



IN THE TERRITORIAL COURT OF YUKON

PRACTICE DIRECTION
CP-6

Expectations for Pre-Trial Conferences

This Practice Direction sets out the rules and expectations for pre-trial conferences for all trials, including circuits, and preliminary inquiries.

To ensure the effective use of court time, pre-trial conferences are required in certain cases, including any trial:

- expected to take longer than two days;
- where there is an allegation of sexual offending;
- where it is expected that a *Charter* application will be made. It is presumed that there will be a *Charter* application in ss. 5(1) and 5(2) *CDSA* and impaired driving cases, unless counsel confirm otherwise;
- where any counsel request a conference to assist in dealing with any issue relating to the case, including attempting to resolve a case; and
- when directed by a judge or justice of the peace.

For pre-trial conferences identified as being for trial readiness only, the last section of this Practice Direction, *Trial Readiness Pre-Trial Conference* applies.

In cases where the accused is self-represented, the pre-trial conferences will be for readiness only, and will be held in court on the record, unless otherwise directed by a judge.

The following portion of this Practice Direction applies to all pre-trial conferences that have not been identified as being for trial readiness only.

Non-Trial Readiness Pre-trial Conference

This portion of the Practice Direction applies only to cases where the accused is represented by counsel, unless otherwise directed by a judge.

The pre-trial conference will take place prior to fixing a date for trial, unless a judge directs otherwise.

It is expected that counsel will have engaged in discussions prior to the pre-trial conference to address expected trial issues and time estimates, and to discuss resolution positions.

The pre-trial conference will be held by video-conference arranged by Court Services Branch, unless otherwise directed by a judge or justice of the peace. Counsel must ensure they have a suitable link to the pre-trial conference.

The Crown is required to provide a summary of its case to the trial co-ordinator. The summary can include a case synopsis prepared by the police, and needs to provide only enough information to identify the issues. The accused's criminal record and all outstanding charges the accused is facing must be included. Counsel for the accused may provide a summary of the case and/or any other reports or documents counsel wishes the judge to be aware of.

The summaries are to be provided to the trial co-ordinator by noon on the Wednesday the week before the pre-trial conference is to be held.

Counsel should be prepared to discuss global resolution of all files.

If counsel are not fully prepared at the pre-trial conference, for whatever reason, counsel can expect that a new expedited date to continue the pre-trial conference will be set, likely in front of the same judge. Where necessary or considered beneficial for any other reason, a further pre-trial conference may be scheduled.

During the pre-trial conference, the judge will endeavor to identify where agreement can be reached, and where there are outstanding issues. The judge will set timelines for disclosure and for filing any applications, including *Charter* applications. Timelines set by the judge take precedence over timelines in Practice Direction App-1, *Applications in Criminal Law Matters*.

In the event that counsel does not comply with a timeline, all counsel must take steps to ensure that the matter is placed before a judge no later than the first judge's docket date following the missed timeline, unless otherwise directed by a judge upon a request being made by counsel to the trial co-ordinator.

Counsel must be prepared to provide information, at a minimum, on the following subjects:

- the number and identity of Crown witnesses;
- whether defence intends or may decide to call witnesses;
- whether there are witnesses who are under the age of 14;
- whether there are witnesses whose mental capacity will be challenged;
- will expert witnesses be called and/or experts' reports filed, and are their qualifications in issue;
- the need for any testimonial aids;

- whether technological equipment is required, and notification to the court technologist has been provided in accordance with Practice Direction TECH-3 (*Video/Audio Appearances or Special Equipment for Court Proceedings*);
- whether an interpreter(s) is required and whether a request has been made in accordance with practice direction CP-4 *Court Interpreters*;
- the anticipated *Charter* issues;
- whether the accused has provided a statement, the content of the statement, and any intended use of the statement by the Crown;
- will there be *voir dire*s, and whether these will be held in advance of the trial dates for hearing the remaining evidence;
- will any *voir dire*s be blended;
- will there be non-*Charter voir dire*s;
- will there be pre-trial motions and/or pre-trial applications, and whether these require separate dates in advance of the trial;
- venue for pre-trial motions, applications and *voir dire*s;
- disclosure issues;
- admissions;
- case law counsel intends to rely on, and filing dates;
- publication bans; and
- security issues.

Counsel must be prepared to discuss all information relating to the case, including, but not limited to, the strength of the Crown's case, and the merits of any *Charter* and/or ss. 276 and 278 applications.

Defence counsel need to have obtained instructions from their clients in advance of the pre-trial conference. All counsel must be prepared to discuss resolution, as well as any issues about the case identified by the pre-trial conference judge. Defence counsel will need to be prepared to have a frank discussion, on a without prejudice basis, of all issues. Defence counsel is not required to disclose information that would compromise the ability of the accused to make full answer and defence.

If a resolution is reached, the trial co-ordinator will set an early date for the appearance. Counsel may agree to have the pre-trial conference judge hear the matter, or may agree to have a different judge do so.

The pre-trial conference judge will not be the trial judge if the matter proceeds to trial, although the judge could be assigned as the case management judge if necessary.

Trial Readiness Pre-Trial Conference

Trial readiness pre-trial conferences will be scheduled by the trial co-ordinator when required.

Counsel will be expected to provide all the required information in relation to the bulleted list above.

The trial readiness pre-trial conference judge may or may not be the trial judge.

Chief Judge M. Cozens
October 24, 2024