

## APPENDIX A

### Options for Release

Bill C-75 enables all peace officers to release an accused on one of three forms of release:

- a summons (s. 498) [Form 6]
- an appearance notice (ss. 496, 497, 498, 499, 500) [Form 9]
- an undertaking, which can include conditions, an accused's promise to pay or a cash deposit (if the accused is not ordinarily resident) (ss. 498, 499, 501) [Form 10].

The "promise to appear" has been eliminated.

### Release by Peace Officer

Authority comes from sections 498, 499 & 503 of the *Criminal Code*

#### **s. 498 – Arrest without a warrant**

- Shall release on an offence (other than s. 469 offences) **and** has not been taken before a justice or release from custody under any other provision

#### **s. 499 – Arrest with a Warrant**

- May not release if warrant unendorsed
- May or may not release even if warrant endorsed for release
- If release may:
  - Issue an appearance notice (contents found in s. 500(1)/Form 9); or
  - An undertaking to the peace officer (contents and conditions found in s. 501(1)-(3)/Form 10)

#### **s. 503 – Most other offences**

- Shall detain and bring to a justice **unless decision made to release** on:
  - Issues an appearance notice (contents found in s. 500(1)/Form 9), or
  - An undertaking to the peace officer (contents and conditions found in s. 501(1)-(3)/Form 10)

### Contents of appearance notice (s.500(1))

An appearance notice shall:

- set out the name, date of birth and contact information of the accused
- set out the substance of the offence that the accused is alleged to have committed
- require the accused to attend court at a time and place to be stated in the notice and to attend afterwards as required by the court; and,
- indicate if the accused is required to appear at a judicial referral hearing under section 523.1 for a failure under section 496.

### **Contents and conditions of undertaking (s.501)**

An undertaking under paragraph 498(1)(c), 499(b) or 503(1.1)(b) must set out:

- the name, date of birth and contact information of the accused
  - the substance of the offence that the accused is alleged to have committed; and,
  - a summary of subsections 145(4) and (6), sections 512 and 512.2 and subsection 524(4).
- **Mandatory conditions** (s. 501(2)):
    - Attend court at time and place stated
    - Attend court thereafter as required by the court
  - **Additional conditions** (s.501(3)) can only be imposed if:

- *Reasonable* in the circumstances of the offence

#### **AND**

- *Necessary* to:
  - Ensure the accused's attendance in court
  - OR
  - The safety and security of any victim of or witness to the offence
  - OR
  - To prevent the continuation or repetition of the offence or the commission of another offence
- Available conditions include:
  - Report at specified times to peace officer or other specified person
  - Reman with a specified territorial jurisdiction
  - Notify the peace officer or other specified person of any change in address, employment or occupation
  - Abstain from communicating, directly or indirectly, with any victim, witness or other person identified in the undertaking, except in accordance with any specified conditions
  - Abstain from going to any specified place or entering into any geographic area related to any person referred to in non-communication order, except in accordance with any specified conditions
  - Deposit all their passports with the peace officer
  - Reside at specified address, be at that address at specified hours and present themselves at the entrance of that residence to a PO/specified person, at the officer's or specified person's request during those hours
  - Abstain from possessing firearm, crossbow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance and surrender those in their

possession to peace officer/specified person, including authorization/license

- Promise to pay an amount specified in the undertaking, which shall not be more than \$500, if they fail to comply with any condition of the undertaking
- Deposit, with the peace officer specified in the undertaking, money or other valuable security whose value does not exceed \$500 if, at the time of giving the undertaking, the accused is not ordinarily resident in the province or does not ordinarily reside within 200 kilometres of the place in which they are in custody
- Comply with any other specified condition for ensuring the safety and security of any victim of or witness to the offence.