



THE NUNAVUT COURT OF JUSTICE

PRACTICE DIRECTIVE # 11

JP COURT / NCJ TRANSFERS

From time to time decisions must be made about whether to transfer files from Justice of the Peace (JP) Court to the Nunavut Court of Justice (NCJ). This directive has been prepared to assist with these decisions.

This directive applies to cases where there are court workers or lawyers who are comfortable assisting with JP Court or in circumstances where accused people are willing to deal with charges without the benefit of legal counsel. In the event the accused wishes to be represented by a court worker or a lawyer, then the matter should be adjourned to the NCJ or JP Court that could sit in the evening when the NCJ and the lawyers involved in that Court are in the community.

There are some cases that may be able to go to JP Court for guilty pleas, but because of complicated legal or evidentiary issues, trials should be set in the NCJ.

The following kinds of cases will generally be directed to the JP Court for their initial appearance:

1. Money crimes – summary conviction
2. Non-violent crimes – summary conviction
3. Property related crimes – summary conviction (including some s. 348)
4. Drinking & driving crimes – summary conviction
5. Drug charges – summary conviction (not trafficking or possession for purposes)
6. First offence spousal assault – summary conviction
7. First offense causing bodily harm – summary conviction

The above noted matters should, as a general rule, proceed to completion in JP Court. However, the prosecutor or defense counsel may feel it is necessary to request the JP transfer a matter to the NCJ. Counsel should then advise the JP of the reason for the transfer request. Such requests should be made only with good reason.

If the case involves Charter or other Constitutional issues, technical evidentiary matters, or perceived conflicts should it proceed in JP Court, there is good reason to transfer the case to the NCJ.

We should, however, be guided by common sense and good faith. In this regard, a few simple examples may be useful:

1. On an “80” milligram driving offense where the defense involves expert evidence or the admissibility of the breathalyzer certificate, or where upon a finding of guilt the Defendant is applying for a “curative discharge”, then such a case should be transferred.
2. On the other hand, where a driving offense only involves “proof of who was driving”, or where an assault trial involves the issue of self-defense and reasonable doubt as to whether an assault occurred, such cases should generally proceed to JP Court.

JPs have a good notion of what types of cases they are competent to handle. With everyone acting in good faith, we can deal with as many charges as possible in JP Court and avoid the need for more rigid or strict policies governing which cases are to be heard in what court.

This Practice Directive will replace the one that was originally issued on the 28th day of April, 2000.

Issued this 16th day of May, 2007 by direction of the judges of the Nunavut Court of Justice.

Justice B.A. Browne
Justice R.G. Kilpatrick
Justice E.D. Johnson

Updated November 18, 2008