



CRIMINAL LAWYERS' ASSOCIATION
189 Queen Street East, Suite 1
Toronto, ON M5A 1S2
Tel: 416-214-9875
Fax: 416-968-6818

www.criminallawyers.ca
ed@criminallawyers.ca

Tracking delays in scheduling bail hearings

As some of you know, a Province-wide Practice Direction has recently been promulgated regarding the procedure to be followed when scheduling “lengthy” bail hearings. In some jurisdictions, local protocols have previously existed to address these issues. Of course, the extent to which the scheduling of lengthy bail hearings is problematic varies throughout the Province.

Our association has great concerns about the potential abuse of these new procedures and the inappropriate delay in scheduling bail hearings that often results. We have raised our concerns with the Chief Justice and Associate Chief Justice and are hopeful that meaningful improvements will come. Change may also come through litigation, if dialogue proves insufficient.

In view of what we believe to be significant constitutional concerns with this practice, we strongly urge all members of the defence bar to make it clear on the record, that the defendant is statutorily (section 516(1)) and constitutionally (*R. v. B.S.* 2014 ONCA 527) entitled to have a bail hearing in a timely way and adjournments beyond 3 clear days are not permitted without the defendant’s consent. We urge everyone to state on the record that the defendant does NOT consent to any longer adjournment, that he/she wishes to proceed with a timely bail hearing right away (assuming the defence is ready to do so) and any longer adjournment, even if resulting through a practice direction is nothing more than acquiescence to the inevitable, and not a truly voluntary consent.

Finally, in order to assist our organization in addressing these issues, and to assist the local representatives where these issues are most prevalent, we are asking everyone to provide us with as many data points as possible of examples where bail hearings (“lengthy” or otherwise) have been scheduled more than 3 clear days after the date that the scheduling of the hearing is addressed in Court. We have created a special email address to receive this information – baildelay@criminallawyers.ca and ask for the following feedback.

- Court location:
- Name of defendant (use initials for youth matters or if concerned about disclosure of name of defendant):
- Name of counsel:
- Date of scheduling of bail hearing:
- Date given for bail hearing:
- Was defence prepared to proceed within less than 3 clear days and was this placed on the record:
- Any other information you deem to be important to share:

If you have any further information you would like to share about these issues, or if you have any questions, please contact your local director or Boris Bytensky (bytensky@crimlawcanada.com), Cassandra DeMelo (cassandra@demelolaw.com) or Christine Lund (lundlaw@rogers.com).

JOIN THE CRIMINAL LAWYERS' ASSOCIATION: If you are not yet a member, find out how you can become a member for 2020 by going to <https://members.criminallawyers.ca/joinus>