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CLD MEMORANDUM RESPECTING ALL CHIEFS MEMO

TO: Kenneth Weatherill
Assistant Deputy Minister
Public Safety Division
Ministry of the Solicitor General

FROM: Randy Schwartz
Assistant Deputy Attorney General
Criminal Law Division
Ministry of the Attorney General

DATE: August 30, 2023

SUBJECT: **All Chiefs Memo: Ministry of the Attorney General's Intensive
Serious Violent Crime Bail Teams**

Further to the government's [April 27, 2023 announcement](#) regarding a \$112 million investment to strengthen the province's bail system and ensure that high-risk and repeat violent offenders comply with their bail conditions, we are writing to provide details of the Criminal Law Division's Intensive Serious Violent Crime Bail Teams.

Intensive Serious Violent Crime Bail Teams

The Criminal Law Division (CLD) is creating regional Intensive Serious Violent Crime Bail Teams (ISVCBTs). The teams will be an expansion of the existing Intensive Firearms Bail Support Teams currently in operation in three jurisdictions, and will provide province-wide coverage, as needed. The teams will be comprised of designated Assistant Crown Attorneys (ACA) and Case Management Coordinators (CMC). They will be in operation by the end of September 2023.

The ISVCBTs will ensure that there are dedicated Crowns and business professionals across the province with the necessary expertise to work with police services and bail compliance units to prepare the best case possible in bail matters involving serious and violent crimes including firearm offences and serious repeat offenders.

The ISVCBTs will have the resources to:

- Present the best case possible in matters involving serious and violent crimes including firearm offences and serious offenders, and conduct bails hearings by dedicated Crowns in a timely manner.
- Flag high risk accused persons and ensure that all relevant materials are accessible for future use by Crowns province-wide so that individuals are dealt with appropriately at the bail stage, regardless of location.
- Launch bail review hearings if the court orders the release of an accused person who the Crown believes poses a substantial risk to public safety.
- Consider initiating bail estreat proceedings if an accused person fails to appear in court or breaching their bail conditions in the context of a serious violent offence.
- Follow up with bail compliance units to ensure there have been no unreported breaches and that high-risk accused persons are complying with their bail conditions.
- Identify and rectify any deficiencies in the case to reduce delays and enhance the prospect of a successful prosecution after the bail stage concludes.

Definition of “Serious Violent Crime” for Purposes of ISVCBTs

An alleged **Serious Violent Crime Offender** is an accused person who is alleged to have committed a serious violent crime as defined below.

An alleged **Serious Violent Crime Repeat Offender** is an accused person who is alleged to have committed a serious violent crime while on release for a serious violent crime.

A **serious violent crime** is defined by alleged offence type and depends on a contextual assessment of the factors listed below. A serious violent crime may include (but is not limited to): major assault (assault with a weapon, assault causing bodily harm, attempt murder, aggravated assault), robbery, sexual offences (sexual assault and sexual offences against children), human trafficking, firearms, and dangerous / impaired driving causing death. Other offences and/or accused persons may qualify based on an assessment of the factors listed below.

Factors to Consider

When determining whether an alleged offence is a serious violent crime, the Prosecutor should consider this non-exhaustive list of factors:

1. The accused person’s criminal record.
2. The nature and circumstances of the alleged offence.
3. Whether a weapon was used or threatened to be used.
4. Whether the victim has sustained a serious injury.
5. Whether the offence relates to a criminal organization.

6. Whether the offence was allegedly motivated by bias, prejudice, or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or gender identity or expression or on any other similar factor accompanied by violence or threat of violence.
7. Whether the offence involves firearms, loaded and unloaded, which includes:
 - Use Offences involving firearms
 - Any breaches of prior firearms bails
 - On a case-by-case basis, individuals who have been convicted of firearms related offences within the past five years.
8. Whether the accused person has previously been flagged as a high-risk offender by the police or by the Crown.
9. Whether the accused person has previously been designated as a long term or dangerous offender.
10. Whether the accused person is bound by an order pursuant to sections 810.1 and 810.2 of the *Criminal Code*.
11. After consultation with the Crown Attorney or designate, the case, because of its complexity (number of victims, co-accused, impact on the community, etc.) is determined to be suitable for a serious violent crime bail hearing.
12. Whether the accused person is alleged to have committed a subsequent offence (serious or not) after they have been released after a contested serious violent crime bail hearing.

In addition to the definition and factors identified above, please note that ISVCBT carriage of cases will be subject to its capacity to prepare for and conduct the bail hearing in a timely manner.

Notification Protocol

The following provides an overview of the practices and procedures for notifying bail matters that will flow through the ISVCBT:

1. Notification to Designated Crown of new case that may meet criteria for “serious violent crime”

- a. As soon as possible after an arrest, the police must notify, by email, the designated Crown (ISVCBT Crown, Bail Vettor or Bail Crown in jurisdictions without a Bail Vettor) of new eligible case.
- b. This notification must designate a police officer (“designated officer”), including contact information, who will be available to assist the ISVCBT in its preparation of the Enhanced Bail Package. The designated officer must have knowledge of the case, access to the evidence and be available during daytime hours.
- c. The designated Crown (ISVCBT Crown, Bail Vettor or Bail Crown in jurisdictions without a Bail Vettor) will assess the new case based on ISVCBT “serious violent crime” criteria (defined above).

2. Determination of whether ISVCBT will handle case

- a. ISVCBT will handle cases where the “serious violent crime criteria” are clearly met
- b. Where it is unclear whether a new case meets criteria, the decision regarding ISVCBT involvement will be made in consultation with the local Crown Attorney or designate.
- c. ISVCBT carriage of cases will be subject to its availability to prepare for and conduct the bail hearing in a timely manner.

3. Preparation of the Enhanced Bail Package

- a. The collection of materials for inclusion in an Enhanced Bail Package (EBP), defined below, should commence as soon as possible (upon arrest, or in advance of arrest in the case of a warrant in the first); this *must not* wait until defence advises that bail will be sought.
- b. The designated officer should work with the designated Crown to prepare the EBP to ensure they have the evidence required to make the best case possible when addressing bail for repeat offenders involved with serious violent crimes.

4. Material related to proposed release plan

- a. The designated Crown will require criminal records and background information (police occurrence reports and other information, as relevant) related to proposed sureties.
- b. This will often be required on short notice, as the details of the release plan are often not identified until shortly before the bail hearing.

The Enhanced Bail Package

An Enhanced Bail Package (EBP) is a concise, focused compilation of relevant materials provided to the court as the Crown’s evidentiary record for use on a bail hearing. It is a persuasive representation of the Crown’s case, demonstrating the strength of the case against the accused person and accused-specific information that is relevant to the grounds of detention set out in s.515(10)(c) of the *Criminal Code*.

The EBP is compiled by the Crown, using materials stored in CLD’s electronic filing system (SCOPE), and materials provided by the police.

At a minimum, the designated officer should provide the following materials for inclusion in the EBP:

- A detailed synopsis of the allegations
- The accused person’s criminal record
- A Domestic Violence Risk Management Report (DVRM), where applicable
- Evidence related to:

- The nature and circumstances of the offence
- The strength of the prosecution's case, including how the accused person was identified
- Risk that the accused person will flee
- Risk that the accused person will re-offend or interfere with the administration of justice

The designated officer is responsible for providing the Crown with (or assisting in the preparation of) any additional material requested for inclusion in the Enhanced Bail Package. Commonly requested items include:

- Statements:
 - Excerpts of police notes/statements (highlighted), where inclusion meaningfully adds to the information already provided
 - Excerpts of civilian statements (highlighted), where inclusion meaningfully adds to the information already provided
 - Summary of accused statements, if relevant
- Release order(s) in force at the time of the offence
- Other court orders in force at the time of the offence (probation, conditional sentence, and long-term supervision orders; weapons prohibition orders; offence-specific prohibition orders, for example related to crimes against children (section 161), driving offences (section 320.24), and fraud (section 380.2); and preventive orders (peace bonds and special peace bonds) under sections 810, 810.01, 810.011, 810.02, 810.1, and 810.2.
- Communications (emails, text messages)
- Photographs
- Videos
- Forensic Reports
- Statistical or expert information regarding prevalence of the offence and/or the harm caused by the offence. Common examples include police statistics, government reports, and public health reports.
- Timelines, diagrams, tables or lists summarizing complex or voluminous information

Police officers are encouraged to check with the designated Crown to determine whether an EBP was previously produced and available for the accused person – this will streamline the materials required.

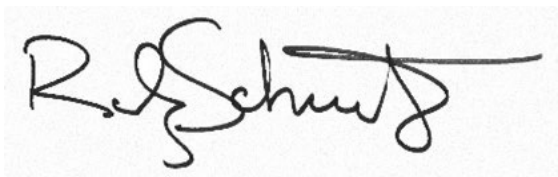
Team Members and Contact Information

The ISVCBTs will provide province-wide coverage, as needed. For further information, please direct any questions to the designated Crown and/or CMC in your jurisdiction, as outlined in the *Appendix*.

For further information about the ISVCBTs, please reach out to your local Crown Attorney or the leads identified in the appendix.

We look forward to working with our policing partners to improve public safety and confidence in the administration of justice.

Sincerely,

A handwritten signature in black ink, reading "R. Schwartz", with a long horizontal flourish extending to the right.

Randy Schwartz
Assistant Deputy Attorney General
Criminal Law Division
Ministry of the Attorney General

incl. Appendix: Intensive Serious Violent Crime Bail Teams – Members and Contact Information

Appendix:
Intensive Serious Violent Crime Bail Teams – Members and Contact Information
(as of September 1, 2023)

NORTH Region	Crown / Backfill	Business Professional
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