



THE NUNAVUT COURT OF JUSTICE

PRACTICE DIRECTIVE #1

SHOW CAUSE HEARINGS IN THE COMMUNITIES

Explanatory Note: Removal of an accused citizen to a distant community for a bail hearing results in significant pre-hearing delay, and separates the citizen from possible sources of support within his or her community. The practice of consenting to a remand in order to trigger a show cause hearing in Iqaluit contributes to overcrowding in local remand facilities and unnecessary public expense in transporting in custody prisoners to and from their communities. Counsel may not wish to take instructions and conduct bail hearings by telephone. A preference for in person contact is not sufficient justification to insist that all bail hearings take place at a location where defence counsel is located.

Absent exceptional circumstances, show cause hearings will be completed in the community where a citizen accused of crime is first arrested. Without special leave of the Court, an in custody prisoner will not be removed from his/her community by the RCMP without a show cause hearing being held and a warrant of committal first being issued.

In the event a local justice of the peace cannot be made available for a show cause hearing in the originating community, arrangements must be made for a non-resident Justice of the Peace (preferably from the same region) to conduct the show cause hearing by telephone.

If there is no court worker or lawyer available to the accused in the originating community, the RCMP will facilitate the accused's contact with counsel by telephone for the purpose of preparing for the show cause hearing. Disclosure will be provided to the accused's counsel (electronically or otherwise) in sufficient time for the defence to adequately prepare for the hearing. If additional preparation time is required, a remand to police custody in the community for up to three days is available for this purpose under s.516 of the Criminal Code.

If the accused through counsel wishes to consent to a detention order (Form 8), such a consent must contemplate “detention” until dealt with according to law” and not otherwise. Absent exceptional circumstances, the practice of consenting to a detention order while “reserving the right to show cause” is to be discontinued in all circumstances involving removal from a community at public expense.

Court registry will endeavour to provide transcripts for bail reviews brought under s.520 or s.521 of the Criminal Code within 7 clear days of the transcript being ordered. In the event that a transcript cannot be made available within this time frame (and before the hearing date), the bail review will proceed before the Nunavut Court of Justice on the basis that it is a hearing de novo.

This Practice Directive replaces practice directive #1 issued 9th June 1999 and comes into effect on July 1st 2010.

Issued this 1st day of July, 2010 at the direction of the Judges of the Nunavut Court of Justice.

Mr. Justice R. Kilpatrick

Mr. Justice E. Johnson

Mr. Justice N. Sharkey

Madam Justice S. Cooper