

Criminal mid-level case management: Trial assessment

This assessment will assist LAO's Case Manager in setting a budget that will provide counsel with the resources required to deliver a high-quality and cost-effective defence.

LAO will ensure:

1. Decisions on eligibility for case management and initial case management discussions occur early in the proceedings and in a timely way - within 21 days of submitting a case management assessment form
2. Requests for budget amendments made prior to incurring costs are fairly considered and exceptional factors outside of counsel's control inform decision-making on budget increases
3. Accounts submitted within budget and which comply with LAO's billing rules (eg. not late billed, no private retainer) will be paid within 21-25 days

Section 1: General information

Client information

Client name:

Certificate #:

Charges subject to this budget:

Date of the offence:

Level of trial court and location
or court, including city/town,
where this matter is proceeding:

Does this case involve any of these considerations?

- | | | | |
|---|-----|----|---------|
| • Does your client have any mental health issues? | Yes | No | Unknown |
| • Does your client have immigration issues? | Yes | No | Unknown |
| • Does your client require the use on an interpreter? | Yes | No | Unknown |
| • Does your client's case have broader public interest aspects? | Yes | No | Unknown |

If yes to any of the above, please provide details:

Does your client have a criminal record? Yes No

If yes, please provide details

What are the dates set for
pre-trial motions?

Total number of court days:

What are the dates set for trial?

Total number of court days:

When were the trial dates
set?

Is this a retrial? Yes No

If yes, please provide a copy of any relevant judgements.

Counsel information

Name:

Solicitor #:

Tier level:

Contact:

Address:

Unit #:

Town/City:

Province:

Postal code:

Phone:

Email:

Did you represent the client at the preliminary hearing? Yes No

If yes, please provide us with the reasons for committal if available:

If not, who was counsel at the preliminary hearing?

Why is there a different counsel at trial?

Was there a private retainer? Yes No

If yes, for what amount \$:

If yes, for what services?

Co-accused information

Are there any co-accused? Yes No

If yes, enter the name(s) of co-accused and lawyer(s):

Adverse interest? Yes No

Has counsel or counsel's firm ever represented any of the co-accused or potential Crown / Defence witnesses?	Yes	No
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Is yes, is this an issue?	Yes	No
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Have all appropriate parties consented to ongoing representation?	Yes	No
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Name(s) of assigned Crown attorney(s):

Project name (if any):

Status of proceeding

Has a judicial pre-trial or focus hearing been held?	Yes	No
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Have dates for pre-trial motions been set by the court?	Yes	No
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If yes, what are the dates?

Have dates for the trial been set?	Yes	No
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If yes, what are the dates?

Section 2: Judicial interim releases

Date of arrest or apprehension:

Date of incarceration in respect to offences alleged:

Has the accused been released from custody in respect to the offence(s) alleged in the information/indictment?	Yes	No
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If yes, what are the terms of release?

Is the accused detained in respect of any other matters?	Yes	No
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If yes, please provide details:

Section 3: Case details

Please provide the following:

- Judicial pre-trial conference reports (filed by both Crown and Defence)
- Crown synopsis
- Reasons for committal (if available)

Please provide clear, informative, and concise details of the allegations of the charge(s) against your client and include the following:

1. The theory of the crown and the evidence in support of this theory:

2. The theory of the defence and the evidence in support of this theory:

3. Any other relevant details:

4. Is fitness an issue? Yes No

If yes, please provide details:

5. Is defence or crown alleging that the client was Not Criminally Responsible? Yes No

If yes, please provide details:

Section 4: Procedural information

Preliminary hearing

Length of preliminary hearing (in court days):

Was the hearing of any or all evidence at the preliminary hearing waived pursuant to subsection 549(1)?	Yes	No
Was the accused ordered to stand trial for the offences charged in the information?	Yes	No
Was the accused ordered to stand trial for additional or other indictable offences in relation to the same transaction?	Yes	No
Was the accused discharged of any offences on the information?	Yes	No
Is the transcript of the preliminary hearing available?	Yes	No
Is the Crown who is conducting the trial also conducting the preliminary inquiry?	Yes	No

Disclosure

Please provide concise details of the volume and type of disclosure materials received to date:

Audio recordings

- Length of recordings (hours/minutes):
- Transcribed? Yes No

Video recordings

- Number of recordings (tapes, DVDs, files):
- Length of recordings (hours/minutes):
- File size of recordings (MB / GB)
- Transcribed? Yes No

Crown expert reports

- Number of expert reports:

- Please provide some detail with respect to the findings of the reports

Hard copy pages

- Number of hard copy pages:

Other (please provide details)

Is further disclosure required?	Yes	No
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If yes, please specify:

Has it been requested?	Yes	No
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Have there been any challenges with disclosure? Yes No

If yes, please provide details (select all that apply):

Searchability

Availability

Transcription

Other

If other, please specify:

If there are any legal challenges with disclosure, please specify, including any application/motion that will be brought:

Evidence to be called

How many witnesses are expected to be called?

Please provide a brief summary of the witnesses (if possible):

Resolution

Has the Crown offered a formal or written offer of resolution? Yes No

If yes, what were the terms?

What are the prospects for success at trial?

Is it likely that the Crown will bring a dangerous/long-term offender application if convicted?

Yes

No

What are the likely consequences of a conviction after a trial?

Mode of trial

Has the accused elected trial:

Judge alone

Judge and jury

Is a re-election for trial:

Likely

Unlikely

Are you **initiating** a pre-trial motion? Yes No

An application to fund motions must satisfy LAO that the motion is a justifiable expenditure of public funds. LAO must consider both the individual application and the funding available for case management.

Please address the following below:

- Please list the type of motions and their effects:
- What effect would the motion have on the overall length and cost of the proceedings?
- What are the Crown pre-trial motions? Provide the defence position with respect to the Crown motion(s).

Are you **responding** to a pre-trial motion? Yes No

What is the nature of the pre-trial motion?

Evidentiary: Charter / Common Law motions

S. 8: Charter / Dawson application

S. 8: Unreasonable search and seizure of evidence found on defendant, vehicle, or premises

S. 9: Arbitrary arrest, detention

S. 10(b): Right to counsel / caution given re: accused's statement

Voluntariness of accused's statements

Other (please specify)

Procedural motions

Constitutional or other challenges to legislation (ss. 7, 11, 12 - sentencing provisions, changes to CCC which alter case to meet or change onus)

Corbett application to exclude criminal record of accused

Responding to Crown application:

Prior similar acts or misconduct of accused

Khan Application to admit otherwise inadmissible unsworn evidence of witness

S. 11(b): Seeking stay of proceedings based on delay

Other (please specify)

Does the motion have a reasonable prospect of success?

Yes

No

If yes, why?

How does the motion materially advance the client's defence?

Tariff authorizations

Please ensure you have request all available Tariff Authorization (e.g.: bail review, *Gladue*). Case Management Authorization hourly can be added to your certificate only when your Tariff Authorizations are insufficient to complete the matter.

Total tariff hours:

Case Management (CM) authorizations

Please indicate the Case Management block of hours you require to complete the motion.

Motion	CM authorization hours
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Total CM hours requested:

Section 6: Trial prep

Tariff authorizations

Please ensure you have request all available Tariff Authorization (e.g.: bail review, *Gladue*). Case Management Authorization hourly can be added to your certificate only when your Tariff Authorizations are insufficient to complete the matter.

Total tariff hours:

Case Management authorization

Please identify for what purpose you require the Case Management Authorization as well as the number of hours requested.

Purpose	CM authorization hours
Review of disclosure	
Witness prep	
Prep of client	
Closing arguments	
Written submissions	
Cross examination	

Total Case Management hours:

Section 7: Other information and disbursements

Can a student, paralegal or junior associate perform any of the hearing preparation?

Yes

No

If yes, please provide details:

Expert witness(es)

Estimated cost of expert witness(es) in accordance with the Tariff and Billing handbook? \$

Name of expert, specialization and qualifications:

Reason expert required?

Client's defence

Sentencing - Client has been found guilty OR has pled guilty

Facts leading to the client's arrest (synopsis):

The theory of defence and how the expert's services will support the defence:

Services to be provided by the expert:

Estimate of cost including the number of hours and hourly rate:

Note: Specific authorization is required in all cases for expert to attend court and give evidence.

Other expert expenses (court attendance, travel/mileage, hotel, airfare, etc.). Please provide details and estimated cost:

Travel and mileage

Estimated costs of travel and mileage (i.e.: cost of summons to witness and witness travel) \$

Note: Travel for solicitor will not be granted unless specifically authorized in advance.

Other costs (please specify):

Total estimated costs of disbursements:

Billing requirements

Before submitting an account, please familiarize yourself with our revised Tariff and Billing Handbook and the Disbursements Handbook which is located in the Information for Lawyers section of the Legal Aid Ontario website.

Entering your Account Online

As of October 2009, it is mandatory for you to submit your account in electronic format through our Online billing system, attach your dockets and disbursement invoices. Should you have any questions regarding the appropriate way to enter your account online, please do not hesitate to contact our Lawyer Service Centre at Telephone: (416) 979-9934 Toll free: 1-866-979-9934. The Lawyer Service Centre Staff are here to assist you in entering your online accounts accurately.

Accurate Court Time

A budget on a Mid-Level Case authorizes preparation hours in addition to the tariff. Generally the tariff also allocates some hours of preparation for every day in court. Court time/attendance time means time spent in court on contested proceeding/trial. Please see the Tariff and Billing Handbook to determine what appearances are considered court time. At a minimum, we would ask you to provide, in your dockets, the proceeding, the level of Court, the address of the Court, the Courtroom Number, and the name of the Judge before whom the matter is heard. It is helpful to provide a description of the evidence heard or the legal argument made on the Court day. We also ask you to summarize the total preparation hours and the total court hours at the end of the detailed account.

Detailed Preparation Time

With respect to preparation time, we would ask you to provide us with a description of work billed. Simply indicating that your hours were used for "Preparation" or "Research" is not adequate. Your dockets must contain sufficient detail to allow LAO to ascertain what work was done on the date docketed. Detailed dockets are necessary for fiscal accountability and statistical purposes, to allow comparison between work done on case managed files and files where counsel is requesting discretion. This information assists in future budget setting.

Random Audit

Case managed accounts submitted within budget will be matched by the system and paid within 25 days provided none of the billing rules are breached. These accounts maybe subject to random or targeted audit by LAO's Audit and Compliance Group. LAO may request court information or other means of verification from the lawyer.

Terms and conditions for counsel

LAO requests that counsel agree to the following terms:

1. To complete and submit all case management assessment forms and supporting materials in a timely manner.
2. To request a budget in accordance with the standard of a reasonable client of modest means.
3. To provide the Case Manager with a comprehensive assessment that sets out the relevant facts and legal issues of the trial and a budget.
4. To manage the authorized budget efficiently and effectively, including the allocation(s) of the budget to retained associates and/or agents.
5. To use LAO LAW services and general memoranda whenever possible.
6. To make reasonable efforts to ensure the following:
 - a. All foreseeable conflicts of interest that could result in an order removing counsel as a solicitor of record are avoided (e.g.: representation of co-accused or a crown/defence witness)
 - b. Information is provided to the Case Manager in a timely manner of any new or unanticipated issues and events that will likely result in the case costing more than the allocated budget.
 - c. Information is provided to the Case Manager in a timely way of any anticipated requests for a change of solicitor by the client or any application by counsel to be removed as solicitor of record
 - d. A meaningful and usable work product is transferred to counsel in the event of an approved change of solicitor application.
7. To submit accounts in compliance with LAO's Tariff & Billing Handbook and Disbursements Handbook.

I have read and agree to abide by the Terms and Conditions.

I agree that I will not bill LAO for any removal application for conflict brought by the crown or the court or counsel for another co-accused as a result of my previous representation of a co-accused. I agree that I will indemnify LAO for the cost of my trial (or preliminary inquire) preparation time should I be removed from the record for conflict as a result of my previous representation of a co-accused.

A breach of any of these terms and conditions may result in the non payment of an account, or delay in payments of an account.

Submitting the form

Please submit the completed Case Management Assessment Form to Legal Aid Ontario using any of the following options:

- Attach the completed form online by using *Legal Aid Online*.
- Fax the completed form to 1-877-750-2009 (toll free outside the GTA) or 647-260-0550 (within the GTA)

For support regarding these options, contact the Lawyer Service Centre at 416-979-9934 or toll free 1-866-979-9934.

I certify that the information included in this form is complete, true, and accurate

Name:

Date:

Signature:

Please submit the completed form through *Legal Aid Online* using electronic document submission or LAOfax process.

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Personal information contained on this form is collected under the authority of the *Legal Aid Services Act, 2020* and will be used for the purpose of delivering legal aid services under the *Legal Aid Services Act*.

Questions about this collection should be directed to the Privacy and Access to Information Officer at fippa@lao.on.ca or 1-800-668-8258.



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