

## CONCEPTS OF “COMPELLING” VERSUS “CHARGING”

You must differentiate the concepts of *compelling* and *charging* in order to understand release provisions. To **charge** is to make a formal allegation by laying an Information. To **compel** an accused person is to force him or her to appear in court to answer the charge by issuing a document such as a “promise to appear,” a “summons,” or an “appearance notice.” In other words, to make someone appear in court you need both an Information that lays a formal allegation and a compelling document, in that order. The Information does not force the court appearance and the “appearance notice/promise to appear” does not charge the person. The two documents have separate functions, but they work in tandem.

## THE TRI-LEVEL RELEASE MODEL

Making an arrest simultaneously ends one decision-making process and starts another. Applying arrest and detention laws represents the first decision-making process, which culminates in the taking of custody. At this point, an incredibly complex statutory scheme is set in motion to decide whether custody may lawfully continue or whether the person in custody must be released.

The three post-custody detention laws are concerned with bail, release provisions, and judicial interim release. These laws consist of three levels of decisions that form a tri-level release model (TRM), which begins to apply at the time of arrest or custody and continues until a lawful conclusion is reached about releasing or continuing detention. Figure 11.1 is designed to simplify the complexities of TRM.

Although the powers of arrest and investigative detention laws are generally considered to be the ones most relevant to front-line policing, the laws governing post-custody release have a similar significance. Courts consider the unlawful denial of freedom, at any time during an investigation, to be the most serious Charter

