



## Practice Direction

### Pursuant to Section 11 of the Provincial Court Act

#### Daytime Search Warrant Applications

This Practice Direction confirms and clarifies the information contained in a [Practice Note dated June 6, 2003](#) sent to the Provincial Judiciary, and a memorandum of the same date sent to police agencies, Administrative Judges, the Ministry of the Attorney General, Department of Justice, and Court Services Branch. Copies of these documents may be obtained from the Office of the Chief Judge.

Pursuant to section 11 of the Provincial Court Act, search warrant applications made during court sitting hours ("daytime search warrants"), other than applications that are required by the relevant statutory provisions to be heard by a judge ("judge warrants"), are assigned to be heard in person by available judicial justices of the peace ("JJPs"), at the Justice Centre in Burnaby and in all court locations in which JJPs are normally resident or regularly preside in traffic court. This does not include circuit courts where there is no registry.

Police agencies within a reasonable distance of a location where there is or may be a JJP presiding are instructed that when they contemplate applying for a daytime search warrant, before they prepare the paperwork, they are required to telephone the judicial administrative assistant or court registry in the relevant location to inquire whether a JJP is available to hear the application in person.

JJPs are considered to be available to hear applications in person when court is not sitting during scheduled court sitting hours, but *not* during scheduled breaks or lunch adjournments, when presiding in court, or outside sitting hours. Judges are not assigned to hear *any* daytime search warrant applications other than judge warrants. Under no circumstances may a search warrant application be referred to a judge by a judicial administrative assistant or a court registry without the approval of the applicable Administrative Judge. Judge warrants must be referred to the Justice Centre or the Administrative Judge in the applicable district.

If a JJP is not available to hear a daytime search warrant application in person, either because there is no JJP in or near the location or because inquiry has been made and no JJP is available, and the application is one that may be made by telewarrant, application may be made to the Justice Centre at the number below. The application must set out the reasons that it cannot be heard in person.

In rare cases, a daytime search warrant application must be heard in person by a judge for specific reasons of sensitivity or security. Requests for a judge to be assigned to the specific application must be made through the Office of the Chief Judge or the Justice Centre at the numbers shown below.

Office of the Chief Judge (604) 660-2864

Justice Centre (604) 660-3263

Carol Baird Ellan,  
Chief Judge

March 4, 2005