

IN THE TERRITORIAL COURT OF YUKON

PRACTICE DIRECTION
APP-2

Preliminary Hearing Requests

When an accused who is represented by counsel appears before a Justice of the Peace and elects to be tried in the Supreme Court, and it is confirmed by counsel that neither party is requesting a preliminary inquiry, the Justice of the Peace may adjourn the matter directly to the next Supreme Court fix-date.

If the accused elects to be tried by the Supreme Court, but the parties are not prepared to make a decision with respect to requesting a preliminary inquiry, the judge or justice of the peace shall adjourn the matter for a period of approximately two weeks to a Judges' docket.

If the accused elects to be tried by the Supreme Court and is requesting a preliminary inquiry, the judge or justice of the peace shall adjourn the matter for a period of approximately two weeks to a fix-date court in order to schedule the date for the preliminary inquiry.

When an accused who is self-represented appears before a justice of the peace and elects to be tried in the Supreme Court, the justice of the peace shall adjourn the matter to the next available judges' docket for determination as to whether or not a preliminary inquiry will be held.

Statement Identifying Issues and Witnesses (Form A)

If the Crown or defence counsel requests a preliminary inquiry, that party shall file a statement of issues and witnesses in the attached Form A and provide a copy to all parties prior to the appearance in fix-date court to schedule the date for the preliminary inquiry.

Self-represented accused are not required to complete Form A.

Request for Pre-Hearing Conference (Form B)

The Crown or the accused can apply for a pre-hearing conference to assist the parties in identifying the issues, witnesses or any other matter that would promote a fair and expeditious inquiry.

The party making the application shall file Form B and provide a copy to all parties.

The Trial Coordinator will forward the application to the judge scheduled to preside at the preliminary inquiry. The Trial Coordinator will provide the parties with a copy of the Form B after the judge has endorsed his or her decision with respect to the application.

The judge scheduled to preside at the preliminary inquiry may order a pre-hearing conference on his or her own motion.

In the event that a pre-hearing conference is ordered, the trial coordinator will set a date for the conference, in consultation with the parties.

It should be noted that although the order for a pre-hearing conference must be made by the judge who will preside at the preliminary inquiry, the actual conference itself can be presided over by any judge of the court. The trial coordinator shall make every effort to schedule the pre-hearing conference before the judge who will preside at the preliminary inquiry.

When all accused are represented by counsel, the pre-hearing conference will generally take place in chambers or by teleconference. If any of the accused is self-represented, the conference shall take place in open court.

Agreement and Admissions at Pre-Hearing Conference (Form C)

All admissions of fact or agreement made by the parties at a pre-hearing conference shall be endorsed on Form C, which will be signed by the parties and presiding judge and placed on the court file.

Mutual Agreement to Limit Scope of Preliminary Inquiry (Form D)

Whether or not a pre-hearing conference is held, the Crown and the accused may agree to limit the scope of the preliminary inquiry to specific issues. In that event, the parties shall complete and file Form D.

Chief Judge K. Ruddy
April 6, 2018

FORM A
STATEMENT IDENTIFYING ISSUES AND WITNESSES
(Criminal Code, section 536.3)

R v _____ Information # _____

Charges: _____

Next court appearance: _____

Is disclosure by the Crown complete? Yes _____ No _____

Has a pre-plea discussion taken place between Defence and Crown Counsel?
Yes _____ No _____

The requesting party requires evidence to be given only on the following issues:

The requesting party wishes to hear only the following witnesses at the inquiry:

Name, address and phone number of
requesting party:

Signature of requesting party

FORM B
REQUEST FOR PRE-HEARING CONFERENCE
(*Criminal Code*, section 536.4(1))

R v _____

Information # _____

Charges: _____

Next court appearance: _____

I, hereby request a pre-hearing conference pursuant to s. 536.4(1) of the *Criminal Code*.

Reasons: *Please check one (or more) of the reasons listed below:*

- (a) To assist the parties to identify the issues on which evidence will be given at the inquiry.
- (b) To assist the parties to identify the witnesses to be heard at the inquiry, taking into account the witnesses' needs and circumstances.
- (c) To encourage the parties to consider any other matters that would promote a fair and expeditious inquiry.

Regarding point (c) above – please specify the nature of the “other matters”:

Name, address and phone number of
requesting party:

Signature of requesting party

ORDER FOR HEARING

- I hereby order that a hearing be held pursuant to s. 536.4(1) of the *Criminal Code*.
- I hereby order that no s. 536.4(1) hearing be held.

Date

Judge of the Territorial Court of Yukon

FORM C
AGREEMENT AND ADMISSIONS AT PRE-HEARING CONFERENCE
(*Criminal Code*, section 536.4(2))

R v _____

Information # _____

Charges: _____

Next court appearance: _____

The prosecutor and the accused agree to limit the scope of the preliminary inquiry to the following specific issues:

The prosecutor and the accused agree to the following admissions:

Signature of prosecutor

Signature of counsel for the accused

Pursuant to s. 536.4(2) of the *Criminal Code* I recorded the above agreement to limit the scope of the preliminary inquiry and admissions of fact by the terms herein recorded.

Date

Judge of the Territorial Court of Yukon

FORM D
MUTUAL AGREEMENT TO LIMIT SCOPE OF PRELIMINARY INQUIRY
(Criminal Code, section 536.5)

R v _____

Information # _____

Charges: _____

Next court appearance: _____

The prosecutor and the accused agree to limit the scope of the preliminary inquiry to the following specific issues, and make this agreement pursuant to s. 536.5:

Dated this _____ day of _____, 20 ____ at _____,
Yukon.

Signature of prosecutor

Signature of counsel for the accused