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1. Evidence on Breach of Conditional Sentence: S.C.C.

The court in [R. v. McIvor](#), 2008 SCC 11 considered whether a failure to provide signed statements of witnesses pursuant to [Criminal Code s. 742.6\(4\)](#) for a hearing to establish a breach of a conditional sentence rendered the evidence submitted by the crown inadmissible. The court upheld the appellate level decision which found that there was no evidence before the court of a breach of the conditional sentence order. The unanimous court stated that:

In my view, Parliament sought to achieve a proper balance between the need for an efficient process and the requirements of procedural fairness. By allowing the prosecution to present all of its evidence in documentary form, it is not necessary to routinely marshal witnesses before the court in every case. The hearing may proceed in a simpler and more expedited fashion. On the other hand, the requirement that signed statements of witnesses be included assures a minimum level of reliability. Personal authentication of the material facts alleged to constitute a breach is important. It is one thing to have the actual witnesses attesting to the material facts by apposing their signature, and quite another for a police officer to repeat information received from witnesses, or a supervisor to relate it third hand.

...In light of my conclusion on the requirements of s. 742.6(4), it is not necessary to decide whether the typewritten name of the police officer constitutes a signature within the meaning of that provision. I would simply note that, whenever the issue arises, the question should be determined contextually, having particular regard to the importance of personal authentication and, in a flexible manner, allowing for ever-changing technological tools.

2. Tackling Violent Crime Act: In Force

By [order of the Governor in Council](#), the provisions of the [Tackling Violent Crime Act](#), S.C. 2008, c. 6 (Bill C-2) will be in force as follows:

- ss.1-17, 28-38, 54, 57-58 - in force May 1, 2008;
- ss.18-27, 39-53, 55-56, 59-60 - in force July 2, 2008.

3. No Credit for Strict Bail Conditions: C.A.

The accused in [R. v. Irvine](#), 2008 MBCA 34 sought credit on sentencing for "pre-trial strict terms" of bail. At sentencing, the court ordered a sentence of 30 months in custody less a credit of 9 months for the period of judicial interim release, and then found that this qualified the accused to serve a conditional sentence. The crown appealed and the court substituted a sentence of 30 months, finding that:

As we have seen, there are no hard and fast rules when determining the consideration to be given for pre-trial bail. There is no magic formula...This is because the imposition of pre-trial bail conditions is simply another potential mitigating factor that should be considered when determining the appropriate sentence...The impact of the bail conditions on an accused person are to be "put into the mix" along with other potential mitigating factors such as the relative youth of the accused, the lack of a record, prospects for rehabilitation, remorse, family responsibilities and the like. Unlike the "credit" to be given - after the fit and appropriate sentence has been determined - for time spent in pre-trial custody, any consideration to be given for pre-trial bail occurs at the same time as the sentencing judge considers all of the other mitigating and aggravating factors. Time spent on pre-trial bail, in contrast to pre-trial custody, does not form part of the punishment itself; rather, it forms part of the initial analysis to arrive at the fit and appropriate sentence.

4. Protocols for Pretrial Criminal Court Procedure

As of February 4, 2008, all pre-trial criminal procedures in Provincial Court are now subject to the "front-end" guidelines that were initially introduced for domestic violence matters. Complete details of the protocol from the [Manitoba Courts website](#) can be found in the following documents:

- [Protocol with Appendices - February 2008](#)
- [Courtroom Designations - February 2008](#)

5. Conference on Criminal Justice Post-Gladue

The [National Conference on Aboriginal Criminal Justice Post-Gladue](#) will be held on Saturday, April 19, 2008 at the Osgoode Professional Development Centre in Toronto. A multi-disciplinary faculty from across Canada will discuss the current challenges and ways to improve the criminal justice system as it affects Aboriginal people who come before the courts. For further information on the faculty and program agenda and to register, visit the Osgoode Professional Development Centre [website](#).

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