

# Out-of-Town Counsel Attending Arraignment Hearings

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February 10, 2000

Criminal Caseflow Management Rule 8 requires that counsel attend personally at the Arraignment Hearing in order that the presiding judge may make inquiries to:

1. assist in making informed and accurate estimate about the length of the trial or preliminary inquiry into the matter, or
2. facilitate the trial or preliminary inquiry, or simplify or dispose of issues (the "Arraignment Hearing objectives")
- 3.

It has become apparent that a requirement for personal attendance can work a hardship upon counsel who do not regularly practice from the Registry at which the hearing occurs.

Accordingly, to facilitate out-of-town counsel, I make the following Practice Direction under Rule 3: Where the accused's legal counsel normally practices more than 25 kilometers from the Registry at which an Arraignment Hearing is to take place, that counsel may apply (in writing, delivered by the accused or an agent or sent to the Registry by fax) to the Justice of the Peace presiding at the Initial Appearance for an order relieving counsel from the requirement to attend at the Arraignment Hearing provided that:

1. the application specifies the facts upon which counsel asserts it would be unreasonable or unnecessary to appear; and
2. the Judge presiding at the subsequent Arraignment Hearing may require a personal attendance of counsel upon a subsequent date set for that purpose if the Judge is unable in the absence of counsel to achieve the Arraignment Hearing objectives.

It is suggested that to avoid such subsequent appearance counsel may wish to include with their application to the Justice of the Peace such additional information about the case - beyond what is contained within the Arraignment Report - as will assist the Judge in being satisfied the Arraignment Hearing objectives have been achieved.

Robert W. Metzger,  
Chief Judge

Rescinded