



THE PROVINCIAL COURT
OF BRITISH COLUMBIA

Effective date: *18 September 2019*

CRIM 02

PRACTICE DIRECTION

ELECTIONS UNDER SECTION 536 CRIMINAL CODE OF CANADA

Purpose

To set out procedures for elections pursuant to section 536 of the *Criminal Code of Canada* arising from amendments to the preliminary inquiry provisions of the *Criminal Code of Canada* that came into force on June 01, 2004 and September 19, 2019.

Application

This practice direction applies to all court locations in the Province.

Directions

1. Effective September 19, 2019 all elections pursuant to section 536(2.1) of the Criminal Code of Canada must be taken at the arraignment hearing. No trial or hearing date shall be set in a matter requiring an election if an election has not been recorded.
2. Effective June 01, 2004, all elections pursuant to section 536(2) of the *Criminal Code of Canada* must be taken at the arraignment hearing and all procedures prescribed in sections 536(4) and 536.3 must be completed at the arraignment hearing. No trial or hearing date shall be set in a matter requiring an election if an election has not been recorded or if the procedures prescribed in sections 536(4) and 536.3 have not been completed.
3. If no request is made under section 536(4) for a preliminary inquiry at the time of the election the judge presiding at the arraignment hearing may, on application by the accused or the prosecutor, adjourn the arraignment hearing for a reasonable time, for the parties to consider whether such a request will be made.
4. If a request is made under section 536(4) for a preliminary inquiry, the judge presiding at the arraignment hearing may adjourn the arraignment hearing for a reasonable time

for the parties to file such statements as are required by section 536.3, and no hearing date shall be set for a preliminary inquiry until after such statements are filed and considered at the arraignment hearing.

History of Practice Direction

- Original practice direction dated May 31, 2004.
- Amended practice direction dated February 23, 2015 (changes to wording and formatting - final paragraph of original practice direction deleted).
- Amended practice direction dated September 18, 2019 (consequential amendments further to Bill C-75 amendments regarding section 536(2.1)).
- January 8, 2020: Housekeeping update to remove “duration” section as contained information duplicated in “History of Practice Direction” section.

I make this practice direction pursuant to my authority under the *Provincial Court Act*, R.S.B.C. 1996, c. 379, and Rule 3 of the *Criminal Caseflow Management Rules*.

Melissa Gillespie
Chief Judge
Provincial Court of British Columbia