



**Manitoba
Department of Justice
Prosecutions**

Guideline No. 2:BAI:1

Policy Directive

Subject: Judicial Interim Release (Bail)

Date: February 2024

POLICY STATEMENT:

In certain cases, it is not only appropriate, but necessary for Crown attorneys to take a more stringent approach to bail. For example, Crown attorneys must have particular regard for the safety of the public, including victims and witnesses, in the following circumstances:

- The accused person is charged with an offence of violence against an intimate partner (s. 515(3)(a) CC);
 - The accused person is charged with an offence against a child or vulnerable adult;
 - The accused person is charged with a sexual or cyber exploitation offence;
 - The accused person is charged with a serious violent crime causing bodily harm or death;
- or
- The accused person is designated as a High Risk or Nationally Flagged Offender

The safety of the public is always a matter of concern especially in relation to serious violent offenders, particularly repeat violent offenders. For the purpose of this policy, a repeat violent offender includes anyone with one or more recent convictions for an offence against the person (under Part VIII of the *Criminal Code*) or an offence involving a weapon (as defined in section 2 of the *Criminal Code*). When a repeat violent offender is charged with an offence against the person or an offence involving a weapon, Crown attorneys must consider seeking their detention unless satisfied, having regard to all the circumstances, that the risk to public safety posed by the accused's release can be reduced to an acceptable level by bail conditions.

In considering the risk to public safety, Crown Attorneys should consider all factors that speak to risk and the need for continued detention, including:

- Whether, at the time of arrest, the accused had one or more outstanding criminal charges alleging an offence against a person or an offence involving a weapon;
- Whether, in committing the alleged offence, the accused allegedly breached a condition of a recognizance under section 810, 810.1, or 810.2 of the *Criminal Code*;

- Whether, in committing the alleged offence, the accused allegedly breached a weapons prohibition imposed under sections 109 -111 or section 515(4.1) of the *Criminal Code*.
- Whether the offence alleged involves the use of a firearm; (s. 515(6)(vii-viii) & 515(10)(c)(iii-iv) *CC*);
- Whether the accused has a history of convictions for breaching court orders or failing to attend court;
- Whether the accused has a history of convictions relating to violence, weapons or endangering the public;
- Whether the reverse onus provisions as set out in section 515(6) and 522(2) of the *Criminal Code* apply; and
- Whether the offence involves serious bodily harm or death.

Crown Attorneys are directed to consider the interests of the community when taking positions on bail, including whether the circumstances or gravity of the offence alleged are such that community confidence would be undermined by release. If received, community input should be considered in assessing whether release would undermine public confidence in the justice system.

RATIONALE:

Serious violent crime is a matter of deep public concern due to its devastating effects on individuals and the community at large. Public safety is the paramount consideration when considering bail for serious violent crime, especially for repeat violent offenders.