



THE NUNAVUT COURT OF JUSTICE

PRACTICE DIRECTIVE #26

THE PRE-HEARING (FOCUSING) CONFERENCE

(Section 536.4 Criminal Code of Canada)

1. If counsel for an accused requests a preliminary inquiry, the requesting party shall prepare and file with the Court a STATEMENT IDENTIFYING ISSUES AND WITNESSES in Form 26A as required by section 536.3 of the Criminal Code. This shall be done prior to an appearance in docket to fix a date for a preliminary inquiry.
2. A self-represented accused requesting a preliminary inquiry does not have to complete a Form 26A.
3. Counsel for the accused or crown counsel may apply to the court for a pre-hearing conference to assist the parties in identifying the issues and or witnesses whose evidence is to be required for the preliminary inquiry, or to discuss any other matter that will promote a fair and expeditious hearing. The party requesting the focusing conference shall file an APPLICATION FOR A PRE-HEARING CONFERENCE in Form 26B with the Court.
4. If the party requesting the preliminary inquiry has not completed a Form 26A or Form 26D prior to the fix date appearance, and has not filed a Form 26B application requesting a pre-hearing conference, proceedings may be adjourned by the Court without fixing a date for a preliminary inquiry. The Court may alternatively fix a preliminary hearing date conditionally upon counsel completing the required form and set deadlines for the completion of certain events failing which, the date given will be cancelled.

5. A self-represented accused who elects to have a preliminary inquiry shall be directed to attend a pre-hearing conference on a date and time to be set by the Court and shall attend as so directed.
6. Upon receipt of an application in Form 26B, the Court may order that the parties attend a pre-hearing conference at a date and time to be determined by judicial support staff in consultation with the parties.
7. When all accused are represented by counsel, the pre-hearing conference will take place in chambers or by teleconference. If any of the accused are self represented, the pre-hearing conference shall take place in open court and the proceedings shall be recorded.
8. All admissions of fact or agreements made by the parties at a pre-hearing conference shall be endorsed on a Form 26C (AGREEMENT AND ADMISSIONS) which will then be signed by the parties or their representatives. Form 26C shall be filed with the Court and will form part of the record of proceedings at the preliminary inquiry.
9. The accused through counsel and the Crown may agree at any time to limit the scope of a preliminary inquiry to specific issues. Where the inquiry is to be limited by mutual agreement, this agreement shall be reduced to writing and recorded on a Form 26D. The Form 26D shall be filed with the Court and shall form part of the record of proceedings at the preliminary inquiry.

Issued this 21st day of December 2009 at the direction of the Judges of the Nunavut Court of Justice.

Mr. Justice R. Kilpatrick

Mr. Justice E. Johnson

Mr. Justice N. Sharkey