



## **Practice Direction Victoria- South Vancouver Island District**

**Effective October 25, 2010**

### **Criminal Caseflow Management Rules (“CCFM”)**

#### **Reducing the Number of Appearances prior to an Arraignment Hearing**

The criminal process reform initiatives have been in operation in the Victoria courthouse since June 2007. Progress has been made in achieving the goals outlined in the Practice Directions of June 18, 2007 and December 1, 2009. The objectives of this direction are to:

- encourage counsel in meeting the Court’s expectations regarding timelines and in completing Arraignment hearings while eliminating unnecessary Court appearances
- support the Judicial Case Managers (“JCMs”) in monitoring Arraignment Hearings, including directing counsel to appear in JCM Court, or before a judge on a pre-trial conference, if necessary, and to
- support the Crown Counsel’s office in implementing file ownership for all files before an Arraignment Hearing.

Nothing in this Practice Direction limits or abrogates the authority of a Provincial Court Judge to deal with matters under the CCFM.

This Practice Direction applies to all criminal matters where the accused is not in custody and where an Arraignment Hearing has not been completed.

To the extent it is necessary to give effect to this Direction, the Practice Direction of June 2007 as it pertains to Arraignment Hearings, is rescinded and replaced with the following:

I make this Practice Direction under Rule 3 of the Criminal Caseflow Management Rules:

This Court is operating a criminal process reform initiative at the Victoria Courthouse that provides for an addition to the assignment of designated Judicial Case Managers (JCMs) to hear and deal with arraignment and trial confirmation hearings and for an Administrative Court to provide senior judicial oversight to those cases that are not proceeding in accordance with the timelines established for appearances prior to the date of trial. The key characteristics of this criminal process reform of which counsel should be aware are as follows:

### Arraignment and Trial Confirmation Hearings before JCMs:

1. For the purpose of this Practice Direction,
  - a) "Administrative Judge" means the Administrative Judge for the South Island District or another judge assigned by the Administrative Judge
  - b) "Timeline Date" means the date for completion of an Arraignment Hearing as set out in paragraph 10 of this Practice Direction
  - c) "Designated Timeline Date" means the date set in Administrative Court before which an Arraignment Hearing is to be completed.
  - d) All adjournment applications of Designated Timeline Dates must be heard in Administrative Court except for applications to extend the Designated Timeline Date to complete Alternative Measures which may be heard by a JCM.
2. Up to one week prior to the first appearance, if defence counsel is retained with respect to a matter, the assigned Crown counsel and defence counsel may, jointly and without an in-person appearance, file an application with the JCM's office for an adjournment to the Designated Timeline Date.
3. The JCM will provide each unrepresented accused with an information package to assist them in applying for legal aid and will encourage the accused to complete the application expeditiously so as to minimize the number of court appearances.
4. Defence counsel may appear as a friend of the Court until an accused's legal aid application process is completed at which time defence counsel will advise the Court that they are counsel of record or that the accused is unrepresented.
5. Once counsel of record is on a file the matter will be adjourned to a Designated Timeline Date unless the JCM is satisfied that further personal appearances by the accused in JCM Court are required to complete the Arraignment Hearing.
6. Once a matter is adjourned to the Designated Timeline Date counsel will, by the week prior to that date, complete the Arraignment Hearing and schedule the matter for a preliminary inquiry, trial or sentencing by:
  - a) application by email to the JCMs office
  - b) written application with a personal appearance by defence counsel at the JCMs office, or
  - c) scheduling an Arraignment Hearing in JCM Court after defence and Crown counsel are ready to proceed.
7. Counsel who are aware prior to the Designated Timeline Date that they will not be ready to proceed with the Arraignment Hearing before the Designated Timeline Date, may apply to the Administrative Judge for an extension.

8. For those matters where counsel indicate in their application for an Arraignment Hearing that two or more days are required for hearing, the JCM will schedule the matter for a pre-trial conference before a judge.
9. For those matters where counsel indicate in their application for an Arraignment Hearing that less than two days are required for hearing, the JCM may schedule the matter for a pre-trial conference before a judge or require defence and the assigned Crown counsel to appear in JCM Court for the Arraignment Hearing.

Timeline applicable to this Practice Direction:

10. The arraignment process must be completed within 60 days of the initial appearance for offences proceeding summarily and within 90 days for offences proceeding by indictment unless an application for an extension of this time period has been granted by the Administrative Judge.
11. When a warrant is executed following a failure to appear, the timeline to complete the process may be extended in the discretion of the JCM or the Administrative Judge.

## **The Court's Expectations of Counsel**

### **Arraignment Hearings**

#### Expectations of the Court:

1. It is expected that the Crown counsel office will maintain an ongoing schedule of the counsel assigned to each Designated Timeline Date in the JCM courtroom.
2. It is expected that counsel will only appear on a Designated Timeline Date in Administrative Court if:
  - Defence counsel has lost contact with the accused, or
  - There is an unanticipated delay due to exceptional circumstances, and counsel were unable to apply prior to the Designated Timeline Date for an extension.
3. It is expected that counsel will have fully canvassed admissions and trial estimates before completing the Arraignment Hearing.
4. An Arraignment Hearing is expected to be a single event before a JCM and is not expected to be adjourned for further preparation except in extraordinary circumstances.

Thomas Crabtree  
Chief Judge