



THE

# JAMAICA GAZETTE

## EXTRAORDINARY

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The following Notification is, by command of His Excellency the Governor-General, published for general information.

SHOUNTAE BOOTHE, (MISS)  
Governor-General's Secretary and  
Clerk to the Privy Council (Assigned).

### JUDICIAL NOTICE

#### PRACTICE DIRECTION

SUPREME COURT OF JUDICATURE OF JAMAICA PRACTICE DIRECTION (No. 6) (CRIMINAL), 2020

#### *Criminal Case Management*

This Practice Direction is issued by the Honourable Chief Justice and is intended to govern case management in all criminal proceedings in the Supreme Court (Circuit Courts) and Circuit Court Division of the Gun Court, and the High Court Division of the Gun Court, and for guidance, where appropriate, of Judges of the Parish Courts, Family Courts and Children's Courts in Jamaica.

#### *General*

1. This Practice Direction may be cited at the Criminal Case Management Practice Direction of 2020 and comes into effect on Monday, June 1, 2020.
2. This Practice Direction applies to all criminal cases from first appearance in the Court to final disposition.
3. The purpose of this Practice Direction is intended to provide a systematic and coherent scheme for effective case management thereby ensuring that the Judge and the parties deal with all criminal cases before the Court in a just, timely, and efficient manner.

4. Dealing with a case in a just, timely and efficient manner means:
- (a) fairness in dealing with the prosecutor and the defence;
  - (b) considering the rights of the accused;
  - (c) considering the needs and interests of complainants, witnesses, jurors, self-represented accused persons, and other vulnerable persons;
  - (d) early identification of:
    - (i) the disputed issues for trial;
    - (ii) the required evidence for trial, and measures to facilitate and shorten the presentation of evidence; and
    - (iii) when appropriate, the early resolution of cases without a trial;
  - (e) promoting cooperation between the parties and facilitation by the Judge in managing and progressing the case;
  - (f) dealing with as many aspects of the case as possible on the same occasion;
  - (g) discouraging unnecessary disputes over procedural matters;
  - (h) discouraging delay and unnecessary or overly lengthy hearings; and
  - (i) scheduling Court time and deciding other matters taking into account:
    - (i) the seriousness of the alleged offence (s);
    - (ii) the complexity of the case or of the issues to be decided;
    - (iii) the needs of other cases.

#### *Definitions*

“accused” means a person charged with a criminal offence who is self-represented or represented by counsel;

“Court” means any Judge presiding in a Court having jurisdiction over any criminal matter or any Court staff designated by the Judge to complete tasks on the Court’s behalf;

“case progression officer” means a member of Court staff appointed by the Court to facilitate the effective management of criminal proceedings in support of judicial case management;

“compliance hearing” means a hearing presided over by a Judge at which it is determined whether parties have complied with any relevant statutory provision, this Practice Direction, and any court order;

“court order” means any order made by a Judge;

“defence” means the accused and, if applicable, defence counsel;

“Judge” means any Judge of the Court;

“party” means the prosecutor or the defence, depending on the context;

“prosecutor” includes the person or authority who brought the prosecution or any body authorized to perform a prosecutorial function;

“plea and case management hearing” means a hearing presided over by a Judge at which the Judge determines whether the matter can be set down for trial or final disposition;

“relevant enquiries” include:

- (a) the status of legal representation for the accused;
- (b) whether the defence has received sufficient disclosure to enter a plea;
- (c) how the accused intends to plead;
- (d) whether the disclosure by the prosecution is complete to the satisfaction of both parties and, if disclosure is outstanding or pending:
  - (i) its nature and relevance to the case;
  - (ii) the steps taken by the relevant party to obtain it; and
  - (iii) the estimated time frame (s) for its availability;
- (e) whether the parties have had meaningful discussions concerning the possible resolution of the case or the conduct of the trial;
- (f) the estimated trial time and number of witnesses for each party; and
- (g) whether the accused or any witnesses have special requirements.

“topics and issues” means inquiries, discussions, and recommendations that the Court may make in relation to:

- (a) the status of legal representation for the accused, and what further steps and time frames are required to retain counsel, if applicable;
- (b) the appropriateness of the counts in the indictment, including:
  - (i) whether any counts should be amended or withdrawn; and

- (ii) whether there will be an application for a joint trial, or for the severance of a trial, if there is more than one accused;
- (c) how the accused intends to plead, if a plea has not already been entered;
- (d) the possible resolution of the case by guilty plea, including:
  - (i) the charges to which a guilty plea may be entered;
  - (ii) the sentence and any corollary orders to be recommended by either party; and
  - (iii) possible credit for pre-trial custody if applicable;
- (e) whether the disclosure by the prosecution is complete to the satisfaction of both parties, and, if disclosure is outstanding or pending:
  - (i) its nature and relevance to the case;
  - (ii) the steps taken by the relevant party to obtain it;
  - (iii) the estimated time frame (s) for its availability; and
  - (iv) the possibility of a trial proceeding or a guilty plea being entered on lesser charges for which evidence is currently available, if appropriate;
- (f) the issues to be disputed at trial;
- (g) the facts to be agreed upon for trial;
- (h) the estimated trial time;
- (i) the number of witnesses for each party;
- (j) the identity, availability and necessity of witnesses for the prosecution;
- (k) whether the accused or any witnesses have special requirements;
- (l) whether expert witnesses are required by either party, and if so:
  - (i) whether an expert report has been obtained and disclosed to the other party; and
  - (ii) whether the parties agree to tender documentary or physical evidence without the need for the oral testimony of the expert;
- (m) whether any evidence should be heard by electronic technology, if available and appropriate;
- (n) whether there is any challenge to the admissibility of the evidence to be called at trial;
- (o) whether any applications that may affect the timing, duration or conduct of a trial are anticipated by either party; and
- (p) any other available measure to facilitate the presentation of evidence, reduce the number of required witnesses or otherwise simplify or shorten the trial
- (q) in cases triable by jury, the Court may also make inquiries, discuss, and, if appropriate, make recommendations in relation to:
  - (i) whether the parties consent to a trial before a Judge alone, for offences other than murder or treason;
  - (ii) the possibility of the prosecutor reducing the number of charges in the indictment to facilitate jury comprehension or otherwise achieve the overriding objective;
  - (iii) the manner in which evidence may be presented at trial to facilitate jury comprehension;
  - (iv) whether any disturbing images or sound recordings which either party intends to put before the jury are necessary to prove its case; and
  - (v) whether any evidentiary hearings requiring the exclusion of the jury are anticipated during trial, and their estimated duration.

“trial readiness hearing” means a hearing presided over by a Judge at which it is determined whether the trial date which was already set can be confirmed having regard to the following:

- (a) whether disclosure or any other previously identified issues remain outstanding;
- (b) whether the disclosure by the prosecution is complete to the satisfaction of both parties, and, if not:
  - (i) the nature and relevance to the case of the outstanding disclosure;
  - (ii) the steps taken by the relevant party to obtain it;
  - (iii) the estimated time frames for its availability; and
  - (iv) the possibility of a trial proceeding on different or lesser charges for which evidence is currently available, if appropriate;
- (c) whether both parties have explored all possible agreements of facts and evidential issues;
- (d) whether the availability of the parties and all witnesses has been confirmed; and

- (e) whether any new issues have arisen which may affect the date, duration or conduct of the trial;
- (f) whether both parties have indicated their readiness to proceed;
- (g) the estimated time for trial;
- (h) the availability of the parties;
- (i) the number of witnesses for each party, their availability and any special requirements to facilitate their testimony; and
- (j) the number and estimated duration of other scheduled cases.

*Duties of Court and parties*

*Duty of the Court*

5. The Court must actively manage all criminal cases in order to ensure their just, efficient and timely progression from initiation to completion.

6. The Court shall provide the parties with the name and contact information of the appointed case progression officer.

*Duties of the case progression officer*

7. The case progression officer shall:

- (a) receive any case progression information or applications required in accordance with this Practice Direction, and document the date and time of receipt;
- (b) make available to the parties any order made by the Court;
- (c) monitor compliance with any order made by the Court, follow up as necessary to promote timely compliance and document the follow-up conducted; and
- (d) inform the Court immediately upon notification of any failure to comply with the Practice Direction and/or a Court order, or of any circumstance that may affect the progress of the case.

8. The case progression officer is responsible for the administrative monitoring of the progression of cases on behalf of the Court.

*Duty of the parties*

9. The parties shall actively prepare and manage each case in accordance with the overriding objective.

10. The prosecutor shall ensure that the offences on which the accused is to be tried are properly stated in the indictment or information.

11. The parties must:

- (a) assist the Court in progressing cases in a just, timely and efficient fashion;
- (b) comply with this Practice Direction and any orders made by the Court;
- (c) inform the Court through the case progression officer, in writing (email or letter) immediately upon becoming aware of any circumstance affecting their ability to comply with the Practice Direction or any order made by the Court;
- (d) provide their contact information to the Court; and
- (e) provide such other information as required by the Court to monitor the progression of the case effectively.

*Case Management*

12. On any Court date, including first appearance and mention dates, the Court must make relevant inquiries, provide recommendations to the parties and make any order to ensure the proper progression and management of the case.

13. The power of the Court to make orders includes:

- (a) setting time frames for the completion of certain steps;
- (b) scheduling, adjourning, bringing forward, confirming or cancelling hearings;
- (c) granting or dismissing applications;
- (d) revoking or varying a previous Court order;
- (e) shortening or extending time frames set by this Practice Direction or the Court;
- (f) recording the withdrawal or discontinuance of charges by the prosecutor;
- (g) allowing the use of technology, when available and appropriate, to:
  - (i) receive or disseminate information, applications, responses or notices in relation to a case;
  - (ii) conduct hearings; or
  - (iii) facilitate the presentation of evidence.

14. The Court may accept a guilty plea on any Court date and at any stage of the proceedings.

15. The Court shall hold a plea and case management hearing for all cases in which the accused has indicated that he will not enter a plea of guilty.

16. After hearing from the parties, the Court may dispense with the plea and case management hearing, if the Court believes such a hearing is not necessary for the progression of the case.

17. The prosecutor, the accused and, if applicable, defence counsel shall attend the plea and case management hearing. The Court may also require the attendance of the police liaison officer or the investigating officer, as deemed necessary.

18. The parties present at the hearing must have the authority to make binding decisions in the case in relation to the topics and issues raised during the management of the case.

19. All parties shall be prepared to answer any inquiries of the Court on the topics and issues relevant to the topics and issues as defined in this Practice Direction.

20. Prior to the hearing, if the accused is represented, the prosecutor and defence counsel must discuss the topics and issues relevant to the topics and issues as defined in this Practice Direction.

21. If defence counsel is appearing on behalf of the accused, counsel shall obtain instructions from the accused as necessary to address the topics and issues as defined in this Practice Direction prior to any plea and case management or trial readiness hearing.

#### *Power of the Court to make orders*

22. Save where prohibited by legislation, at any plea and case management hearing, the Court may make any order that will assist in giving effect to the Practice Direction including:

- (a) setting time frames for the completion of certain steps;
- (b) scheduling a follow-up plea and case management hearing, if necessary, to promote or monitor the just, timely and efficient progression and conclusion of the case;
- (c) scheduling a hearing, including an application, a trial, a trial readiness hearing or a compliance hearing in accordance with this Practice Direction;
- (d) confirming, revoking or varying a previous order; and
- (e) shortening or extending time frames set by this Practice Direction or Court order.

23. Any Court order shall be made in writing and signed by the issuing Judge, and shall set out the specific action required, the person responsible for it, and, if applicable, the time frame for its completion.

#### *Completion of Form 1*

24. The Court shall provide a copy of the completed Form 1 to the parties. Form 1 is in the format outlined in the Schedule to this Practice Direction.

25. All parties are required to complete and sign Form 1. The completed Form 1 should be submitted to the case progression officer at least three (3) days prior to the first scheduled plea and case management hearing.

26. If a self-represented accused is unable to sign, the Court shall record in writing the accused's acceptance of the agreements and admissions made.

#### *Power of the Court to accept a guilty plea*

27. If a plea resolution or agreement is achieved, the Judge presiding over the plea and case management hearing may accept the guilty plea.

#### *Follow-up plea and case management hearings—Judge*

28. Subject to operational requirements, the Judge conducting a plea and case management hearing shall conduct any follow-up plea and case management hearing in the same case.

#### *Scheduling of trials*

29. The Court may schedule a trial date in accordance with the relevant considerations set out in paragraph 4(i) following a plea and case management hearing, or without such a hearing in accordance with paragraph 16.

#### *Relevant considerations*

30. In scheduling a trial date, the Court must inquire about, and take into consideration the factors listed in the definition of trial readiness hearing.

#### *Duties of the parties*

31. In scheduling a trial date, the parties shall provide to the Court the information required by paragraph 30, and shall inform the Court of any prior commitment that may affect their availability for trial.

#### *Securing witnesses and evidence*

32. Upon a trial date having been set, the parties shall promptly make the necessary arrangements to secure the attendance of their witnesses and any other evidence required, and shall inform the Court immediately of any difficulties in this regard.

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*Setting of a trial readiness hearing*

33. When scheduling a trial date, the Court may also set a trial readiness hearing preceding the date of trial and where such a hearing is set the parties shall attend to confirm whether they are ready to proceed with the trial as scheduled.

*Trial ready to proceed*

34. If the trial is ready to proceed, the Court shall confirm the scheduled trial date and, if feasible, give the parties an indication of the order in which the scheduled cases will proceed on that date.

*Trial not ready to proceed*

35. If the trial is not ready to proceed, the Court may make any order necessary to ensure the just, timely and efficient progression and conclusion of the case, including:

- (a) cancelling or postponing the trial date;
- (b) indicating that the trial will proceed on the scheduled date; or
- (c) scheduling a plea and case management hearing, a further trial readiness hearing or a compliance hearing.

*Power of the Court to control the trial process*

36. In the exercise of the inherent power to control proceedings the Court may, when necessary:

- (a) limit the duration of a trial or of any particular stage or portion of a trial;
- (b) limit the examination, cross-examination or re-examination of witnesses during trial.

SCHEDULE

**Form 1  
PLEA AND CASE MANAGEMENT HEARING (PCMH)**

- CIRCUIT COURT
- CIRCUIT COURT DIVISION OF THE GUN COURT
- HIGH COURT DIVISION OF THE GUN COURT
- PARISH COURT

Parish: \_\_\_\_\_

Case No.: \_\_\_\_\_

Both parties shall complete the relevant sections of this form and file it with the Court at least three days prior to the first scheduled PCMH, or as otherwise directed by the Court. A self-represented accused may request the assistance of the Court in completing this form, or may be dispensed from doing so as directed by the Court.

**1. GENERAL INFORMATION OF ACCUSED**

*To be completed by the prosecutor or the defence*

Name of accused: First \_\_\_\_\_ Middle \_\_\_\_\_ Surname \_\_\_\_\_

Other names: (alias) Other name 1 \_\_\_\_\_ Other name 2 \_\_\_\_\_ Other name 3 \_\_\_\_\_

Home address: Street/Apt No. \_\_\_\_\_ Street name \_\_\_\_\_

City \_\_\_\_\_ Parish \_\_\_\_\_

Date of birth: Day \_\_\_\_\_ Month \_\_\_\_\_ Year \_\_\_\_\_

Offences for which charged: a) \_\_\_\_\_  
b) \_\_\_\_\_  
c) \_\_\_\_\_  
d) \_\_\_\_\_  
e) \_\_\_\_\_  
f) \_\_\_\_\_

Remand status:  In custody at the following location: \_\_\_\_\_  
 On bail

**2. LEGAL REPRESENTATION OF ACCUSED**

*To be completed by the defence*

Defence counsel is retained for trial.

Name: First \_\_\_\_\_ Middle \_\_\_\_\_ Surname \_\_\_\_\_

Address: Street Address \_\_\_\_\_  
\_\_\_\_\_

SCHEDULE, *contd.*

|           |        |       |
|-----------|--------|-------|
| City      | Parish |       |
| _____     | _____  | _____ |
| Telephone | Fax    | Email |

- Accused intends to represent himself/herself at trial.
- Accused intends to seek counsel to represent him/her at trial.

**3. APPROPRIATENESS OF CHARGES ON THE INDICTMENT OR INFORMATION**

*To be completed by the prosecutor*

- The prosecution will proceed on the charges as they appear in the indictment or information.
- The following charge(s) is withdrawn by the prosecution: \_\_\_\_\_
- The following charge(s) is amended by the prosecution as follows: \_\_\_\_\_  
Time frame for filing an amended indictment by the prosecution: \_\_\_\_\_

*To be completed by the prosecutor or the defence, if applicable*

- There will be an application for  a joint trial; or  the severance of a trial by  the defence; or  the prosecution.  
Time frame for making the application: \_\_\_\_\_

**4. COMPLETENESS OF DISCLOSURE**

*To be completed by the prosecutor*

- The prosecution is satisfied that disclosure is complete. OR
- The prosecution  has requested; or  will request the following additional disclosure:  
Estimated time frame for obtaining additional disclosure: \_\_\_\_\_

*To be completed by the defence*

- The defence is satisfied that disclosure is complete. OR
- The defence  has applied; or  will apply for the following additional disclosure:  
Time frame for making the application: \_\_\_\_\_

**5. ISSUES TO BE CONTESTED AT TRIAL**

*To be completed by the Court.*

The parties hereby acknowledge that the following issues will be debated at trial:

- a) \_\_\_\_\_
- b) \_\_\_\_\_
- c) \_\_\_\_\_
- d) \_\_\_\_\_

**6. AGREED EVIDENCE FOR TRIAL**

*To be completed by the Court.*

**Agreed facts**

The parties hereby agree that the following facts shall stand as proven facts at trial and shall be admitted into the court record, in accordance with section 31CA (1)(b) of the *Evidence Act*:



SCHEDULE, *contd.*

- a) \_\_\_\_\_
- b) \_\_\_\_\_
- c) \_\_\_\_\_
- d) \_\_\_\_\_

**Agreed documents (including expert evidence, if applicable)**

The parties hereby agree that the following documents shall be admitted into the court record to stand as evidence of their contents without the maker(s) of the document(s) being called to give evidence, in accordance with section 31CA (1)(a) of the *Evidence Act*:

- a) \_\_\_\_\_
- b) \_\_\_\_\_
- c) \_\_\_\_\_
- d) \_\_\_\_\_

**7. ESTIMATED TIME FOR TRIAL AND WITNESSES TO BE CALLED**

*To be completed by the prosecutor*

The prosecution estimates that \_\_\_\_ days; or \_\_\_\_ hours will be required to call its evidence. The prosecution intends to call \_\_\_\_ witnesses, as follows (*list full names of witnesses*):

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |

- Are subpoenas required:  Yes  No
- Are any witnesses outside the jurisdiction:  Yes  No

*To be completed by the defence*

The defence estimates that \_\_\_\_ days; or \_\_\_\_ hours will be required to call its evidence, including the cross-examination of prosecution witnesses.

The defence intends to call \_\_\_\_ witnesses.

- Are subpoenas required:  Yes  No
- Are any witnesses outside the jurisdiction:  Yes  No

**8. EXPERT EVIDENCE**

*To be completed by the prosecutor*

- The prosecution does not intend to call expert evidence.
- The prosecution intends to call the following expert evidence (*list name of expert(s) and nature of expertise*):

\_\_\_\_\_

SCHEDULE, *contd.*

- 
- 
- The expert report has been served on the defence.
  - The expert report has been requested and will be served on the defence within the following time frame:
  - The prosecution proposes to tender an edited expert report, which  has been served on the defence; or  will be served on the defence within the following time frame:

*To be completed by the defence*

- The defence does not intend to call expert evidence.
  - The defence intends to call the following expert evidence (*list name of expert(s) and nature of expertise*):
- 

- 
- 
- The expert report has been served on the prosecution.
  - The expert report  has been requested; or  will be requested, and will be served on the prosecution within the following time frame:

**9. APPLICATIONS**

*To be completed by the prosecutor*

- The prosecution intends to make the following application(s) which may affect the timing, conduct or duration of the trial:

Time frame for making the application(s):

*To be completed by the defence*

- The defence intends to make the following application(s) which may affect the timing, conduct or duration of the trial:

Time frame for making the application(s):

**10. SPECIAL MEASURES**

*To be completed by the Court, if applicable.*

The following special measures are required for trial and are hereby ordered by the Court:

- Interpreter for (*indicate the applicable language and name of affected person(s)*):
  - Use of video-link for (*indicate the evidence that will be heard by video-link*):
  - Special accommodation for (*indicate nature of accommodation and name of affected person(s)*):
  - Other (*please specify*):
-

SCHEDULE, *contd.*

**11. SIGNATURE OF THE PARTIES**

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Printed Name & Signature of Accused

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Printed Name & Signature of Defence Counsel

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Printed Name & Signature of Prosecutor

Dated this 30th day of May, 2020.

BRYAN SYKES, OJ, CD  
Chief Justice of Jamaica.