Sir Louis Henry Davies
Law Courts

Supreme Court of
Prince Edward Island

PO Box 2000
Charlottetown, PE C1A 7N8

MEMORANDUM

To: Criminal Law Bar

From: Morgan Watts

Date: August 14th, 2026

Re: New Criminal Pre-Trial Conference Report Form

Effective September 1, 2026, the Prince Edward Island Supreme Court will be introducing a new Criminal Pre-Trial Conference Report. This form will be used for pre-trial conferences in matters proceeding by trial with a judge and jury, as well as for matters proceeding by trial with judge alone. This form will replace the two separate Criminal Pre-Trial Conference Reports that have been in effect since March 2022.

In addition to the new form, the filing deadlines will be changing. The Crown is still required to serve and file their completed Criminal Pre-Trial Conference Report seven days prior to the pre-trial conference, whereas defence counsel is now required to serve and file their Pre-Trial Conference Report five days prior to the pre-trial conference.

The Practice Direction on Criminal Pre-Trial Conferences and Resolution Conferences will be amended to reflect the above changes.

The new form and the amended Practice Direction are attached with this memorandum and will be found on the Supreme Court website as of September 1, 2026.

Morgan Watts
Prothonotary and Registrar

attachments

C. PRE-TRIAL CONFERENCES AND RESOLUTION CONFERENCES

1. General

Lawyers participating in a pre-trial or resolution conference, as the case may be, are expected to attend with a strong working knowledge of their matter.

2. Pre-Trial Conferences

a. Generally, all criminal matters proceed through the criminal pre-trial conference process. Pre-trial conferences often proceed by telephone, or virtually, but may also proceed in person. The forum in which the pre-trial conference proceeds is at the direction of the court.

b. The court, in conjunction with representation from the Crown and the defence bar, has created a pre-trial conference report applicable for criminal trials. The form is on the court's website at *www.courts.pe.ca*. The form is also available by contacting the trial coordinator or such other designated individual. (Amended September 1, 2026).

c. Where an accused is represented, both the Crown and defence counsel are to serve and file the completed pre-trial conference report. The Crown is required to serve and file their pre-trial conference report seven days prior to the scheduled pre-trial conference. Defence counsel is required to serve and file their pre-trial conference report five days prior to the scheduled pre-trial conference, regardless of whether the Crown has served a completed form. In order to optimize the time and value of the pre-trial conference, both the Crown and defence are requested to fulsomely address the required areas in the pre-trial conference reports. Guidance is provided on the forms in relation to some areas that are not required to be addressed. (Amended September 1, 2026).

d. Unless the court specifically requests otherwise, a self-represented accused person is not to complete the pre-trial conference report.

3. Resolution Conferences

a. A joint request may also be made to the court for the scheduling of a resolution conference. Resolution conferences provide an opportunity to obtain judicial input and assist in efforts at resolution.

b. Further details are set out in the respective pre-trial conference forms.

Originally issued September 1, 2025
Amended September 1, 2026

SUPREME COURT OF PRINCE EDWARD ISLAND

CRIMINAL PRE-TRIAL CONFERENCE FORM

NOTICE:

1. This Form must be fully completed, signed by the assigned Crown attorney or a lawyer authorized to bind the Crown, and signed by the counsel of record for the accused, before the first judicial pre-trial conference, unless otherwise directed by the court. For example, a completed Form may not be required where the accused is pleading guilty or where the accused is acting on their own behalf.

2. Subject to notes 3 and 4, responses to the following questions are mandatory:

   Crown: 1-6, 8-23, 30(a)-(b), 30(d)-(e), 34, 36(a)-(c), 37, 38(b), 39(b), 40-44, 46(a)-(d), and 47-48

   Defence: 4-9, 10(j), 18(c), 19(c), 24-29, 30(c), 31-33, 35(d), 37, 38(a), 39(a), 40-43, 45, 46(e)-(g), and 47-48

3. Questions 35(a)-(c), 36(d), and 44 (subject to *R. v. Cleghorn*, [1995] 3 S.C.R. 175) are optional for the accused.

4. Questions 8 and 37 are mandatory only where the mode of trial is **judge and jury**.

5. For cases involving **sexual offences**, counsel are expected to carefully review Part F and Part G in this Form and, where applicable, to include as much detail as possible.

6. The Crown and defence counsel are expected to discuss the subjects raised in this Form, and to discuss any other issues that are reasonably anticipated to arise at the pre-trial conference, before filing this Form and in advance of the conference.

7. Counsel must provide their position on each subject identified on the Form and not merely indicate they "will advise" or "not as yet", etc.

8. The Crown must **serve and file** this Form **seven (7) days** before the date scheduled for the pre-trial conference. Defence counsel must **serve and file** this Form **five (5) days** before the date scheduled for the pre-trial conference. This obligation on defence counsel applies regardless of whether the Crown has served a completed Form. In cases where the Crown has not served the Form or has served it late, defence counsel are still expected to complete the Form to the extent that is possible.

9. If any party changes a position taken on this Form, which will be provided to the trial judge, they must provide written notice to the other party and the Trial Coordinator of the change in position. The failure to notify the other party and the Trial Coordinator of any application, motion, or other proceeding not disclosed on this Form, will be a factor considered by the trial judge in determining whether the new position has prejudiced the other party and whether any proceeding may proceed.

10. The Form completed by the Crown must be accompanied by a brief synopsis of the allegations against the accused.

CRIMINAL PRE-TRIAL CONFERENCE FORM

His Majesty the King v. Click or tap here to enter text. S__ - GC - _____

☐ CROWN form prepared by:

☐ DEFENCE form prepared by:

(Counsel for: , if multiple accused.)

Have counsel discussed the issues raised in this Form after the committal for trial? ☐ Yes ☐ No

Charge(s):

PART A
BACKGROUND INFORMATION

1. **Chronology**

   a) Date(s) of offence(s):
   b) Date of arrest:
   c) Date of sworn Information(s):
   d) Date of filed Indictment(s):

2. **Judicial interim release**

   a) Is the accused detained in custody in this proceeding? ☐ Yes ☐ No
   b) Is the accused detained in custody in another proceeding? ☐ Yes ☐ No

3. **Has a publication restriction been ordered?** ☐ Yes ☐ No

   a) If yes, what is the authority for the restriction? ☐ Code, s. 486.4 ☐ Other (specify)

4. **Disclosure** ☐ Complete ☐ Not complete

5. **Direct indictment** ☐ Yes ☐ No

6. **Mode of trial** ☐ Judge and jury ☐ Judge alone

   a) Will there be a re-election? ☐ Yes ☐ No

7. **Language of trial** ☐ English ☐ French ☐ Bilingual

   a) Does the accused have or seek an order under s. 530 of the Code that the trial be held in French or as a bilingual trial? ☐ Yes ☐ No

PART B
JURY SELECTION

8. **Jury selection**

a) Will there be a general application to challenge jurors for cause? ☐ Yes ☐ No
If "yes", please provide details on a separate page.

b) Are there any other issues relating to jury selection? ☐ Yes ☐ No
If "yes", please provide details on a separate page.

PART C
PRE-TRIAL MOTIONS REGARDING THE INDICTMENT(S)

9. **Are any pre-trial motions on the Indictment(s) anticipated?** ☐ Yes ☐ No

a) Relief sought:

i)	Amendment (Code, s. 601)	☐
ii)	Quash indictment (Code, s. 601(1))	☐
iii)	Particulars (Code, s. 587(1))	☐
iv)	Severance (Code, s. 591(3)	☐
v)	Joinder (Code, s. 591(1))	☐
vi)	Other ground (specify)	☐

b) Details:

PART D
CROWN – PRE-TRIAL MOTIONS, APPLICATIONS, AND EVIDENTIARY ISSUES

10. **Statement(s) of the accused**

a) Is the Crown seeking a ruling about the admissibility of a statement made to a person in authority? ☐ Yes ☐ No

i) Form of statement: ☐ Oral ☐ Written ☐ Audio ☐ Video
ii) If the statement is recorded by audio or video, is there a transcript? ☐ Yes ☐ No
iii) If no transcript is available, will the Crown provide one before trial? ☐ Yes ☐ No
iv) Date that the transcript will be available: _____
v) Length of statement: _____
vi) *Voir dire* required? ☐ Yes ☐ No
vii) *Voir dire* issues:
Recipient is a person in authority ☐ Yes ☐ No
Voluntariness ☐ Yes ☐ No

viii) Number of witnesses to be called on *voir dire*: ___

ix) Time estimate for *voir dire*: Evidence _____ Argument _____

x) Does the accused waive the necessity of a *voir dire* to determine voluntariness of the statement (*R. v. Park*, [1981] 2 S.C.R. 64)? ☐ Yes ☐ No

If the Crown is seeking admission of more than one statement, please answer questions 10(a)-(i) for each statement on a separate page.

11. **Prior consistent statement(s) of the complainant and other witnesses for the Crown**

a) Is the Crown seeking to admit prior consistent statement(s) of a witness? ☐ Yes ☐ No

b) What is the purpose of this evidence?
- ☐ Truth of contents
- ☐ Fact statement was made
- ☐ Other (specify)

c) Ground(s) for admission:

i)	Exception to hearsay rule	☐
ii)	Narrative	☐
iii)	State of mind	☐
iv)	Rebut claim of recent fabrication	☐
v)	Prior identification	☐
vi)	Other (specify)	☐

12. **Prior disreputable conduct evidence, including similar fact evidence**

a) Is the Crown seeking to introduce prior disreputable conduct evidence, including similar fact evidence, relying on incidents not covered by the Indictment(s)? ☐ Yes ☐ No

b) Does the Crown seek to have admissibility determined before trial? ☐ Yes ☐ No

c) Is the Crown seeking to have evidence of similar facts admitted across different counts in the Indictment(s)? ☐ Yes ☐ No

i) Does the Crown intend to defer its application about the admissibility across counts until all the Crown's evidence has been tendered? ☐ Yes ☐ No

d) Time estimate: Evidence _____ Argument _____

13. **Principled exception to the hearsay rule**

a) Does the Crown seek to introduce any evidence relying

upon the principled exception to the hearsay rule? ☐ Yes ☐ No

b) Time estimate for *voir dire*: Evidence _____ Argument _____

14. **After the fact conduct evidence**

a) Will the Crown be seeking to tender any evidence of after the fact conduct by the accused? ☐ Yes ☐ No

b) Time estimate for *voir dire*: Evidence _____ Argument _____

15. **Intercepted private communications**

a) Does the Crown seek to introduce wiretap evidence? ☐ Yes ☐ No

b) If yes, what is the type of authorization? ☐ Consent (Code, s. 184.2)
☐ Part VI (Code, ss. 185 and 186)

c) Has notice been given under s. 189 of the Code? ☐ Yes ☐ No

d) Time estimate: Evidence _____ Argument _____

16. **Competency of witnesses (Canada Evidence Act, ss. 16 and 16.1)**

a) Does the Crown intend to call any witness who is under the age of 14? ☐ Yes ☐ No

i) Name(s) of witness(es):
ii) Age(s) of witness(es):

17. **Manner in which evidence is to be introduced**

a) Does the Crown seek to have the evidence of any witness introduced by:

i) video conference pursuant to s. 714.1? ☐ Yes ☐ No
ii) reading in evidence previously taken pursuant to s. 715? ☐ Yes ☐ No
iii) video recorded evidence pursuant to s. 715.1? ☐ Yes ☐ No
iv) video recorded evidence pursuant to s. 715.2? ☐ Yes ☐ No

b) Details:

18. **Support person**

a) Will any Crown witness seek to have a support person pursuant to s. 486.1(1)? ☐ Yes ☐ No

b) Will any Crown witness seek to have a support person pursuant to s. 486.1(2)? ☐ Yes ☐ No

Details:

c) Does the accused contest the presence of a support person? ☐ Yes ☐ No

19. **Testimony outside of courtroom or behind a screen**

a) Will any Crown witness seek to testify outside the courtroom or behind a screen pursuant to s. 486.2(1)? ☐ Yes ☐ No

b) Will any Crown witness seek to testify outside the courtroom or behind a screen pursuant to s. 486.2(2)? ☐ Yes ☐ No

Details:

c) Does the accused contest testimony outside the courtroom or behind a screen? ☐ Yes ☐ No

20. **Appointment of counsel to cross-examine witness or victim**

a) Will the Crown or any witness apply for an order appointing counsel to cross-examine a witness under s. 486.3? ☐ Yes ☐ No

21. **Publication restrictions**

a) Does the Crown seek an order restricting publication pursuant to ss. 486.4 or 486.5? ☐ Yes ☐ No

22. **Privilege issues (e.g. informer, public interest, spousal, litigation, or solicitor-client privilege)**

a) Will the Crown be raising issues of privilege? ☐ Yes ☐ No

23. **Are any other issues requiring rulings expected to arise in this proceeding?** ☐ Yes ☐ No

a) Details:
b) Time estimate for *voir dire*: Evidence Argument

_____ _____

PART E
DEFENCE – PRE-TRIAL MOTIONS, APPLICATIONS, AND EVIDENTIARY ISSUES

24. **Constitutional or other challenge to validity of legislation** ☐ Yes ☐ No

a) Statutory provision(s) at issue:
b) Ground(s) for challenge:
c) Brief summary of position:

d) Time estimate: Evidence _____ Argument _____

25. **Application to stay proceeding** ☐ Yes ☐ No

Ground(s):

a) Abuse of process ☐
b) *Charter* violation, s. 7 ☐
c) *Charter* violation, s. 11(b) ☐
d) Other ground (specify): ☐
e) Brief summary of position:

f) Time estimate: Evidence _____ Argument _____

26. **Application to exclude evidence under s. 24(2) of the *Charter*** ☐ Yes ☐ No

Ground(s):

a) s. 7 ☐
b) s. 8 ☐
   i) warrantless search ☐
   ii) search warrant ☐
   iii) production order ☐
   iv) general warrant ☐
   v) other authorization (specify) ☐

Issue(s): facial validity ☐ sub-facial validity ☐ execution ☐ other (specify) ☐

c) s. 9 ☐
d) s. 10(a) ☐
e) s. 10(b) ☐

f) other (specify) ☐

g) Time estimate: Evidence _____ Argument _____

29. **Application for third party records (common law procedure)** ☐ Yes ☐ No

> **NOTE:** For sexual offences that involve private records of the complainant that are in the possession of third parties or the accused, please complete **PART G**.

a) Nature of records:

b) Time estimate for *voir dire*: Evidence _____ Argument _____

28. **Evidence of other suspects**

a) Nature of evidence:

b) Time estimate for *voir dire*: Evidence _____ Argument _____

29. **Character of the complainant**

a) Nature of evidence:

b) Time estimate for *voir dire*: Evidence _____ Argument _____

PART F
CROWN – EVIDENCE OF THE COMPLAINANT'S SEXUAL HISTORY

> Save for two modifications, Crown-led sexual history evidence generally follows the two-stage procedure set out in ss. 278.93 and 278.94 of the Code. See generally ***R. v. Kinamore***, 2025 SCC 19 at paras. 38, 43, and 53.

30. ***Kinamore*** **application (Crown-led evidence of complainant's sexual history)** ☐ Yes ☐ No

a) Nature of the sexual history evidence:

b) Evidentiary basis for application:

c) Does the accused consent to admission of the evidence? ☐ Yes ☐ No

d) Time estimate for stage 1: Evidence _____ Argument _____

e) Time estimate for stage 2: Evidence _____ Argument _____

PART G
DEFENCE – EVIDENCE OF THE COMPLAINANT'S OTHER SEXUAL ACTIVITY AND PRIVATE RECORDS

Evidence that the complainant has engaged in sexual activity other than the sexual activity that forms the subject-matter of the charge, whether with the accused or with any other person, engages s. 276 of the Code. Sexual activity includes any communication made for a sexual purpose or whose content is of a sexual nature. See ***Criminal Code***, s. 276(4).

31. **Complainant's other sexual activity (Code, s. 276)** ☐ Yes ☐ No

a) Nature of evidence:

b) Evidentiary basis for application:

c) Time estimate for stage 1: Evidence _____ Argument _____

d) Time estimate for stage 2: Evidence _____ Argument _____

The word "record" is defined in s. 278.1 of the Code. A record means any form of record that contains personal information for which there is a reasonable expectation of privacy. The definition includes enumerated records and non-enumerated records. See generally ***R. v. J.J.***, 2022 SCC 28 at paras. 39 and 42.

32. **Third party records relating to complainant or witness (Code, s. 278.2)** ☐ Yes ☐ No

a) Nature of records (Code, s. 278.1):

b) Evidentiary basis for application:

c) Time estimate for stage 1: Evidence _____ Argument _____

d) Time estimate for stage 2: Evidence _____ Argument _____

33. **Records relating to complainant in possession of the accused (Code, s. 278.92)** ☐ Yes ☐ No

a) Nature of records (Code, s. 278.1):

b) Evidentiary basis for application:

c) Time estimate for stage 1: Evidence _____ Argument _____

d) Time estimate for stage 2: Evidence _____ Argument _____

PART H
EXPERT WITNESSES

34. **Crown expert witness(es) (Code, s. 657.3)**

a) Does the Crown intend to call expert evidence? ☐ Yes ☐ No

b) Field(s) of expertise:

c) Issues upon which the evidence will be introduced:

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

35. **Defence expert witness(es) (Code, s. 657.3)**

a) Does the defence intend to call expert evidence? ☐ Yes ☐ No

b) Field(s) of expertise:

c) Issues upon which the evidence will be introduced:

d) Does the defence contest admissibility of the Crown's expert evidence? ☐ Yes ☐ No

PART I
LIABILITY OF THE ACCUSED

36. **Positions of the parties**

a) On what factual and legal bases does the Crown seek to establish the liability of the accused?

Briefly describe the Crown theory of the case on a separate page. All participants understand that the Crown is not bound by any theory, may modify its theory as trial progresses, and is entitled to rely on any route to liability that is available based on the evidence and the law.

b) What section(s) of the *Criminal Code* does the Crown rely upon to establish the liability of the accused?

c) Does the Crown submit that there are included offences and, if so, what are they?

d) Does the defence submit that there are included offences and, if so, what are they?

PART J
JURY INSTRUCTIONS

37. **Preliminary and mid-trial instructions**

a) Do counsel foresee any preliminary instructions being required based on the circumstances of this particular case? ☐ Yes ☐ No

b) Do counsel foresee any mid-trial instructions being required based on the circumstances of this particular case? ☐ Yes ☐ No

If "yes", please provide details on a separate page.

PART K
FITNESS TO STAND TRIAL

38. **Fitness to stand trial**

a) Will the defence raise the issue of the accused's fitness to stand trial? ☐ Yes ☐ No

b) Will the Crown raise the issue of the accused's fitness to stand trial? ☐ Yes ☐ No

PART L
INTERPRETER

39. **Interpreter**

a) Does the accused require an interpreter? ☐ Yes ☐ No
If yes, for which language(s)?

b) Does any Crown witness require an interpreter? ☐ Yes ☐ No
If yes, for which language(s)?

PART M
COURTROOM, SECURITY, AND PRESENCE OF THE ACCUSED

NOTE: It is the responsibility of counsel to request any special equipment that is necessary for trial, to test that equipment before the commencement of trial, and to operate that equipment during trial.

40. **Special courtroom equipment required**

a) Is any special equipment, device, or other accommodation required in the courtroom? ☐ Yes ☐ No

Details:

41. **Courtroom security**

a) Does any party believe that increased courtroom security is appropriate in this case? ☐ Yes ☐ No

Details:

42. **Security and seating position of the accused in courtroom**

a) Are there any concerns about the security or seating position of the accused in the courtroom? ☐ Yes ☐ No

Details:

b) If so, does the Crown consent to the request(s) made by the accused? ☐ Yes ☐ No

43. **Absence of the accused from courtroom**

a) Will the accused apply to be absent during the trial? ☐ Yes ☐ No

PART N
CROWN – ISSUES FOR TRIAL

44. **Is it reasonably anticipated that any of the following defences/triable issues will be raised?**

a) ☐ Accident
b) ☐ Alibi
c) ☐ Automatism
d) ☐ Compulsion
e) ☐ Defence of property
f) ☐ Diminished capacity
g) ☐ Duress
k) ☐ Intoxication
l) ☐ Drugs
m) ☐ Alcohol
n) ☐ Knowledge
o) ☐ Necessity
p) ☐ Not criminally responsible
q) ☐ Possession

h) ☐ Entrapment
i) ☐ Consent - honest, but mistaken belief in consent
j) ☐ Identity
r) ☐ Provocation
s) ☐ Self-defence

PART O
DEFENCE – ADMISSIONS AND UNCONTESTED ISSUES

45. **Non-contentious issues**	Admitted	Not contested	Not Admitted
a) Jurisdiction	☐	☐	☐
b) Identity of the accused	☐	☐	☐
c) Continuity of exhibits	☐	☐	☐
d) Medical evidence	☐	☐	☐
e) Documentary evidence	☐	☐	☐
f) Ownership	☐	☐	☐
g) Value of property	☐	☐	☐
h) Accused as driver	☐	☐	☐
i) Death/injuries caused by accused	☐	☐	☐
j) Age of complainant	☐	☐	☐
k) Nature of drug	☐	☐	☐
l) Possession of drug	☐	☐	☐
m) Drug is "for the purpose of trafficking"	☐	☐	☐
n) Quantity of drug	☐	☐	☐
o) Service of notice	☐	☐	☐
p) Photographs	☐	☐	☐

PART P
LENGTH OF TRIAL

46. **Time estimates**

a) Anticipated number of Crown witnesses _____

Crown:

b) Time estimate for pre-trial hearings — Evidence _____ Argument _____
c) Time estimate for *voir dires* — Evidence _____ Argument _____
d) Time estimate for trial _____

Defence:

e) Time estimate for pre-trial hearings — Evidence _____ Argument _____
f) Time estimate for *voir dires* — Evidence _____ Argument _____
g) Time estimate for trial _____

PART Q
OATHS OR AFFIRMATIONS BY WITNESSES

47. **Eagle feather**

a) Will any witness be affirming with the eagle feather? Yes ☐ No ☐
If yes, list name(s):

48. **Other holy book**

a) Will any witness be swearing on a holy book other than the Bible? Yes ☐ No ☐
If yes, list name(s) and holy book(s):

Dated _____ Signed _____

AVAILABILITY OF RESOLUTION CONFERENCES

1. A joint request may be made to the court for a resolution conference. When such a request is received, a resolution conference may be scheduled by the Trial Coordinator. Alternatively, the pre-trial conference may proceed as a resolution conference if the presiding judge believes it is appropriate to do so.

2. Resolution conferences in criminal cases provide an opportunity to obtain judicial input and to assist the resolution efforts made by counsel. Conferences are intended to facilitate the disposition of cases in a timely and fair manner other than by trial. To be effective, counsel must be conversant with the issues that will likely arise in a trial, must understand the surrounding context, and must be alive to the possible outcomes of the trial. Therefore, it is mandatory that counsel attending the resolution conference:

   a) be the person assigned to conduct the trial;
   b) be fully prepared; and
   c) have adequate instructions to deal with all issues likely to arise in the conference.

   The accused should be available in the courthouse or otherwise readily accessible to provide instructions.