

COURT OF SUMMARY JURISDICTION PROCEDURES — DARWIN

By Chief Magistrate Hugh Bradley

As many members of the profession would appreciate, there have been discussions undertaken over the last 6 to 12 months of ways and means to improve the procedural effectiveness of the Court of Summary Jurisdiction. A number of difficulties have been encountered, including, but not limited to, excessive number of mentions before the court, delays in obtaining hearing dates, a lack of accountability on the part of counsel who are not properly instructed, and difficulties in relation to obtaining hearing dates convenient to counsel and the parties.

Following the discussions between interested parties, the Magistrates have met and have broadly agreed upon an approach to be taken to standard matters before the Court of Summary Jurisdiction. The approach to be taken is always subject to principles of justice and the reasonable requirements of the case. Nevertheless, there will be a greater expectation on the part of the court that defendants will be in a position to tell the court which way they intend to proceed at an early date. The approach is part of a broader plan to achieve efficiencies in the court process, for defendants to be better advised of their rights and obligations and to encourage defence counsel to accept responsibility for their clients at an early date.

It is acknowledged that a large part of the justice process is effected and administered outside of the courtroom and I am confident that a number of initiatives will be acted upon by such agencies as the Office of DPP, Summary Prosecutions and Legal Aid services. Some such initiatives include:

The Police providing defendants with a clear statement of their rights and obligations at the time they are charged, bailed or summonsed.

- Police adopting procedures to provide identified statements critical to defence at an early stage;
- DPP making an officer available at all times to deal with queries and submissions from defence counsel. It is hoped that this person will have authority to make decisions and/or be able to obtain instructions or the requested information quickly;

- That DPP assign a Prosecutor to a case as soon as it is known that a matter will be defended;
- All Legal Aid services allocating counsel to a particular case at commencement or soon thereafter who will be responsible for all stages of its progress;
- The Court will have regard to counsels diaries when setting adjournments dates or hearing dates so that there will be the least possible conflict.

Given the above cooperation I believe that we can, in a great majority of cases, adopt the following steps to the stage of sentence or setting down for hearing:

A. For CSJ matters including indictable offences to be heard summarily —

First appearance options:

- Plea and sentence on the day
- Adjourn to a date for plea
- Adjourn for further mention approx 4-6 weeks hence
- Indicate not guilty plea leading to hearing date
- Fast track matters to receive special attention

Second appearance options:

- Plea and sentence on day
- Adjourn to a date for plea
- Indicate not guilty plea leading to hearing date
- Special cases adjourn approx 2-4 weeks for 3rd mention
- No special case - set down for hearing

Third appearance options:

- Plea
- Adjourn to date for plea
- Except in exceptional circumstances matter should be set down for hearing

It is acknowledged that in custody cases, there may also need to be a short adjournment to allow for a bail application.

B. Indictable matters likely to go to Supreme Court

First appearance options:

Custody/fast track matters

- Set down for oral committal in approx 6-8 weeks and set down for mention/handup committal in approx 4-5 weeks

Bail/Summons matters:

- Set down for oral committal approx 12-14 weeks and set down for mention/handup in approx 8 weeks

Short adjournments of 1-2 weeks may also be granted for discussions or to hear bail applications. Mention/handup dates will be treated as a committal mention to confirm dates and witnesses required for an oral committal or hearing before the Court of Summary Jurisdiction.

Independently of the above procedures, there is a perceived need to address problems associated with hearings failing through for the various reasons well known to all of us. The purpose of an additional pre-hearing process is to:

- Ensure such Statements as the prosecution intends to deliver are delivered
- Check availability of defendants
- Check availability of witnesses
- Ensure all settlement discussions are complete
- Vacate hearings which are unlikely to proceed in order to save cost and inconvenience
- Confirm probability of court availability, and
- Firm up and adjust list of cases likely to proceed.

At this stage, the precise form of the additional process still needs to be determined. However, a likely process of which further notice will be given, is that there will be a pre hearing call-over a week or two before a hearing date to ensure that matters are ready to proceed. Except in exceptional cases, a defendant will be required to attend at this pre hearing call-over.

After further discussions, I will publish the process by which hearings are to be confirmed.