



SUPREME COURT OF BRITISH COLUMBIA

Effective Date: 2025/04/16

Number: CPD - 9

Title:

Criminal Practice Direction

Restriction on Publication of Information from Conferences in Criminal Proceedings

Summary:

Like the Court's other criminal practice directions, this one serves as a rule according to the Court's authority under ss. 482 and 482.1 of the Criminal Code. It imposes a ban on publication of any information disclosed during criminal pre-trial or other types of conferences, except for information about the scheduling of future appearances and the nature of the appearances. The ban is effective for all criminal proceedings until the conclusion of the proceedings, unless the court otherwise orders.

*Section 648(1) of the Criminal Code prohibits publication, broadcast, or transmission of any information regarding any portion of the trial at which the jury is not present until the jury retires to consider its verdict. The prohibition does not generally apply to information from a pre-trial or other conference.¹ Nonetheless, discussions at conferences often reveal information about the substantive issues in the case, which, if published prior to the end of a jury trial, may seriously prejudice trial fairness. In the Supreme Court of British Columbia, conferences in criminal proceedings are generally held in open court and on the record. Accordingly, this ban on publication fills the gap left by s. 648(1) as suggested by the Supreme Court of Canada in *La Presse Inc. v. Quebec*, 2023 SCC 22.²*

¹ *La Presse Inc. v. Quebec; R. v. Coban*, 2023 SCC 22 at paras. 75-76.

² The Supreme Court of Canada noted that it is open to courts to "fill any gap in relation to pre-trial conferences through their rule-making authority under ss. 482 and 482.1": *La Presse Inc.*, *supra* at para. 77.

Because of the possibility of a re-election to a trial by judge and jury, it is necessary that the ban on publication described in this practice direction apply both in cases expected to be tried by judge and jury, and in those expected to be tried by judge alone.

*The restriction on court openness in this practice direction has been imposed with regard to the test in *Sherman Estate v. Donovan*, 2021 SCC 25.*

Direction:

1. Information about a case or its participants presented or discussed during a pre-trial conference or other type of conference in criminal proceedings must not be published or broadcast in any way. This ban on publication applies automatically; no application is necessary.
2. Unless the court otherwise orders, this ban does not apply to information regarding the scheduling of future court appearances in the proceedings or the nature of the appearances.
3. The ban created by this practice direction applies to any submissions made, materials presented, and in-court discussions during pre-trial conferences and other types of conferences. It applies both in cases expected to be tried by judge and jury and in those expected to be tried by judge alone.
4. Unless the court otherwise orders, the ban described in this practice direction remains in effect until the conclusion of the proceedings in a verdict, the withdrawal of the charges, or, if the Crown enters a stay of proceedings, one year after the entry of the stay. The ban may be extended on application, on notice to the parties, and to the media in accordance with [PD-56](#).
5. Anyone may apply for an order varying or revoking the ban described in this practice direction on seven (7) days' notice to the parties.
6. The presiding judge retains the authority to vary, revoke, or extend the terms of the ban described in this practice direction on the judge's own motion.

Heather J. Holmes
Associate Chief Justice