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ᑕᑭᑦᑎᑦᑎᑦᑎ To: The Bar of Nunavut, Justice stakeholders, Public, and the Media

ᑕᑭᑦᑎᑦᑎᑦᑎ From: Mark Mossey, Executive Legal Officer, Office of the Chief Justice

ᑕᑭᑦᑎᑦᑎᑦᑎ CC: Chief Justice Neil Sharkey

ᑕᑭᑦᑎᑦᑎᑦᑎ Date: 5/27/2020

ᑕᑭᑦᑎᑦᑎᑦᑎ Re: **Nunavut Court of Justice operations update in response to Coronavirus (COVID-19) : Resumption of limited In-Person Court (IPC) criminal proceedings.**

In consultation yesterday with Dr. Patterson (Chief Public Health Officer for Nunavut) and the Nunavut Court of Justice’s Pandemic Planning Committee, Chief Justice Sharkey has authorized the resumption of limited in-person court appearances to commence on Monday, June 1, 2020 in Iqaluit.

The below sets out protocols for how the Nunavut Court of Justice (“NCJ”) intends to expand the scope of adjudicative offerings starting in June 2020. The procedures are intended to enable the NCJ to accommodate the hearing of in-person criminal trials for defendants not in pre-trial custody in Iqaluit starting June 8, 2020. The procedures will also apply to special sittings in communities outside of Iqaluit that counsel or litigants may wish to schedule and that the NCJ is able to facilitate/accommodate.

The procedures are aimed at ensuring continued access to speedy justice in Nunavut while protecting the health and safety of all court participants.

Trial Scheduling, Non-Complex Trials

- The NCJ will be able to commence hearing non-complex, out-of-custody, criminal trials as of Monday, June 8, 2020. The trials will be scheduled to proceed on the Monday, Tuesday, and Wednesday of each week going forward.¹
- A “non-complex” trial means a trial where the evidence tendered can reasonably be expected to conclude in half of a day of court time or less.
- There will be a maximum of two non-complex criminal trials scheduled per day, 6 per week. All trials will be held in Courtroom #1 to accommodate social distancing efforts and requirements.
- A trial will be scheduled to start at either 9:30 a.m. or 1:30 p.m. each Monday, Tuesday and Wednesday.
- Thursdays and Fridays will be reserved for non-trial matters such as bail reviews, guilty pleas, sentencings, and detention reviews. These matters will continue to take place remotely, using teleconferencing, unless counsel request otherwise.
- All trials MUST be able to proceed with only 10 people present in Courtroom Number 1 at any given time. The ten individuals will necessarily include: 1) Judge; 2) Deputy Sheriff; 3) Defence Counsel;

¹ Weeks are subject to availability.

- 4) Crown Counsel; 5) court reporter; 6) clerk; 7) accused; and 8) any witness providing evidence.
- All parties are encouraged to use video conferencing to the fullest extent possible.
 - If counsel advise the NCJ that the trial of an in-custody accused can proceed with the accused appearing via video conferencing, a judge may approve the scheduling of such a trial and the above procedures will apply accordingly².

Trial Scheduling, Complex Out-of-Custody Trials

- The above procedures may be modified to accommodate a complex out-of-custody trial in Iqaluit, pending availability of the court.
- A “complex trial” means a trial where the evidence tendered is expected to take longer than half-of-a-day. For example, counsel may schedule a two-day complex trial to take place on a Monday and Tuesday thus replacing the scheduling of 4 “non-complex” criminal trial matters.

Trial Scheduling, Out-of-Iqaluit Matters

- Counsel wishing to schedule an out-of-custody matter (or video assisted in-custody matter with accused appearing via video) for a community outside of Iqaluit may make a scheduling request to NCJ Chambers.

² A request for an in-custody video appearance may require submissions on s. 650 of the *Criminal Code*.

- In order to accommodate the request, the participants of the proceeding will, by public health necessity, be required to have been in Nunavut for over two weeks or will have had to have completed the Government of Nunavut's two-week isolation requirement prior to travelling to the community. All participants must also be symptom free at the time of departure from Iqaluit.

Designated Assignment Court, Week of June 1

- Counsel with carriage of files appearing on the June 1 DAC are encouraged to attend at the Courthouse in Iqaluit, in-person, to speak-to their matters.
- The 10-person limit per courtroom will remain in place. Social distancing waiting areas will be provided to counsel outside of the courtrooms while they wait for their matters to be called.
- In-person attendance is not required, and teleconferencing will remain an option for counsel unable to attend personally.

Safety Measures

- Notices will be placed at the entrance to the Courthouse in Iqaluit and every facility holding court in the community advising that anyone experiencing COVID-like symptoms must advise the Deputy-Sheriff upon entering the building. The Deputy Sheriff will then convey the information to the presiding judge who will determine how the matter will proceed.
- Deputy Sheriffs will undergo training on COVID screening and safety protocols. Deputy Sheriffs staffing the search gate will wear a face mask while conducting entrance searches.

- Everyone participating in court proceedings will be given the option of wearing a mask. Masks at this time are not required to be worn while in the courthouse or courtroom.
- Witnesses waiting to give evidence will sit in a designated, socially distanced, seating area in the lobby of the courthouse.
- Counsel wishing to meet privately with a witness or an accused may do so in the mediation room on the second floor of the courthouse.
- All communal water containers and disposable cups will be removed from the courtroom.
- Hand sanitizer stations will be readily available and signage for available hand washing stations will be placed throughout the courthouse.
- All Court staff travelling to a community to conduct court will have been resident in Iqaluit for longer than 2 weeks and be COVID symptom free by the time travel to the community takes place.

Accessibility

- A phone line will be kept open to preserve the Open Courts principle allowing members of the media to listen to on-going court proceedings.

Please feel free to contact Mark Mossey at mmossey@gov.nu.ca with any questions relating to the above.