

PRACTICE DIRECTION

Criminal Caseflow Management Rules

Procedure in Respect of Elections under Section 536(2) of the Criminal Code

May 31, 2004

The following Practice Direction is made pursuant to section 3 of the Criminal Caseflow Management Rules to address procedural changes arising from amendments to the preliminary inquiry provisions of the Criminal Code of Canada coming into force on June 1, 2004.

Effective June 1, 2004, all elections pursuant to section 536(2) of the **Criminal Code** must be taken at the arraignment hearing, and all procedures prescribed in sections 536(4) and 536.3 must be completed at the arraignment hearing. No trial or hearing date shall be set in a matter requiring an election if an election has not been recorded or if the procedures prescribed in sections 536(4) and 536.3 have not been completed.

If no request is made under section 536(4) for a preliminary inquiry at the time of the election the judge presiding at the arraignment hearing may, on application by the accused or the prosecutor, adjourn the arraignment hearing for a reasonable time, for the parties to consider whether such a request will be made.

If a request is made under section 536(4) for a preliminary inquiry, the judge presiding at the arraignment hearing may adjourn the arraignment hearing for a reasonable time for the parties to file such statements as are required by section 536.3, and no hearing date shall be set for a preliminary inquiry until after such statements are filed and considered at the arraignment hearing.

An application for a hearing under section 536.4 must be made to the judge assigned to the preliminary inquiry. If no judge is assigned, application to have a judge assigned to the preliminary inquiry may be made to the Administrative Judge, or if the Administrative Judge so directs, to the Judicial Case Manager, in such form as the Administrative Judge directs.

In the event of a re-election pursuant to section 561(2), a matter will be set for an arraignment hearing, and the above procedures will apply.

Carol Baird Ellan
Chief Judge