCFM Rules were implemented in October 1999 as an attempt to avoid unnecessary adjournments by monitoring case progress, enforcing timelines and setting reliable and realistic fixed dates for trials and other events.

2.17 Continuations

Policy In February 2007 the following guideline was adopted:

The Management Committee agreed that when a matter has been scheduled for hearing and has not been completed in the time provided, it will be scheduled to conclude within 30 days unless otherwise approved by the relevant Administrative Judge on advice of the local judicial case manager.

The Practice Direction can be found at:

<http://www.provincialcourt.bc.ca/downloads/pdf/PracticeDirection-schedulingcontinuations.pdf>

Procedures Continuations are to be avoided if at all possible.

1. If it is possible for the Judicial Case Manager to anticipate a continuation and take measures to avoid (e.g., having a visiting judge seized of a matter), such measures should be taken.
2. When a continuation is necessary, the Judicial Case Manager should reschedule the case within 30 days.
3. When circumstances justify, and parties are unable to agree, the Judicial Case Manager should bring the matter to conclusion by setting the date.
4. Setting continuations before senior judges are subject to the same 30 day direction.

Some possible approaches for scheduling a continuation are:

1. Move other matters to free up time.
2. Approach the Administrative Judge to provide additional judicial time.
3. Look at other areas (e.g., Family Court, Small Claims Court) to determine if time is available.

2.18 French Language Trials

Policy Pursuant to Section 530 of the Criminal Code of Canada, each accused/young person has the right to have their trial conducted in either French or English. To assist in the organization of a French trial, all JCM's and trial schedulers are to ensure the following procedures are adhered to.

Procedures During an accused's initial appearance, the JCM/JP will determine whether the trial (if it appears as though it will proceed to an Arraignment Hearing) will be held in French pursuant to Section 530.

It is important that it be identified early and that it is identified by you at the initial (or subsequent) appearance. Things such as an accused struggling with the English language should alert you to this possibility. In many locations, during the initial appearance, the JP advises the accused of this right and at some point in the hearing when it appears as though it will proceed to an arraignment hearing, the JP simply asks the accused if they are seeking an order to have their trial in French.

If the accused indicates that they are seeking such an order, at the end of this initial appearance the JCM/JP shall refer the file to a Judge (preferably the same day) in order for a Judge to order a trial be held in French pursuant to Section 530.

The JCM/JP will adjourn the matter to a subsequent initial appearance (normally 2 weeks) to allow the accused to obtain a French defence counsel and to allow the local Crown to contact the French Crown to obtain his or her available trial dates.

If the accused is seeking counsel, then you will want to wait until the subsequent initial appearance (with counsel present) to refer the file to a Judge for the Section 530 order, as it may not be until that point a clear determination is made as to an early guilty plea or the scheduling of an arraignment hearing. In multi-JCM/JP locations, you may want

to note on the ROP that this is a possibility so that the next JCM/JP is given a “heads up”.

The JCM/JP is to determine whether the counsel now on record will be the same counsel conducting the trial in French. If not, then the JCM/JP should not be adjourning them to the next step (the arraignment hearing) until the accused has obtained the counsel who will be conducting the trial. The JCM/JP must remind the local Crown that they must supply the JCM with the French crown's available trial dates.

If the local Crown is unsure as to who to contact, the provincial Crown contact is Dolfi Havlovic, Coordinator for Bilingual Prosecutions 604 660-0658 and the federal Crown contact is Bob Prior at 604 666-2061.

This is actually one of the most important steps, as we will now be able to “pre-set” French trials. The easiest way to accomplish this is to advise the accused at their first initial appearance that they must have the lawyer who will be conducting the French trial lined up for the subsequent appearance. You should also advise them to tell legal aid that this is a requirement (keep in mind that the lawyer does not have to be fluent in French as the lawyer can have an interpreter present).

Once a French defence counsel or a defence counsel who will be conducting the trial has assumed conduct of a proceeding and received particulars and initial sentencing position, the JCM/JP may adjourn the proceeding to an appropriate date for an arraignment hearing provided counsel have had discussions and have filed their reports alternatively, you may use your discretion in adjourning them directly to an arraignment hearing under the Chief Judges' Practice Direction. A two (2) week adjournment will be consistent with an adjournment for an English trial.

This part is no different from a regular English trial when you are determining that they are ready to proceed to an arraignment hearing. Potential French language trials should not bypass an arraignment hearing before a Judge.

Before adjourning them to an arraignment hearing the JCM/JP will:

- a. Obtain the defence counsel and French crown's available trial dates;
- b. Obtain Crown and defence's time estimate for the trial;
- c. Determine whether it will be a “bilingual trial” or a full French trial. (A bilingual trial will require a French interpreter present).

If an accused has decided to represent themselves, the JCM/JP shall seek out any unavailable dates of the accused for scheduling

purposes. The range of dates to acquire will obviously be consistent with the type of charge (i.e.: K file dates will be earlier than an impaired) and defence counsel's availability, but the JCM/JP should ensure that they obtain as many dates as possible to allow for the greatest flexibility in assigning a trial date and Judge.

This is now the difference in that, because of the uniqueness involved in scheduling French trials and the relatively small numbers of trials to be set, we will be able to "pre-set" French trials as we used to do with **all** trials in the past. The French defence counsel and Crown should be advised that if their "available dates" change between now and the arraignment hearing, the onus will be on them to advise the JCM/JP of the change.

- The local JCM/JP will now search for an available trial date. The French trial will take place in the registry where the file is located unless otherwise ordered by a Judge.
- The local JCM/JP will now search for an available trial date in a similar way they look for the bulk of their trial dates. The JCM/JP will consider:
 - a. Local courtroom availability;
 - b. French defence counsel and French Crown Counsel's available trial dates;
 - c. Police witness availability;
 - d. Urgency.
 - e. Reciprocal Coverage

The JCM should come up with more than one possible trial date.

- Please remember, there is a requirement of reciprocal coverage. The district that is losing the French Judge to conduct the trial can request coverage from the District receiving the French Judge.
- The local JCM/JP will now contact the JP Administrator at the Office of the Chief Judge at 604.660.2224 or 604.660.2864 and advise of the possible trial dates for the French trial.
- The JP Administrator will then search for an available French Judge and French court clerk based on the dates provided.

This all needs to be done that same day, if possible, as the coordination of assigning a proper judge and court clerk takes some time. You do not want to be put in a situation where the arraignment hearing needs to be adjourned to a further date as you didn't give the JP Administrator enough notice (therefore time) to complete the scheduling of the trial.

- When counsel come to the scheduled arraignment hearing, the presiding Judge will review the time estimate and any other preliminary matters as set out under the Rules and confirm the pre-set trial date and trial confirmation date (as relayed back to you by the JP Administrator).

2.19 Monitoring

Policy

There are several reasons why monitoring of cases by the Judicial Case Manager is viewed as being an integral part of Case Management:

1. to know which cases will/will not be proceeding (i.e., to see if an early resolution or settlement is a possibility);
2. to promote greater accuracy in scheduling, reduce the possibility of scheduled trials collapsing on the day they are to proceed, and consequently reduce the tendency to overbook trial days;
3. to see if parties are still represented by counsel;
4. to encourage lawyers to look at their cases in detail and make strategic decisions in advance of the trial date;
5. to re-visit the trial list early to identify any available fast track time for the booking of in-custody cases, continuations and other priority matters;
6. to confirm which judge sat on the Settlement Conference and examine the Rota to ensure that judge is not sitting on the trial.

In family matters, further monitoring may be required after pre-trial conferences to identify which issues are still contentious and ensure that all required reports are completed.

Procedures

When monitoring a case, the Judicial Case Manager should communicate with counsel or litigants to discuss their pending trial date ahead of time to ascertain the likelihood of that matter actually proceeding to trial on that day.

The amount of timing of communication between a Judicial Case Manager and counsel will be influenced by the nature of the case, the time prior to trial date, and the anticipated length of the trial.

If the parties indicate that a potential problem exists, the Judicial Case Manager should take a proactive approach by scheduling a pre-trial conference, case conference or settlement conference (as the case may be) and attempt to have the issue resolved at an early stage.

If fast track time cannot be filled with priority matters, or a lengthy trial collapses, the Judicial Case Manager should notify the local Administrative Judge.

Monitoring should also take place on the day of the trial by assessing the court list throughout the day and discussing particular files with Crown and defence counsel to anticipate possible available courtroom time.

The Judicial Case Manager should be advising the Judge(s) as to the on-going state of their list.

Discussion The underlying purpose in monitoring is to have counsel address themselves to the case in question in sufficient time that in the event of a collapse, rescheduling of court time is possible.

While it is recognized that monitoring is a valuable feature of case management, there are numerous variables which make it difficult to monitor with precision. Under the CCFM Rules, the trial confirmation hearing may assist in identifying which cases will not proceed.

Two standards can be identified, however, which indicate the effectiveness of monitoring:

1. the extent to which there are no "surprises" in court (trial certainty); and,
2. the extent to which courtrooms are used.

2.20 Trial Tracker – Day of Collapse Tracking

Discussion Trial Tracker is used to track, generally, what is happening to the trials still on the list in our courts around the province on the day of trial.

With that in mind, the reason for almost all trials collapsing on the day of trial can be sorted into the following categories.

Criminal (for Adult and Youth court)

Result	Definition
Proceeded	The trial began and evidence was called. Even if there was a guilty plea, SOP or adjournment at some point in the trial; the correct result should be "proceeded". For a co-accused trial, if the trial proceeded against at least 1 accused, the result should be "proceeded".
Pled Guilty	The trial did not proceed at all as a guilty plea was entered at the outset. For a co-accused trial, this would be the selection if the trial did not proceed and a GP was entered against at least 1 defendant.
Stayed	The trial did not proceed at all as a stay was entered by Crown at the outset.
B/W	The trial did not proceed at all as a bench warrant was issued for the accused. For a co-accused trial, if the trial proceeded against at least 1 accused and other accused received a bench warrant, the result would be "proceeded".
Crown Adjourned	The trial did not proceed at all as the Crown asked for an adjournment for any reason.
Defense Adjourned	The trial did not proceed at all as the defense/accused asked for an adjournment for any reason.
Lack of Court Time	The trial did not proceed at all as the Court failed to have sufficient time available to hear the matter. The trial would be reset by the JCM on a priority basis.
Other	The trial did not proceed at all for any other reason. This should not be confused with the "reason" for a matter not proceeding. For example, an adjournment by request by Crown because of a witness not attending <i>results</i> in a Crown adjournment. The correct result is a Crown adjournment. This result should be rarely used.

Family (FRA and CFCSA)

Result	Definition
Proceeded	The trial began and at least one witness was called. Even if there was a consent order or adjournment at some point in the trial; the correct result should be "proceeded".
Consent Order	The trial did not proceed at all as a consent order was entered at the outset.
Applicant Adjourned	The trial did not proceed at all as the applicant asked for an adjournment for any reason.
Respondent Adjourned	The trial did not proceed at all as the respondent asked for an adjournment for any reason.
Lack of Court Time	The trial did not proceed at all as the Court failed to have sufficient time available to hear the matter. The trial would be reset by the JCM on a priority basis.

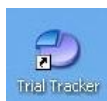
Other	<p>The trial did not proceed at all for any other reason. This should not be confused with the “reason” for a matter not proceeding. For example, an adjournment by request by the applicant because of a witness not attending <i>results</i> in an applicant adjournment. The correct result is an applicant adjournment. This result should be rarely used.</p>
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Small Claims

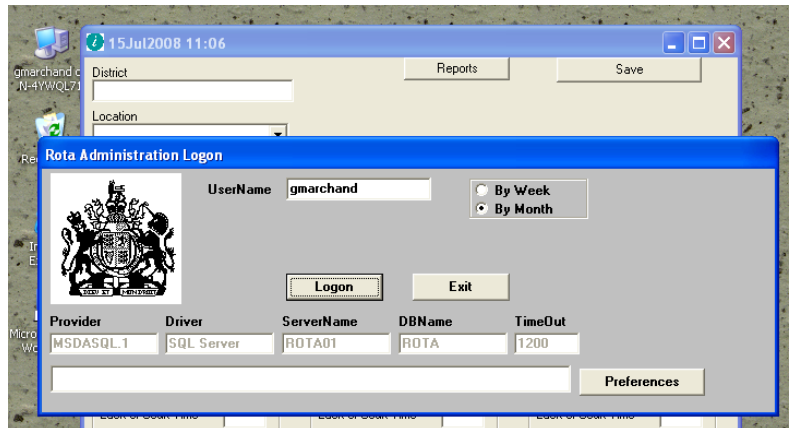
Result	Definition
Proceeded	<p>The trial began and at least one witness was called. Even if there was a settlement or adjournment at some point in the trial; the correct result should be “proceeded”.</p>
Settled	<p>The trial did not proceed at all as a settlement, consent order or withdrawal was entered at the outset.</p>
Claimant Adjourned	<p>The trial did not proceed at all as the claimant asked for an adjournment for any reason.</p>
Defendant Adjourned	<p>The trial did not proceed at all as the defendant asked for an adjournment for any reason.</p>
Lack of Court Time	<p>The trial did not proceed at all as the Court failed to have sufficient time available to hear the matter. The trial would be reset by the JCM on a priority basis.</p>
Other	<p>The trial did not proceed at all for any other reason (including default judgments). This should not be confused with the “reason” for a matter not proceeding. For example, an adjournment by request by the claimant because of a witness not attending <i>results</i> in a claimant adjournment. The correct result is a claimant adjournment. This result should be rarely used.</p>

Procedures Instructions for Reporting

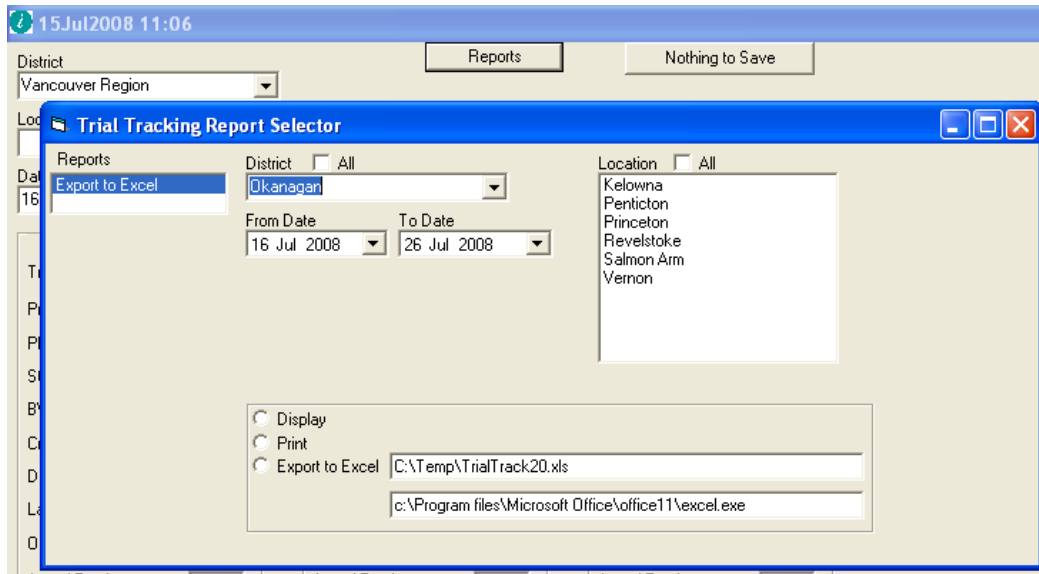
- 1) On your desktop, click on the new “Trial Tracker” icon. Double click on the icon



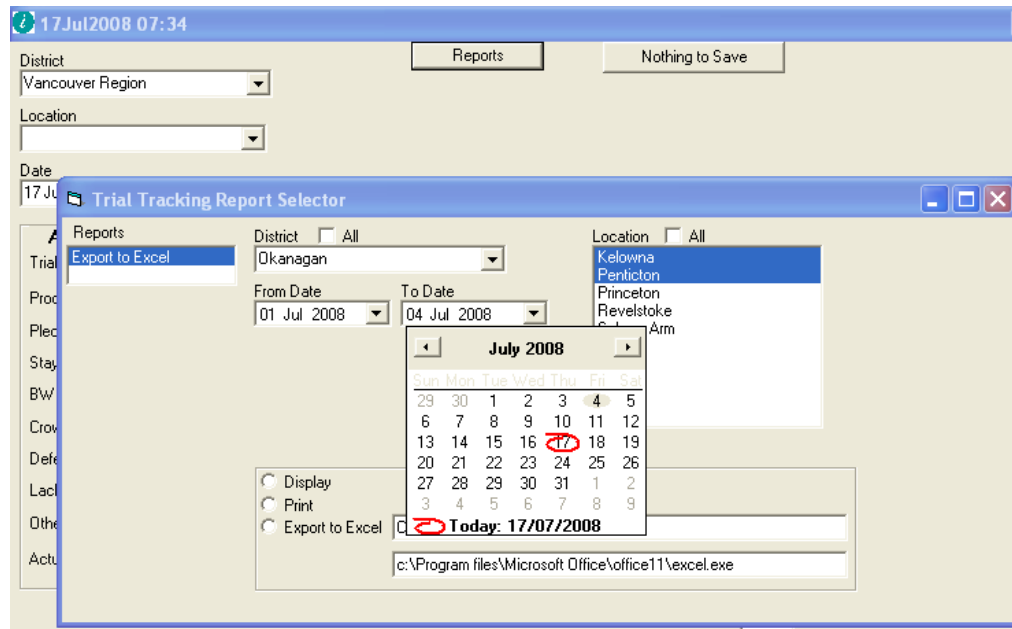
- 2) This will bring you to a logon screen very similar to the Rota login screen.



- 3) Clicking on logon will bring up the Trial Tracker sheet. It will default to your District and will allow you to select a Court Location you want to report on. It will also default to today's date.
- 4) On the top middle is a button called "Reports". Clicking on this button will launch the reporter function ("Trial Tracking Report Selector"). It will default to your District. There are only 3 options to choose from before generating a report:
 - a) choose a court location from the right hand drop-down menu of all court locations in your district (also the ability of choosing more than 1 location at a time by clicking on each location) ;
 - b) choose the time period that you are interested in (ie: from ____ to ____) by clicking on the arrow to the side of the date – bringing up a calendar; and
 - c) whether you simply want to display the result on your screen (which also allows you to print) or export it to an excel document.

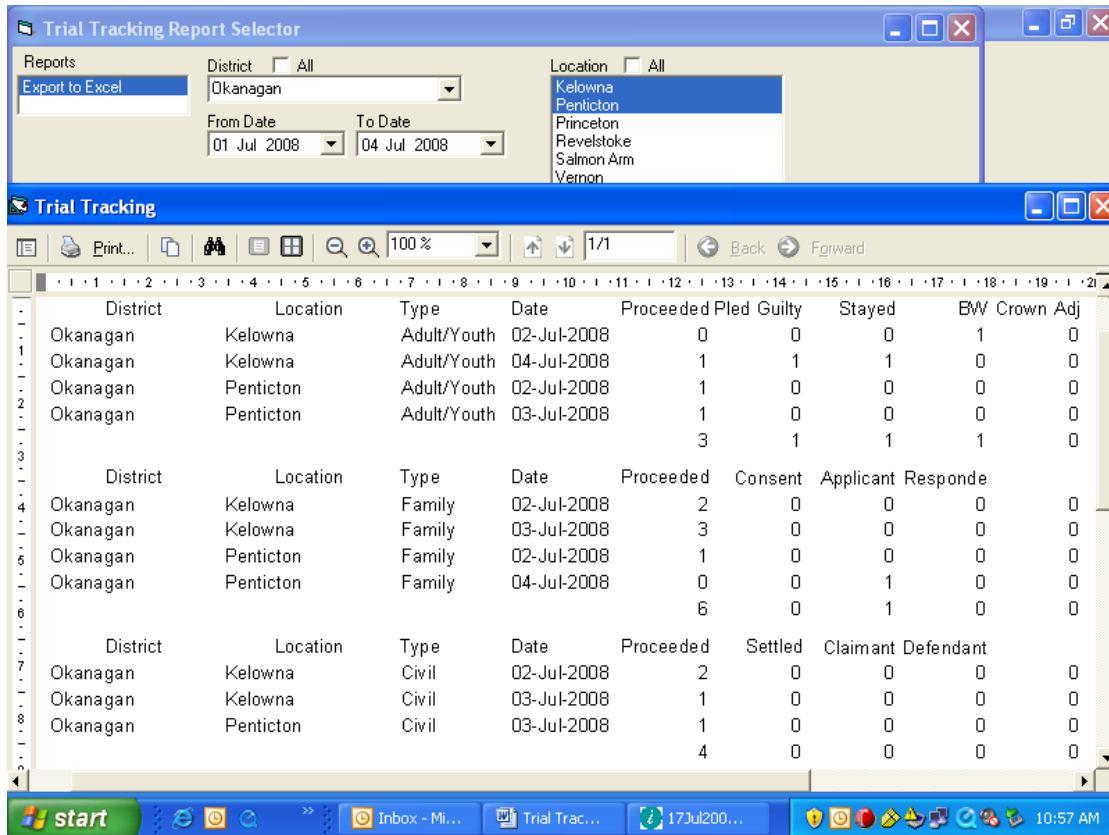


- 5) In this example, my default District is the Okanagan. I'm interested in the day of trial collapses for both Kelowna and Penticton and am interested in what happened during the first week of July 2008.



- 6) Finally, I'm interested in simply displaying it on my screen, so I'll choose "Display" at the bottom of the screen. This will bring up all of the results that your JCM's have entered on a daily basis. The report is broken down by division (criminal, family, civil) and then by the locations that you've chosen for each division – day by day.

- 7) If you recall, I chose 2 locations of Kelowna and Penticton. This reports shows me how many trials proceeded, plead guilty, had a stay, etc for criminal. It also shows how many proceeded, consents, settled, applicant adjourned, claimant adjourned etc. for the family and civil divisions for each day and for each location.



Scroll back and forth on the report to see the whole thing. From here you can print it out. If you choose “export to excel” instead of display, you can use the excel software to do some sorting and adding if you are familiar with excel.

Please keep in mind, these are only for the trials that still remained on the trial list on the day of trial. They are also entered exclusively by the JCM's or backup JCM's.

2.21 Initial Appearances

Policy The Judicial Case Manager is required to preside as a justice pursuant to the *Criminal Code* over non-custodial appearances prior to the arraignment hearing and to ensure compliance with the *Criminal Case flow Management Rules (CCFM)*.

Accused persons who are not in custody appear initially before a

Judicial Case Manager/JP, usually in a setting other than a courtroom.

The purposes of the initial appearance are:

1. To ensure the accused receives information about the charge, Crown particulars, and Crown position in the event of an early guilty plea;
2. To encourage the accused to obtain legal advice and/or representation, and the other relevant services and to provide information as required.
3. To ascertain what the accused requires in order to make an informed decision as to what they intend to do with the charge, and to secure commitment to a course of action which will ensure the matter proceeds in a timely manner with a minimum number of appearances.

Procedures During the Initial Appearance stage, the Judicial Case Manager/JP:

- confirms the charges contained in the information, ensures that the Crown gives the accused sufficient circumstances to discern the substance of the allegations, and asks the accused whether they generally understand the nature of the charge(s) (The full information is to be read to an accused if they are a youth.);
- enquires whether the accused intends to seek legal counsel, encourages the obtaining of legal advice, facilitates access to duty counsel as necessary and as available, and ensures the accused has adequate information to expedite retaining counsel;
- advises all accused, represented and unrepresented of the right to apply to have the proceedings conducted in French;
- provides information regarding court procedures and support services;
- establishes age and notice for youth;
- ensures that an accused is informed as to what the Crown's position would be in the event that the accused decides to enter a guilty plea at an early stage;
- facilitates processes required to explore early resolution and identify any impediments to prompt, informed arraignment, and to secure commitment to whatever action and timeline is necessary to remove or resolve these impediments;

- receives a completed arraignment report from the Crown and a completed arraignment report from defence counsel, if the accused is represented and schedules an arraignment hearing in accordance with the local scheduling guidelines;
- OR
- schedules a subsequent Initial Appearance;
- OR
- schedules a disposition hearing.
- OR
- in summary or absolute jurisdiction proceedings, if both the prosecutor and accused's legal counsel file an arraignment report, an arraignment hearing shall not be set and a date for trial may be fixed if both the prosecutor and the accused's legal counsel consent in writing to waive the hearing.
- records on the Record of Proceedings what has occurred. (If there is a court clerk in attendance at the initial appearance, the clerk will be responsible for marking the Record of Proceedings.)

Discussion For a full discussion on Initial Appearances and the Criminal Case flow Management Rules, please refer to the Practice Bulletins, and Practice Directions found at www.provincialcourt.bc.ca or for [specific Practice Directions see links in Appendix F of this manual.](#)

2.22 Initial Appearance and Arraignment Hearing Schedules for Each Courthouse

Each court location may have different initial appearance and arraignment hearing processes.

Depending on your court location, letter of assignment and whether your court location is participating in criminal process reforms, initial appearances/ arraignment hearings will be conducted based on an established local practice.

The differing Criminal Case Management processes can be reviewed on the Provincial Judiciary website or by following the links provided in [Appendix F](#) of this manual.

2.23 *Private Informations*

Pursuant to s.504 and s.788, a private citizen may lay an Information. In doing so, the private citizen may come directly to a JP (Court Services JP) as their first step in alleging and offence. In other situations, the person may have already asked the police to charge someone, but the police have refused.

The procedure to follow when receiving an Information from a private citizen is the same as receiving an Information from a police officer. Court Services JP's will review the information and swear the information at the registry. Where the procedure varies with respect to private Informations is when it comes to issuing process. Unless it is an Information being laid pursuant to s. 810 CC, the process hearing **must** be held before a Judge – see section 507.1 of the Criminal Code of Canada “Referral when private prosecution.”

After swearing the Information, the Court Services JP should explain to the informant that the next step in the process is a hearing in relation to issuing process. This hearing will be conducted *ex parte* before a Judge and the informant may be directed to the Judicial Case Manager for the purpose of fixing a date for a process hearing.

The process hearing is held in camera, meaning that it is closed to the Public: *Southam v Coulter* (1990), 60 C.C.C. (3d)267 (Ont. C.A.). This is so because damaging and unfounded allegations may be made at the hearing against an accused, who at this stage, has no right to be present in order to rebut those assertions.

Further reading and example of reasons for judgment following a process hearing on a private information can be found in Judge Stanfield's decision in *Sorenson (2001) BCPC 0249*.

2.24 *Judicial Recounts*

The Provincial Court is given jurisdiction under the Local Government Act, (and under the Vancouver Charter for the City of Vancouver) to undertake judicial recounts in municipal elections. If applications are received please contact the Office of the Chief Judge for further information.

C. RESOURCES

3.1 *Allocation of Judicial Resources*

Policy The Judicial Case Manager assists the Administrative Judge in developing, drafting and amending Judges' ROTAs for the judicial district.

Judicial Case Managers assist the Administrative Judge by providing information on judicial requirements for dates, times, case types and locations, such as:

- judges' continuation
- judicial requirements in specific locations
- judicial conflicts
- multi-day cases
- vacation schedules (or changes).

Procedures In order to assist the Administrative Judge in the drafting of the ROTA, the Judicial Case Manager must be aware of the judicial requirements in the district and communicate these requirements as necessary to the Administrative Judge's and Judicial Administrative Assistant. Updated copies of the ROTA are to be supplied to the Court Manager and any other user as directed by the Administrative Judge.

3.2 *Satellite Locations/ Circuit Courts*

Policy Judicial Case Managers are responsible for overseeing trial scheduling in the satellite/circuit courts within their judicial district.

The Judicial Case Manager has the same authority in satellite/circuit court locations as in the resident location.

The same measures of effectiveness of case management used in the Judicial Case Manager's resident court are also used in the satellite/circuit courts.

Procedures The Judicial Case Manager needs to maintain an active liaison with personnel in the satellite/circuit courts. This can be achieved by

communicating in person or by other means on a regular basis. The Judicial Case Manager should be assessing and assisting their satellite/circuit court locations by:

- analyzing statistics
- identifying delay issues
- identifying scheduling issues
- monitoring lengthy trials
- offering recommendations and guidance.

*Note: Under the direction of the Administrative Judge, a Judicial Case Manager may cover court locations other than the Judicial Case Manager's resident court. These other court locations are known as 'satellite' or 'circuit' courts.

Under the direction of the Administrative Judge, a Judicial Case Manager may have to schedule trials or preside over initial appearances by attending a Satellite/Circuit Court in person or by performing these functions remotely.

3.4 Statistics

Policy Statistics are available from the Administrative Judge and the Office of the Chief Judge, which provide information concerning the Judicial Case Manager's areas of responsibility. The statistics are to be used to assess these areas of responsibility, thus enabling Judicial Case Managers to make appropriate decisions and recommendations.

- Procedures**
1. Judicial Case Managers should use statistical information to keep informed on such critical areas as:
 - case age,
 - delay index,
 - current scheduling index,
 - number of claims and replies filed (in Small Claims court),
 - new cases filed for Adult, Youth and Family Courts, and
 - number of cases set for trial.
 2. Judicial Case Managers shall keep information and statistics as periodically requested by the Office of the Chief Judge.

Discussion Judicial Case Managers are to use discretion when responding to requests for court and statistical information. When there is any question as to the future purpose of this information, such requests are to be referred to the Office of the Chief Judge.

3.5 Backup Measures

Policy The Office of the Chief Judge has a formal agreement with Court Services dated March 13, 2007, to provide backup to all formal Judicial Case Manager positions province wide. This Agreement can be found at [Appendix A](#) of this manual.

D. JCM CONDUCT AND OTHER MISCELLANEOUS

4.1 Assignment of Duties

Pursuant to Section 11 of the Provincial Court Act, the Chief Judge will provide to each Judicial Case Manager a letter setting out their assignment of duties.

The primary assignment of duties for most Judicial Case Managers sets out:

The following are the duties, classes of cases or matters to which Judicial Case Managers are assigned:

1. Fixing of dates for a preliminary inquiry, trial, hearing, conference or other proceeding.
2. In the context of performing designated duties or on the direction of a judge, adjournments, and where jurisdiction to grant adjournments is given to a judge or the court under an enactment, authorization is given pursuant to s.31 (1) of the **Provincial Court Act** to exercise all the powers and jurisdiction of a judge or the court with respect to adjournments.
3. Issuing such process, making such orders and doing such acts as may be required at a first or subsequent appearance for case management purposes pursuant to the Criminal Case Flow Management Rules.

Depending on your location and pilot projects a Judicial Case Manager may also have an expanded assignment of duties and practice directions for their location.

4.2 Registry JP Duties

- Policy** The JP functions performed by the Judicial Case Managers are determined by the Chief Judge, and as local circumstances dictate.
1. Judicial Case Manager's should not perform JP counter duties. Judicial Case Managers may not serve as counter JPs due to the potential real or perceived conflict of interest. Exceptions to this rule can be obtained in writing from the Chief Judge if she/he believes the circumstances warrant such an exception.
 2. When backup Judicial Case Managers obtain their JP commission for the purpose of judicial case management backup, Judicial Council has considered their application in that light only. Backup Judicial Case Managers must not put their JP commission into practice in their regular Court Services daily jobs without first receiving approval from the Chief Judge for an exception. This prohibition does not apply to Court Services existing JPs who, in turn, do backup for Judicial Case Managers. However, Court Services JPs cannot perform registry JP duties during the same period in which they are performing Back-Up Judicial Case Manager duties.

- Discussion** The intent of limiting the JP functions performed by Judicial Case Managers is as follows:
- to reduce/eliminate potential conflict of interest;
 - to protect the credibility of the Judicial Case Managers by maintaining an appearance of neutrality; and
 - to ensure Judicial Case Managers are not performing JP duties which are more properly performed by Court Services JPs.

Judicial Case Managers are to be neutral. Like Judges, they should not be or be seen to be taking any side. It is important for Judicial Case Managers to maintain credibility and neutrality in the eyes of the bar because the confidence of the bar is critical.

4.3 Potential for Judicial Conflict of Interest

- Policy** Trials will be scheduled from time to time where there will be apparent instances of conflict of interest involving a judge. Judicial Case Managers will attempt to resolve the conflict with the least amount of

inconvenience.

In addition, there may be instances of apparent conflict of interest involving the Judicial Case Manager. Such instances are to be referred to the Administrative Judge by the Judicial Case Manager.

In Small Claims court, the judge who hears the settlement conference should not hear the actual trials, as set out in the Small Claims Rules.

In Family Court, the judge who hears the case conference or mini-hearing should not hear the trial, as set out in *The Child, Family and Community Service Act*.

Procedures Judicial Case Managers can resolve instances of potential or actual conflict of interest by assigning the case to another judge through consultation with the Administrative Judge. Effective monitoring in advance will eliminate most potential judicial conflicts of interest.

4.4 Exceptions to Policy Based on Local Circumstances

Policy The objectives of the Judicial Case Manager and the policies and procedures developed to carry out these objectives apply to all locations.

It is recognized that occasionally there are exceptions which need to be made to policy to meet local needs. Such exceptions may only occur after consultation with the Administrative Judge and/or the Office of the Chief Judge.

If an exception occurs after consultation with the Administrative Judge, the Judicial Case Manager must notify the Administrative Judicial Case Manager of the exception.

If an exception occurs after consultation with the Office of the Chief Judge, the Judicial Case Manager must notify the Administrative Judicial Case Manager of the exception.

Procedures Any exceptions to policy must be approved by the Chief Judge and must be noted in the local Judicial Case Manager Policy Manual.

Any exceptions to policy will be communicated either directly to the Judicial Case Manager by the Office of the Chief Judge or through the local Administrative Judge.

4.5 Giving Testimony

Policy Judicial Case Managers have received inquiries with respect to giving voluntary testimony in court or in the form of affidavit to answer questions of availability of trial dates.

Under no circumstances should a Judicial Case Manager appear as a voluntary witness or give a voluntary affidavit with respect to the details of their case management roles to any party* involved in the proceedings.

Procedures When asked to give voluntary testimony, including affidavit evidence, Judicial Case Managers are to advise any parties* involved in the proceeding, that as an extension of the Judiciary, they can appear and answer questions only under subpoena. Judicial Case Managers must also advise the Administrative Judge of all such requests for voluntary testimony concerning their duties. If Judicial Case Managers are subpoenaed, they should immediately contact the Legal Officer at the Office of the Chief Judge as well as supply a copy of the subpoena to their Administrative Judge.

Discussion Judicial Case Managers are to be neutral. Like Judges, they should not be or be seen to be taking any side. Such voluntary acts as described above seem to be stepping over the line of neutrality. The confidence of the bar is critical to the Judicial Case Management system.

*Note: 'Party' includes Crown, defence, applicants, respondents, claimants and defendants.

4.6 Liaison with the Justice Community

Policy In order to achieve the objectives of effective case management, it is imperative that the Judicial Case Manager maintains a working rapport with all members of the justice community.

Discussion An effective working rapport is noted by the following indicators:

- information is readily provided to the Judicial Case Manager;
- the Judicial Case Manager receives cooperation from all parties and no unnecessary demands are made of the Judicial Case Manager or the justice system;
- the Judicial Case Manager not only is able to work equitably

and fairly with all parties, but also, is perceived to be working in this matter.

It is very important that the Judicial Case Manager is neutral. As they liaise with members of the justice community, they should not be or be seen to be taking any side. Any breach may seem to be stepping over the line of neutrality. The confidence of the bar and all parties is critical to Judicial Case Management.

4.7 Labour Disputes

Policy It is not appropriate for Judicial Case Managers to undertake Court Services' duties in the event of a labour dispute - this includes assignments of any kind in the Registry and in the courtroom without the prior approval of the Chief Judge. Work assignments within the Judiciary will come from the Chief Judge's Office or from the local Administrative Judge.

Judicial Case Managers should be aware that the Chief Judge may find it necessary to cancel annual leave, even if it has prior approval, in the event of a labour dispute. The Chief Judge also may consider re-deployment of Judicial Case Managers to alternate work locations outside the justice system in cooperation with government if he/she deems it appropriate.

4.8 Media and Public Relations

Policy The Chief Judge is the only person who may speak officially on behalf of the Court. No one else may make public statements unless specifically requested to do so by the Chief Judge for that occasion. The Judicial Case Manager should forward all media and other public inquiries to the Office of the Chief Judge.

4.9 Training

Policy Judicial Case Managers generally have an annual 2-day seminar for education and training purposes. .

The judiciary is also supportive of Judicial Case Managers undertaking additional education initiatives regarding career enhancing or upgrading of job-related skills. Budgeted funds are available in support of these educational initiatives.

If seeking financial assistance, either in whole or in part, and/or time off (paid or unpaid) the Judicial Case Manager should put their request in writing/e-mail to the Administrative JCM requesting approval. The memo should outline the course content, the cost and the applicability to their current job or career enhancement.

4.10 Computer Policy

The Judicial Computer Policy and Procedures Manual is currently under review. A link to the Manual will be added when complete.

4.11 Travel Leave, Other Benefits, Payroll, Pension

Policy

Judicial Case Managers are public servants hired under and bound by the *Public Service Act*. Judicial Case Managers must perform their duties in accordance with the Standards of Conduct for Public Service Employees (as outlined in the pamphlet of the same name).

Overtime is not applicable to Judicial Case Managers.

A modified work week plan may be available to full-time Judicial Case Managers subject to local operational needs as assessed by the Administrative Judge. The plan is a three week rotation allowing the individual to work an extra 1/2 hour per day and take one day off in the three week rotation.

Further information with respect to Hours of Work, Vacation and Leave can be found at [Appendix G – Terms and Conditions for Excluded Employees Relating to Management Exclusions and Judicial Case Managers](#) of this manual.

Travel:

Judicial Case Managers are Group 2, in accordance with the government financial policies. Enquiries concerning the financial policies of the Ministry of the Attorney General should be forwarded to the Manager, Finance and Administration in the Office of the Chief Judge.

Leave/Other Benefits:

Leave records for all judicial staff are maintained through Time on Line (TOL).

Leave includes, vacation, Sick time off (STIIP), Bereavement, medical and all other special leaves. It is each employee's responsibility to report all leave with approval to Tanya Thoen Administrative Services Coordinator at the Office of the Chief Judge (OCJ).

Employee leave transactions and balances are reported on the [Employee Self Service System](#) (ESS) - It is each employee's responsibility to review their balances and report any discrepancies to the Administrative Services Coordinator at the OCJ

Requesting Leave

- Planned leave is to be requested in advance of taking time off
- Must be approved by the Administrative JCM
- Emergency leave, such as sickness, household emergency, bereavement, etc., should be formally requested and approved, in accordance with entitlements, immediately upon the individual's return to work

Procedure for Recording Leave

- For planned leave send an email to the Administrative JCM
- Once leave is approved, the Administrative JCM or the JCM can forward a copy of the approval to the leave recorder at the OCJ (Tanya Thoen)
- For emergency leave (leave that was not planned and approved in advance), advise your Administrative JCM immediately. Upon returning to work send an email to your Administrative JCM, formally requesting the leave, then forward approval as above

Role of the Leave Recorder

- The Leave Recorder at the Office of the Chief Judge is the Administrative Services Coordinator (Tanya Thoen). The Leave Recorder:
 - Reminds staff to submit leave requests for approval;
 - Ensures all sick and other leave is recorded and that entitlement is not exceeded; and
 - Updates TOL for all leave taken.

Payroll

Payroll enquiries may be made directly by telephone or memo to the Manager, Finance and Administration of the Office of the Chief Judge. Judicial Case Managers are paid at an excluded management level 2.

Pension

Information concerning pension is available directly from the Pension Corporation. Assistance in dealing with the Pension Corporation is available from the Manager of Finance and Administration or the Director of Judicial Administration in the Office of the Chief Judge.

Also, refer to the Provincial Court Judiciary Staff Handbook (under review) for detailed information on various travel-related topics, including Business Expense Approval, Meals, Hotel, Accommodations, Car Rentals, Use of Private Vehicles and Government Vehicles, Leave and Benefits (see the table of contents).

4.12 Harassment and Discrimination Complaints

See the Provincial Judiciary Discrimination and Harassment Policy found at 17.0 of the Judicial Administration Procedures and Policy Manual which is available through the Provincial Judiciary intranet.

F. APPENDICES

APPENDIX A – CSB Backup JCM Coverage Agreement

AGREEMENT FOR PROVINCIAL COURT JUDICIAL CASE MANAGER (JCM) BACKUP COVERAGE BETWEEN COURT SERVICES BRANCH (CSB) AND THE PROVINCIAL COURT OF BRITISH COLUMBIA

PURPOSE: CSB Backup coverage for Provincial Court Judicial Case Managers.

TERM: January 1, 2012 to December 31, 2013 inclusive [2 calendar years]

BACKGROUND:

Court Services Branch (CSB) currently provides registry staff to backup Judicial Case Managers (JCMs) for trial coordination and Criminal Case Flow Management (CCFM) duties. In recognition of the impact this has on CSB's ability to meet operational needs, the judiciary is working towards increased internal coverage. The goal for the term of this agreement is to reduce reliance on CSB coverage to an anticipated utilization of the equivalent of 2.5 FTE's per year provincially.

Pursuant to this agreement sufficient CSB JP's or CSB staff with a limited JP assignment of duties shall be designated in order to provide JCM backup coverage for all court locations.

GENERAL TERMS OF OPERATION:

- CSB staff providing JCM backup assistance must possess a valid Justice of the Peace (JP) commission unless otherwise agreed to by the Judiciary.
- CSB/JCM backups generally provide relief coverage only within their immediate court location, unless agreed to otherwise by the local Court Services Manager.
- Coverage may be requested for vacation, special leave and related absences, such as training and illness. No assistance shall be provided in covering JCM absences for flex days associated with a modified work week.

JCM BACKUP SELECTION:

- The Judiciary is responsible for the posting, panelling, selection and training of the CSB/JCM backup.
- The Administrative JCM will consult with the local Court Services Manager prior to the selection of registry staff for the JCM backup position
- All designated JCM backup personnel shall be provided with sufficient opportunities and training required to maintain a functional level of proficiency and skill in performing JCM backup duties.
- In the event that an employee leaves their current position or geographically relocates within Court Services Branch, their status as a CSB/JCM backup will be reassessed by the Administrative JCM and local Court Services Manager.

GENERAL CONDITIONS:

- When JCMs are requesting leave there will be an assumption that coverage will be provided by other JCMs within the district, particularly in multi-JCM locations.
- All requests for JCM backup will be reviewed by the Administrative JCM to determine the amount of coverage that is required, including less than full days where appropriate, and ensure that available options for internal coverage have been considered.
- Coverage for extended absences due to STIIP or LTD will be evaluated and resolved on an individual basis through consultation with the Administrative JCM and local Court Services Manager.
- Travel allowances, and substitution payⁱ for CSB staff required to perform JCM backup duties shall be costs borne by the Judiciary.
- Where the absence of a CSB employee assigned to perform backup JCM duties results in a decreased level of staffing, adversely impacting registry operations and service delivery, the CSB Manager shall immediately advise the Administrative JCM. All practical options shall be identified and jointly considered in addressing solutions in the event of such an exceptional occurrence.
- While engaged in the performance of JCM duties, CSB/JCM backups shall take direction from the Judiciary. Any performance issues arising shall be documented and dealt with by the Judiciary. The Court Services Manager shall be advised in the event of such an occurrence.

PROCEDURE FOR CSB/JCM BACKUP:

The process noted herein applies to coverage for vacation leave, absences for special leave, training and JCM Conferences.

- The JCMs will engage with CSB/JCM backups and their managers to cooperatively determine a schedule that meets each other's operational needs and respects the vacation plans of both JCMs and CSB/JCM backups.
- JCM annual leave requests where CSB/JCM backup is requested are to be received by the Administrative JCM no later than January 20th of each year.
- Subsequent requests for vacation or other coverage received outside of this time period will be considered and assessed by the local Court Services Manager on the basis of staff availability and operational requirements.
- For unscheduled (emergency) coverage, the JCM will contact the Administrative JCM and local Court Services Manager (or designate) to advise of the

circumstances and need for emergency backup. CSB will provide coverage to the extent possible in these circumstances.

All issues arising from the implementation of this agreement will be documented and directed to the attention of the Assistant Deputy Minister for Court Services Branch forthwith as they are identified. Specific issues within the scope of the Judiciary shall be brought to the attention of the Administrative Judicial Case Manager.

IMPLEMENTATION AND COMMUNICAITON:

This agreement is effective ~~January~~ ^{February 8th}, 2012.

CSB managers and CSB/JCM backups will be notified of this agreement jointly by the Judiciary and CSB. The JCMs will be notified by the Judiciary.

Approved by: 

Assistant Deputy Minister
for Court Services Branch



Jan Rossley
Executive Director of Judicial Administration
Provincial Court of British Columbia

Date: Feb 16, 2012

Date: Feb. 8/12

APPENDIX B – Daytime Search Warrant Applications

THE HONOURABLE CAROL BAIRD ELLAN
CHIEF JUDGE



THE PROVINCIAL COURT
OF BRITISH COLUMBIA

SUITE 602, 700 W. GEORGIA STREET
BOX 10287, PACIFIC CENTRE
VANCOUVER, B.C. V7Y 1E8
Tel: (604) 660-2864
Fax: (604) 660-1108

Practice Direction

Pursuant to Section 11 of the Provincial Court Act

Daytime Search Warrant Applications

This Practice Direction confirms and clarifies the information contained in a [Practice Note dated June 6, 2003](#) sent to the Provincial Judiciary, and a memorandum of the same date sent to police agencies, Administrative Judges, the Ministry of the Attorney General, Department of Justice, and Court Services Branch. Copies of these documents may be obtained from the Office of the Chief Judge.

Pursuant to section 11 of the Provincial Court Act, search warrant applications made during court sitting hours ("daytime search warrants"), other than applications that are required by the relevant statutory provisions to be heard by a judge ("judge warrants"), are assigned to be heard in person by available judicial justices of the peace ("JJPs"), at the Justice Centre in Burnaby and in all court locations in which JJPs are normally resident or regularly preside in traffic court. This does not include circuit courts where there is no registry.

Police agencies within a reasonable distance of a location where there is or may be a JJP presiding are instructed that when they contemplate applying for a daytime search warrant, before they prepare the paperwork, they are required to telephone the judicial administrative assistant or court registry in the relevant location to inquire whether a JJP is available to hear the application in person.

JJPs are considered to be available to hear applications in person when court is not sitting during scheduled court sitting hours, but *not* during scheduled breaks or lunch adjournments, when presiding in court, or outside sitting hours. Judges are not assigned to hear *any* daytime search warrant applications other than judge warrants. Under no circumstances may a search warrant application be referred to a judge by a judicial administrative assistant or a court registry without the approval of the applicable Administrative Judge. Judge warrants must be referred to the Justice Centre or the Administrative Judge in the applicable district.

If a JJP is not available to hear a daytime search warrant application in person, either because there is no JJP in or near the location or because inquiry has been made and no JJP is available, and the application is one that may be made by telewarrant, application may be made to the Justice Centre at the number below. The application must set out the reasons that it cannot be heard in person.

In rare cases, a daytime search warrant application must be heard in person by a judge for specific reasons of sensitivity or security. Requests for a judge to be assigned to the specific application must be made through the Office of the Chief Judge or the Justice Centre at the numbers shown below.

Office of the Chief Judge (604) 660-2864

Justice Centre (604) 660-3263

Carol Baird Ellan,
Chief Judge

March 4, 2005

APPENDIX C – Hearing of Bail Applications

THE HONOURABLE HUGH C. STANSFIELD
CHIEF JUDGE



SUITE 602, 700 W. GEORGIA STREET
BOX 10287, PACIFIC CENTRE
VANCOUVER, B.C. V7Y 1E8
Tel: (604) 660-2864
Fax: (604) 660-1108

Practice Direction Pursuant to Section 11 of the *Provincial Court Act*

Hearing of Bail Applications

This Practice Direction replaces the March 4, 2005 Practice Direction titled "Hearing of Bail Applications by the Justice Centre".

Bail applications occurring within court sitting hours are assigned to be heard by judges in locations where judges are sitting (regardless of the nature of the sitting) and where the bail hearing may reasonably be heard within court hours. In addition, bail applications during court sitting hours can (and bail applications outside court sitting hours, shall) be referred to the Justice Centre for a bail hearing in which the accused will be present before the Judicial Justice of the Peace ("JJP") by means of any suitable telecommunication device, including telephone or closed circuit television, that is satisfactory to the JJP. Any referrals to the Justice Centre for bail applications during court sitting hours will be made through a Judicial Case Manager and will be subject to the Justice Centre being able to schedule the application.

Initial contact with the Justice Centre for bail applications outside court sitting hours will occur at 604.660.3263.

Hugh C. Stansfield
Chief Judge

February 9, 2009

APPENDIX D – Judicial Case Manager Job Description (Updated 2007)

MANAGEMENT JOB DESCRIPTION

JOB TITLE:
Judicial Case Manager

CHIPS #:
Various

MINISTRY:
Provincial Court of British Columbia

LOCATION:
Various

JUDICIAL SUPERVISION:
Administrative Judge

ADMINISTRATIVE SUPERVISION:
Administrative Judicial Case Manager

PROGRAM

There are 12 Judicial Districts located within the Province of B.C. comprising of **88** total court locations. In 2006, there were approximately **104,000** new criminal adult and youth cases; **17,000** new small claims cases and **12,000** new family cases filed throughout the province each year. There are **currently 153** Provincial Court Judges (including the Chief Judge and Associate Chief Judges). Within the adult criminal, youth, family, small claims and traffic divisions, the Provincial Court hears trials, preliminary inquiries, sentencing hearings, bail hearings, arraignment hearings, trial confirmation hearings, settlement conferences, case conferences, pre-trial conferences, and various applications in criminal, family, small claims and traffic courts.

PURPOSE OF POSITION

The Judicial Case Manager is responsible and accountable for providing effective and efficient court scheduling and coordination of all matters within a designated Judicial District that appear before a Provincial Court Judge. The Judicial Case Manager manages the flow of all Provincial Court appearances. This position must ensure that all Judicial resources are effectively utilized in a manner which minimizes court down-time and is consistent with the policies and practices of the Chief Judge. The Judicial Case Manager is authorized by the Chief Judge to carry out this function for the Judiciary.

The Judicial Case Manager must hold a Justice of the Peace appointment and exercise Judicial discretion and authority within that commission as required. This position is also required to preside as a Justice pursuant to the Criminal Code and to ensure compliance with the Criminal Case Flow Management Rules (CCFM). The Judicial Case Manager plays a significant role in the administration of criminal proceedings and in the coordination of other Provincial Court matters, attending to the rights of all court users by ensuring cases are scheduled in a timely and just manner so that each court appearance is a scheduled, meaningful event.

Judicial Case Managers are critical in terms of criminal process reforms being introduced in the Provincial Court as of 2007, including: remand/bail triage; expanded role in terms of CCFM appearances; centralized video-bail; and scheduling for Compliance and Administrative Courts. These reforms require expanded assignments for Judicial Case Managers and result in the position taking on a number of additional judicial responsibilities.

NATURE OF WORK AND POSITION LINKS

The Judicial Case Manager is responsible for coordinating Judicial court activities within a given Judicial District by maintaining a computerized or manual system for scheduling all matters that appear before a Provincial Court Judge in the adult criminal, youth, family, small claims or traffic jurisdictions. This position also presides as a Justice to conduct appearances in the youth and adult criminal process. The key contacts this position maintains in order to carry out the work include:

- *Administrative Judge:* the Judicial Case Manager develops and maintains the allocation of judicial resources (Rota) in all jurisdictions; assembles caseloads; identifies and makes recommendations regarding confidential and complex files and backlog or delay issues; provides daily technical support and expert advice on judicial resources and scheduling; assists in coordinating out-of-court activities such as scheduled meetings and vacations in order to allocate judicial resources appropriately; gathers and analyzes statistics and graphs where applicable; the Judicial Case Manager exercises their expanded assignment of duties (i.e. remand/bail triage; expanded authority in terms of CCFM appearances; centralized video-bail; and scheduling for Compliance and Administrative Courts) under the direction of their Administrative Judge.
- *Provincial Court Judges:* the Judicial Case Manager identifies and makes recommendations when scheduling seized files or continuations; advises on the current status of individual files; and provides daily technical support and expert advice on scheduling.
- *Crown Counsel:* the Judicial Case Manager monitors individual files and court lists with the Administrative Crown or other Crown Counsel and provides daily technical support and expert advice on judicial resources and scheduling. While presiding in the Initial Appearances Room the Judicial Case Manager ensures that the Crown provides the accused sufficient circumstances and disclosure in order to discern the substance of the allegations; seeks out Crown's early resolution position and commitment to all scheduling guidelines and verifies reports are filed in a timely manner.
- *Defence Counsel:* the Judicial Case Manager consults with counsel to monitor individual files and seeks commitment to scheduling guidelines under the adult criminal, youth, family or small claims divisions; provides daily technical support and expert advice on Judicial resources and scheduling in all matters. Provides direction to enable cases to proceed through the court process within the applicable Rules and according to the directions of the Administrative Judge; creates an efficient court schedule by batching defence files together under CCFM Rules and verifies reports are filed in a timely manner.
- *Police:* the Judicial Case Manager tracks availability of all police officers required as witnesses; communicates with police agencies in the local jurisdiction regarding any changes, as required, in the issuance of process; provides expert advice and guidance on scheduling; in some locations the Judicial Case Manager will liaise with police in order to effectively schedule appearances (judicial interim release hearings) by video and/or phone before Judicial Justices at the Justice Centre.
- *Court Services Staff:* the Judicial Case Manager provides leadership and technical direction to staff in the local site and satellite locations; directs and supervises all components of trial scheduling in the satellite locations within the assigned Judicial District.
- *Self-Represented Litigants/Accused:* the Judicial Case Manager provides direction regarding procedural requirements, the Rules of Court and any directions or policies of the Administrative Judge to proceed through the court process; creates an efficient court schedule by obtaining commitment to scheduling guidelines in all divisions and provides daily expert advice on scheduling matters.
- *Justice Centre:* the Judicial Case Manager liaises with Justice Centre staff in order to effectively schedule appearances (judicial interim release hearings) by video and/or phone before Judicial Justices at the Justice Centre.

SPECIFIC ACCOUNTABILITIES

Basic Duties – Level 1 (caseload; scheduled PCJ days; resident judges; initial appearances)

- Schedule, monitor and coordinate Provincial Court appearances using a computerized case tracking system; analyze data from a number of sources to quickly assess and determine scheduled events that utilize Judicial resources to provide effective and efficient case management for a designated Provincial Court District or court location meeting local needs and complying with the Chief Judge's policy requirements; redistribute files and sitting assignments as required to balance court lists and ensure efficient use of resources; where judicial resources become available, offering assistance to other locations within their District or, through the Office of the Chief Judge, to outside Districts as required.
- Preside as a Justice in an informal Court setting to conduct non-custodial appearances in the criminal process prior to the Arraignment Hearing under CCFM; ensure self-represented accused persons receive timely disclosure from Crown (including Initial Sentencing Position) and are given information regarding options for getting legal advice and/or retaining counsel; consider requests from either Crown Counsel or defence/accused for more time (adjournments) in the context of the initial appearance process; in accordance with CCFM goals, strive to reduce the number of appearances on each file and encourage informed and early decision making.
- While presiding in the Initial Appearances Room, ensure that Crown and Defence Counsel are in compliance with existing Chief Judge's policy requirements in terms of the filing of Arraignment Reports.
- Overall responsibility for the scheduling of video conferencing resources for all divisions of the Provincial Court through the Justin TSS program; acting as a resource person for the judiciary, counsel, court registry in terms of the use of video equipment; communicate with all agencies (including remand facilities) to coordinate availability of judicial resources, court locations, courtrooms and equipment. This resource is an intricate component of case management and is used to reduce security risks, costs and to enhance access to justice.
- Schedule and actively monitor all adult criminal, youth, family, small claims and traffic matters that are set before a Provincial Court Judge. Scheduling is to be done in a manner consistent with Chief Judge policies and directives, and is intended to maximize the effective and efficient use of judicial resources while, at the same time, minimizing hardships to court participants. Monitoring is to be done regularly both in advance of the court date set, and on the day itself in an effort to balance court lists and ensure efficient use of resources.
- Determine necessary Rota changes expeditiously, ensuring that all affected parties are advised and aware of the change to ensure the most effective use of judicial resources and court time.
- Generate and analyze reports produced from the case management system to assist in effective monitoring of all scheduled events. These reports assist by identifying priorities and/or challenges in terms of court scheduling (i.e. continuations, cases with seized judges, multi-day cases, unconfirmed appearances, etc.) allowing the Judicial Case Manager to act proactively in the event any scheduling changes are required.
- Produce and maintain Judicial resource records and statistics, and provide reports for the Chief Judge of the Provincial Court detailing, for example, such things as "next date availability" and, in certain locations, "day of trial" case outcome. These reports assist in the effective management of the Court by providing critical information regarding the needs and status of each District. This knowledge allows for more meaningful assessments to be made in terms of the allocation of judicial resources overall.
- Provide technical support and expert advice to judges in relation to scheduling generally, and the scheduling of special assignments and seized cases specifically.
- Provide technical direction, leadership, policy and expert advice to Crown Counsel, Defence Counsel, police agencies, court services and Criminal Justice Branch staff, other community professionals and the public relating to procedures for scheduling all trials or other matters requiring judicial and courtroom time before a Provincial Court Judge.
- Be regularly accessible and available to judges and court users during scheduled office hours.
- Work cooperatively, under the direction of the Administrative Judge, with all justice system participants/ users.
- Maintain an appropriate level of respect, decorum and professionalism at all times while performing this role.

Level 2 - (multi-division coordination; multi-location coordination)

- Provide leadership, technical direction and oversee all components of trial scheduling within their location (multi-division).
- Provide leadership, technical direction and oversee all components of trial scheduling within their district (multi-location).
- Encourage and maintain regular communication with other Judicial Case Managers, back-up Judicial Case Managers and/or Court Services Branch Trial Schedulers to promote consistency in practice and increase the effectiveness of the case management process.

Level 3 - (Rota drafting)

- In accordance with Chief Judge policy, develop and maintain the Provincial Court Judges Rota, in conjunction with the Administrative Judge, by identifying: existing/ongoing court commitments (i.e. "remand" days); commitments to the Office of the Chief Judge (i.e. unassigned judge weeks, circuit court sittings); special assignments (i.e. seized, priority or multi-day cases); relative needs of each location and division (i.e. civil "keep pace" requirements); and Provincial Court Judge vacation/leave requests as approved by the Administrative Judge.

Level 4 - (expanded JCM assignment – including Arraignment and Trial Confirmation Hearings; Bail Triage)

- Preside as a Justice in court to conduct appearances in the criminal process prior to the trial date (including accepting pleas, ordering reports, recording elections, conducting arraignment and trial confirmation hearings under CCFM).
- Maintain an appropriate level of decorum and professionalism at all times while performing this role.
- Communicate to all parties (accused, counsel, Crown) the expectation of the Court in terms of front-end case management; calculating timelines on new cases or where warrants have been executed; ensure unrepresented accused persons are able to make informed decisions regarding their cases; encourage meaningful timeframe commitments from parties in an effort to reduce the number of unnecessary appearances prior to either disposition or the scheduling of a trial date.
- Ensure compliance with established timelines and, where timelines exceeded, directing parties to appear in Administrative Court to explain why the case is not progressing as expected.
- Perform a "triage" function by dealing with matters that are within the JCM assignment, including uncontested releases/remands, restricting appearances before a judge, to schedule meaningful events that require a judge, and to seek commitments from parties regarding time estimates for these events.
- Identify and schedule compliance court matters in accordance with Chief Judge policy.
- Attend meetings and/or planning workshops in preparation for reform initiatives; participate in training related to new duties; when requested, collect and provide information for evaluation purposes; maintain regular and meaningful communication with the Office of the Chief Judge in terms of pilot project operations and reform initiatives.
- Perform a "triage" function specifically in relation to in custody files by assessing readiness to proceed prior to scheduling contested hearings for judicial interim release before a Judge or Judicial Justice as required. This may require the Judicial Case Manager to coordinate parties and schedule the hearing by way of video or telephone conference before a Judge or Judicial Justice in another location (i.e. another courthouse or the Justice Centre).

JOB DIMENSIONS

Division: Provincial Courts Judiciary

Division FTE's: 240

QUALIFICATIONS/STAFFING CRITERIA

Education/Certification/Experience and/or Achievements

- Grade 12 or equivalent;
- Must have Justice of the Peace Commission;
- Experience as a Judicial Case Manager, backup Judicial Case Manager, Trial Coordinator or Court Services Trial Scheduler preferred;
- Significant court services experience or equivalent knowledge and experience with the Provincial Court Judiciary; experience preferred as a court clerk, or equivalent combination of education and court related experience;
- Experience in criminal arraignment process and related knowledge of current criminal process reforms in terms of principles, practices and application preferred;
- Experience in computer data entry and retrieval.

Management /Technical Knowledge

- Knowledge of applicable legislation, including the Provincial Court Act, the Criminal Code of Canada, the Criminal Management Rules, the Small Claims Act and Rules, the Family Relations Act, the Child, Family and Community Service Act, the Youth Criminal Justice Act and other Federal and Provincial Acts and Statutes;
- Knowledge of the Rota System for Provincial Court Judges and the various factors which influence

the scheduling of trials;

- Knowledge of Judicial and Court Services procedures related to the operation of the Provincial Court.

Abilities and Skills

- Ability to work effectively with judges, legal counsel and public;
- Ability to control and informal court setting while presiding as a Justice of the Peace and to be able to make immediate and reserved decisions under a pressure-filled environment;
- Ability to organize workload and set priorities;
- Ability to work independently;
- Ability to balance the needs of the various users of the court system while respecting their unique requirements;
- Ability to provide leadership and technical advice to staff in satellite locations;
- Ability to communicate effectively both orally and in writing;
- Ability to analyze statistics and graphs.

Provisos

- Position excluded from Union membership;
- Police record check required;
- Travel may be required using own vehicle on expenses;
- Valid BC Driver's License is required.

COMPETENCIES

Conflict Management: The ability to develop working relationships that facilitate the prevention and/or resolution of conflicts within the organization

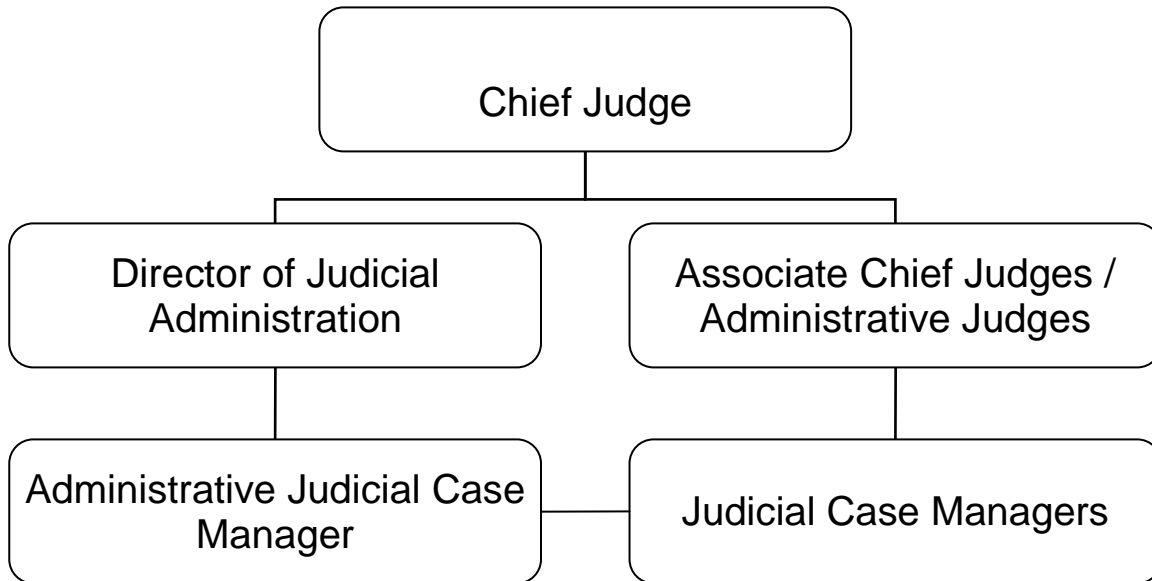
Listening, Understanding and Responding: Is the desire and ability to understand and respond effectively to other people from diverse backgrounds. It includes the ability to understand accurately and respond effectively to spoken and unspoken or partly expressed thoughts, feelings and concerns of others. People who demonstrate high levels of this competency show a deep and complex understanding of others, including cross-cultural sensitivity.

Planning, Organizing and Coordinating: Involves proactively planning, establishing priorities and allocating resources. It is expressed by developing and implementing increasingly complex plans. It also involves monitoring and adjusting work to accomplish goals and deliver to the organizations mandate.

Decisive Insight: Combines the ability to draw on one's own experience, knowledge and training and effectively problem-solve increasingly difficult and complex situations. It involves breaking down problems, tracing implications and recognizing patterns and connections that are not obviously related. It translates into identifying underlying issues and making the best decisions at the most appropriate time. At higher levels, the parameters upon which to base the decision become increasingly complex and ambiguous and call upon novel ways to think through issues.

Initiative: Involves identifying a problem obstacle or opportunity and taking appropriate action to address current or future problems or opportunities. As such, initiative can be seen in the context of proactively doing things and not simply thinking about future actions. Formal strategic planning is not included in this competency.

ORGANIZATION CHART



JOB DESCRIPTION CERTIFICATION

This job description is an accurate statement of the position's assigned duties, responsibilities, and reporting relationships, as indicated in the preceding organization chart, effective July 1, 2007.

Supervisor's Signature Name (print) Date

Excluded Manager's Signature Name (print) Date

I am accountable for and approve the salary costs that result from this position's classification:

Spending Authority's Signature Name (print) Date

This Job Description is in the appropriate format and contains sufficient data for its evaluation in the Public Service Job Evaluation Plan:

Personnel Officer's Signature Name (print) Date

APPENDIX E – Justice of the Peace Code of Ethics

JUSTICE OF THE PEACE CODE OF ETHICS

A code of ethics specific to JPs was originally proposed by the Justice of the Peace Association of British Columbia. Like the code of ethics for Provincial Court Judges, the Justice of the Peace Code of Ethics provides very important guidance to JPs on how to discharge their responsibilities as judicial officers. The Code of Ethics, as approved by the Judicial Council of B.C., appears below:

Independence

- Rule 1.00** Justices of the Peace must both be and appear to be independent, impartial, and unbiased.
- Rule 1.01** Justices of the Peace must avoid all conflicts of interest, whether real or perceived, and are responsible for promptly taking appropriate steps to disclose, resolve, or obtain advice with respect to such conflicts when they arise.
- Rule 1.02** Justices of the Peace should not be influenced by partisan interests, public opinion, or by fear of criticism.
- Rule 1.03** Justices of the Peace should not use their title and position to promote their own interests or the interests of others.
- Rule 1.04** Justices of the Peace should discharge their duties in accordance with the law.
- Rule 1.05** Justices of the Peace are subject to the Provincial Court Act and the authority and guidance of the Chief Judge acting thereunder.

Knowledge

- Rule 2.00** Justices of the Peace should maintain their competence through their work, by participating in training and education courses and by seeking guidance from the Office of the Chief Judge in specific areas as required.
- Rule 2.01** Justices of the Peace should remain up to date on changes in the law relevant to their judicial function.

Conduct

- Rule 3.00** Justices of the Peace are subject to ongoing public scrutiny and therefore they must respect and comply with the law and conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- Rule 3.01** Justices of the Peace should approach their duties in a calm and courteous manner when dealing with the public and others and should present and conduct themselves in a manner consistent with the dignity of the Court and their office.
- Rule 3.02** Justices of the Peace should convey in plain language their decisions and the reasons therefore where such are legally required.
- Rule 3.03** Justices of the Peace must safeguard the confidentiality of information that comes to them by virtue of their work and should not disclose that information except as required by law.
- Rule 3.04** In discharging their duties, Justices of the Peace must treat those with whom they deal in a respectful and tolerant manner regardless of the gender, sexual orientation, race, religion, culture, language, mental abilities, or physical abilities of those persons.

Administration of Justice

- Rule 4.00** Justices of the Peace shall refrain from openly and publicly criticizing the administration of justice or the conduct of others. Justices of the Peace shall recognize that only the Chief Judge may speak publicly on behalf of the Provincial Court and that through appropriate channels, it is to the Chief Judge that they should communicate their criticisms, suggestions, and concerns.
- Rule 4.01** Justices of the Peace should deal with the tasks that come before them in a timely manner and should make themselves accessible to those requiring their services.

Infringement of the Code of Ethics

- Rule 5.00** Justices of the Peace who infringe this Code of Ethics act inconsistently with the interests of the administration of justice and offend the honour and dignity of the Court.

APPENDIX F – Listing of Chief Judge's Practice Directions

Chief Judge's Practice Directions can also be viewed at:

<http://www.provincialcourt.bc.ca/aboutthecourt/criminalandyouthmatters/chiefjudgespracticerections/index.html>

Updated 14SEP2011
Practice Direction - Victoria (South Vancouver Island) CCFM - 25 Oct 2010
Practice Direction - Vernon (Okanagan) CCFM - 03 May 2010
Practice Direction - Penticton - Okanagan CCFM - 6 Apr 2010
Practice Direction - Arraignment TCH CCFM - 1 Mar 2010
Practice Direction - Dawson Creek - 10 Jan 2010
Practice Direction - Kamloops - 4 Jan 2010
Practice Direction - Victoria - 1 Dec 2009
Practice Direction - Fort St. John CCFM - 1 Aug 2009
Practice Direction - Victoria Youth Project - 1 Oct 2009
Practice Direction - Prince George Pilot Project - 16 Feb 2009
Practice Direction - Hearing of Bail Applications by the Justice Centre - 9 Feb 2009
Practice Direction - Williams Lake Pilot Project - 5 Jan 2009
Practice Direction - Robson Square Youth Justice Court - 3 Nov 2008
Practice Direction - Quesnel Pilot Project - October 1, 2008
Practice Direction - Colwood - CCFM - April 10, 2008
Practice Direction - Duncan - CCFM - 6 May 2008
Practice Direction - Okanagan CCFM - 5 May 2008
Practice Direction - POCO - CCFM - Arraignment & Trial Confirmation Hearings - 5 Feb 2008
Practice Direction - Prince George - CCFM Compliance Court Sittings - 5 Feb 2008
Practice Direction - Victoria – South Vancouver Island District – Arraignment and Trial Confirmation Hearings, Compliance and Administrative Court Sittings – 18 Jun 2007

<u>Judicial Case Managers – Assignment of Duties Assigned to the Pilot Projects by the Administrative Judge – 18 Jun 2007</u>
<u>Practice Direction - Scheduling Continuations - 9 Feb 2007</u>
<u>Practice Direction - Daytime Search Warrant Applications - 4 March 2005</u>
<u>Practice Direction - Hearing of Bail Applications by the Justice Centre - 4 March 2005</u>
<u>Practice Direction - Procedure in Respect of Elections under Section 536(2) of the Criminal Code - 31 May 2004</u>
<u>Practice Direction - Arraignment Hearings - 25 Nov 2003</u>
<u>Practice Direction - Elections - 25 Nov 2003</u>
<u>Out-of-Town Counsel Attending Arraignment Hearings - 10 Feb 2000</u>
<u>Duncan Registry, North Vancouver Island, Coast, Prince George, Cariboo, Northwest, Vancouver Family, Vancouver Criminal and South Fraser Judicial Districts</u>
<u>Kamloops Registry</u>
<u>Okanagan and North Fraser Judicial Districts</u>
<u>Victoria and Colwood Registries and the Kootenay Judicial District</u>
<u>Arraignment Process - Rule 5(4) - 20 Oct 2000</u>

APPENDIX G - Terms & Conditions for Excluded Employees

Terms & Conditions for Excluded Employees

Relating to Management Exclusions / Judicial Case Managers (JCM)

(Updated: 12 Jan 2012)

Hours of Work (Terms & Conditions for Excluded Employees)

12.1.1 *The hours of work for an employee shall normally be those of the full time employees they supervise or with whom they work. It is understood an employee is expected to work the hours necessary to fulfill their job responsibilities, which may entail considerably more hours than those worked by their employees. However, greater flexibility will be afforded with respect to time off during work hours.*

How this relates to the JCM

- The JCM is to be available during normal court hours
- Overtime is not compensated in cash nor is it paid in lieu, excessive overtime will be considered for in lieu time based on operational need
- The JCM is expected to communicate to relevant parties as to their whereabouts during the course of normal court hours, making those parties aware of the procedures to use in their absence and when they will be available again
 - Methods:
 - Message on voice mail
 - Out of Office notice on Email
 - Note on the door
 - Email to relevant parties

Modified Work Schedule (Flex Days) (OCJ Policy)

A modified work week plan is subject to operational requirements. The plan is a three week rotation allowing each individual to work an extra 1/2 hour per day and take one day off in the three week rotation. Approval of the modified work week schedule is at the discretion of the Administrative JCM in consultation with the Administrative Judge.

Following is an outline of the expectations of staff that enter into a flexible working arrangement.

Two objectives of earned days off or modified work schedules (Flex Day) is to support staff in achieving a good work-life balance while at the same time meeting the needs and requirements of the organization

In order to achieve these objectives those employees who are seeking approval or are currently on a modified work week arrangement must meet the following guidelines:

- *The modified work week arrangement has been approved by the Administrative JCM in consultation with the Administrative Judge.*
- *The arrangement meets the needs of the organization and does not require backfill or an increase in overtime.*
- *A modified work week schedule consists of a 7.5 hour day with one day off every 3 weeks. Meal breaks (1 hour) and coffee breaks (15 minutes) remain the same.*
- *7.5 hours will be deducted for one full day of annual leave. The same deduction will be applied to all other leave.*
- *Staff acknowledges and agrees that every effort shall be made to schedule medical and dental appointments, including appointments for dependent children, outside of scheduled work time.*
- *If an illness falls on your earned day off it cannot be converted into STIIP.*
- *Staff acknowledges and agrees that urgent and unforeseen operational requirements and or unexpected leaves may require a rescheduling of the day off to a mutually agreed time.*
- *This arrangement may be reviewed and reconsidered at any time by the Administrative JCM or Administrative Judge.*

How this relates to the JCM

- Modified work week (Flex day) is based strictly on operational demand
- Back up cannot be called in to cover a Flex day, nor should back up be called in where a JCM is on vacation and another has a scheduled Flex day – it is the understanding that the JCM will defer their flex day in order to meet operational demand
- In multi-JCM location, no two JCMs can be off on a Flex day at the same time
- No costs will be incurred as a result of this program (i.e. travel to provide coverage)

VACATION

46. Vacation Scheduling (Terms & Cond. For Excluded Employees)

1. *Vacation leave shall be scheduled and taken on a calendar year basis and may not be borrowed from future years*
2. *Each Employee's wishes, in concert with operational requirements, will be considered when scheduling vacation*
3. *Each employee should have the opportunity to schedule at least 15 days of vacation leave in one uninterrupted period within each calendar year*
4. *A minimum of 105 hours of current vacation entitlement, pro-rated for part time employees and employees who have not yet earned a full year's leave entitlement, shall be scheduled and taken each vacation year unless:*
 - a. *The Chief Judge has directed the employee, in writing, to cancel scheduled vacation leave due to extreme pressures of work or other extenuating circumstances; or*
 - b. *The employee was on extended paid sick or other paid leave during the time the vacation was scheduled and was therefore unable to use this minimum vacation entitlement; or*

c. *The employee is in the first partial vacation year*

5. *Any balance of unused vacation leave earned in a year will be paid out or carried over in accordance with the applicable provisions of section 52*
6. *An unbroken vacation period commencing in December of one year and carrying over to January of the next year shall be considered vacation time for the year in which it commenced. The portion of vacation taken in January shall not be considered as vacation carry-over or as a choice for the new vacation year*
7. *If an employee has taken more vacation time than he/she is entitled to, the unearned portion shall be charged against future earned credits or recovered upon termination, whichever occurs first*
8. *Any displaced vacation shall be taken at a mutually agreeable time*

52. Vacation/banked leave payout

1. *Annual vacation will be paid out in cash where an employee resigns, retires, has their employment terminated or dies while in service. IN the event of death in service, payment will be made to the employee's dependent(s) or where there is no dependant, to the employee's estate*
2. *Upon request by an employee, any of the employee's carryover or time bank credits will be paid out according to the policy governing the rates of payout*

General Conditions for Requesting Back Up Coverage (See CSB/PCJ 2012 Agreement)

- *Coverage is not automatic every time a JCM is on leave*
- *In all multi-JCM locations [and possibly districts depending on proximity], there is an expectation that JCMs will cover each other and that only one JCM will be off on leave at a time*
- *Vacation & coverage schedules are to be approved [by Admin JCM] by January 15th*
- *The expectation is that you will have met with your backup(s) and worked out acceptable proposals ahead of that date – this requires consultation [with the backups] before approval – please respect the fact that their vacation requests should also be accommodated, given current staffing pressures, backups may also want to review their availability with their managers before indicating that they are able to cover any dates.*
- *Requests received after January 15th (for backfill purposes) are subject to the availability of the backup.*
- *Any issues relating to backup coverage should be referred to the Administrative JCM for follow up*

How this relates to the JCM

- All vacation is to be requested and approved in advance
- JCMs in multi-JCM locations should schedule their vacation on different dates, with no two JCMs on vacation at the same time ¹
- Districts with JAAs should be made aware and have a schedule of JCM vacation

¹ If vacation is taken by JCMs at the same time it may jeopardize the location's ability to request back up

LEAVE

4.3 Leave for JCMs, JAAs, JC and OCJ staff (OCJ Staff Manual)

- Leave records for all judicial staff are maintained through Time on Line (TOL)
- Leave includes, vacation, Sick time off (STIP), Bereavement, medical and all other special leaves
- It is each employee's responsibility to report all leave with approval to Tanya Thoen Administrative Services Coordinator at the Office of the Chief Judge (OCJ)
- Employee leave transactions and balances are reported on the [Employee Self Service System \(ESS\)](#) - It is each employee's responsibility to review their balances and report any discrepancies to the Administrative Services Coordinator at the OCJ

Requesting Leave

- Planned leave is to be requested in advance of taking time off
- Must be approved by the Administrative JCM
- Emergency leave, such as sickness, household emergency, bereavement, etc., should be formally requested and approved, in accordance with entitlements, immediately upon the individual's return to work

Procedure for Recording Leave

- For planned leave send an email to the Administrative JCM
- Once leave is approved, the Administrative JCM can forward a copy of the approval to the leave recorder at the OCJ (Tanya Thoen)
- For emergency leave (leave that was not planned and approved in advance), advise the Administrative JCM and your Administrative Judge immediately. Upon returning to work send an email to the Administrative JCM, formally requesting the leave, then forward approval as above

Role of the Leave Recorder

- The Leave Recorder at the Office of the Chief Judge is the Administrative Services Coordinator (Tanya Thoen). The Leave Recorder:
 - Reminds staff to submit leave requests for approval;
 - Ensures all sick and other leave is recorded and that entitlement is not exceeded; and
 - Updates TOL for all leave taken.

SPECIAL LEAVE (Terms & Conditions of Excluded Employees)

Where leave from work is required, an employee shall be entitled to special leave at his/her regular rate of pay for the following – all leave must be approved by Administrative JCM and approval/request sent to Administrative Services Coordinator:

- | | |
|--|---------|
| 1. marriage of the employee/appointee - | 3 days |
| 2. attend wedding of the employee/appointee's child - | 1 day |
| 3. birth or adoption of the employee/appointee's child - | 2 days |
| 4. serious household or domestic emergency - | 1 day |
| 5. moving household furniture and effects - | 1 day |
| 6. attend her/his formal hearing to become a Canadian citizen | 1 day |
| 7. attend funeral as pall-bearer or mourner | 1/2 day |
| 8. court appearance for hearing of employee/appointee's child | 1 day |
| 9. in the case of serious illness or hospitalization of an elderly parent of the employee, when no one other than the employee can provide for the needs of the parent, and after notifying their supervisor | 1 day |

Two weeks notice is required for leave under (a) 1, 2, 5 and 6.

For the purposes of (a) 2, 4, 5, 6, 7, 8 and 9 leave with pay will be only for the work day on which the situation occurs.

Family Illness – must be approved by Administrative JCM and reported to OCJ

- **In the case of illness of a dependent child or spouse of an employee/appointee, and when no one at the employee/appointee's home other than the employee/appointee can provide for the needs of the ill child, the employee/appointee shall be entitled after notifying his/her supervisor, to use up to a maximum of two days paid leave at any one time for this purpose. A report from a qualified medical practitioner may be required if it appears a pattern has occurred.**

Leave for Medical and Dental Care – must be approved by Administrative JCM and reported to OCJ

- **Employees in areas where adequate medical and dental facilities are not available shall be allowed to deduct from their special leave credit (70 Hours) the necessary time including travel and treatment time up to a maximum of three days to receive medical and dental care at the nearest medical centre for the employee, their spouse, dependent child and a dependent parent permanently residing in the employee's household or with whom the employee permanently resides**
- **The Employer may request a certificate of a qualified medical or dental practitioner, as the case may be, stating that treatment could not be provided by facilities or services available at the employee's place of residence. An employee on leave provided by this clause shall be entitled to reimbursement of reasonable receipted expenses for accommodation and travel to a maximum of \$500 per calendar year.**

Bereavement Leave – must be approved by Administrative JCM and reported to OCJ

- **In the case of bereavement in the immediate family, an employee shall be entitled to special leave, at her/his regular rate of pay, from the date of death to and including the day of the funeral with, if necessary, an allowance for immediate return travelling time. Such leave shall normally not exceed five work days. Immediate family is defined as an employee's:**
 - **parent**
 - **wife / husband**
 - **child / grandchild**
 - **brother / sister**
 - **father-in-law / mother-in-law**
 - **Any other relative permanently residing in the employee's household or with whom the employee permanently resides**
- **An Employee shall be entitled to special leave for one day for the purpose of attending the funeral In the event of the death of employee's**
 - **grandparents**
 - **son-in-law / daughter-in-law**
 - **brother-in-law / sister-in-law**
- **If an employee is on vacation leave at the time of bereavement, the employee shall be granted bereavement leave and be credited the appropriate number of days to vacation leave credits**

Maximum Leave Entitlement

- **Leaves taken under SPECIAL LEAVE, FAMILY ILLNESS and LEAVE FOR MEDICAL AND DENTAL CARE, shall not exceed an aggregate total of 70 hours per calendar year**

How this relates to the JCM

- All leave should be approved and reported to the OCJ prior to the leave taking place, where that is not possible it should be approved/acknowledged by the Administrative JCM and reported to the OCJ as soon as possible after the fact

76. Sick Benefit STIIP - (Short Term Illness and Injury Plan) *must be approved by Administrative JCM and reported to OCJ (Terms & Conditions of Excluded Employees)*

- *If a person is unable to work due to illness or injury, he/she will be entitled to a benefit, under STIIP, of 75% pay for a period not to exceed six months from the date of absence.*
- *The 75% benefit may be supplemented in "1/4 day" increments by using the following in descending order:*
 - *1-1/2 days of exclusion supplementary top up (10.5 hours, S57);*
 - *Accumulated sick leave credit under the old sick leave plan;*
 - *Executive Benefit Plan (EBP);*
 - *Vacation*
- *An employee/appointee at work or on approved leave of absence with pay on January 2 of each year will be credited with 10.5 hours of exclusion supplementary credit (S57 in ESS).*
- *An employee/appointee on leave of absence without pay on January 2 of each year will be credited with 10.5 hours of exclusion supplementary credit upon return to work.*
- *An employee/appointee who commences employment during the year will be credited with 10.5 hours of exclusion supplementary credit for that partial year.*
- *The exclusion supplementary credit can only be used to supplement the Short Term Illness and Injury Plan benefit up to 100 percent of basic pay.*
- *The exclusion supplementary credit is non-cumulative and lapses December 31.*
- *Absences due to illness or injury under the STIIP plan are reported as follows:*
 - *absences of less than two hours are not reported;*
 - *absences of more than two hours and up to a half-day are reported as a half-day;*
 - *absences of more than a half-day, but where the employee/appointee worked at least two hours, are reported as a half-day;*
 - *absences where the employee/appointee worked less than two hours in the day are reported as one day.*

Doctor's Certificate of Inability to Work

- *The Employer may require an employee who is unable to work because of illness or injury to provide a statement from:*
 - *a medical practitioner qualified to practice in the province of BC; or*
 - *the consulting physician to whom the employee is referred by a medical practitioner*

- *providing medical evidence of the employee's inability to work in any of the following circumstances:*
 - *where it appears that a pattern of consistent or frequent absence from work is developing;*
 - *where the employee has been absent for six consecutive scheduled days of work;*
 - *where at least 30 days have elapsed since the last statement was obtained and the employee has been in receipt of plan benefits throughout that period.*

With the exception of the STO2 and doctor's certificates referenced above, where the Employer requires a medical assessment from the employee's physician specifying the employee's employment limitations and/or capabilities, the employee will be reimbursed, upon production of receipt, for 50% of the cost of the medical assessment.

STIP benefits will not be paid when you are:

- *receiving pay for a statutory holiday; or*
- *engaged in an occupation for wage or profit; or*
- *-serving a prison sentence; or*
- *on any leave of absence without pay; or*
- *on suspension without pay; or*
- *on paid absence in the period immediately before retirement; or*
- *not actively engaged in a treatment program where your physician determines it to be appropriate to be involved in such a program.*

Benefits will cease to be paid when an employee fails to provide satisfactory evidence of medical disability during the benefit period.