



The Supreme Court of the Northwest Territories

PRACTICE DIRECTION

PUBLICATION BANS

There are many provisions in the *Criminal Code* and other statutes that provide for compulsory publication bans in certain instances. There are also many situations, however, where an application for a publication ban depends on the exercise of the Court's discretionary power at common law. This Practice Direction is aimed at regulating the procedure for notice in such applications.

1. This Practice Direction applies to all applications for a ban on publication made pursuant to a judge's common law or legislated discretionary authority, in both criminal and civil proceedings.
2. For the purpose of this Practice Direction, "judge" is a reference to a judge of the Supreme Court of the Northwest Territories.
3. This Practice Direction applies to all applications for a publication ban, including those brought by consent of all named parties to the proceeding, and whether the application is brought in reference to a trial, a pre-trial hearing, or some other type of proceeding meant to be held in open Court.
4. Notice of an application shall be filed no later than 10 clear days prior to the commencement of the trial, hearing or other proceeding, as the case may be.
5. The applicant shall give at least 7 clear days' written notice of the application to all parties affected by it.
6. For purposes of this Practice Direction, notice includes:
 - (a) transmitting a copy of the application to the offices of the Canadian Broadcasting Corporation, CJCD Radio, and Northern News Services Limited, at the City of Yellowknife, at least 7 clear days before the application; and,
 - (b) posting a notice of the application in the place reserved for the posting of notices on the second floor of the Court House, in the City of Yellowknife, at least 7 clear days before the application.

7. The application shall be heard by the judge assigned to hear the case or, if no judge has been assigned, it may be heard by any judge of the Supreme Court.
8. The application may be set down for hearing at any regular or Special Chambers date or at the commencement of the hearing or proceeding the application relates to. However, if the application relates to a trial, then the application must be set down for hearing prior to the start of the trial.
9. Parties claiming an interest in the application may apply to the Court for standing at the commencement of the hearing.
10. Counsel may make an *ex parte* application to the designated judge, or to the Senior Judge of the Court, for further directions if required.
11. All applications shall be supported by an affidavit setting out with sufficient particularity the evidence in support of the application.
12. The Clerk of the Court shall make a copy of the application available to a representative of a media outlet on request.

This Practice Direction takes effect immediately.

Dated this 9th day of July 2004.

—J.E. Richard, J.S.C.—

—J.Z. Vertes, J.S.C.—

—V.A. Schuler, J.S.C.—