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THE SUPREME COURT  
OF BRITISH COLUMBIA

THE LAW COURTS  
800 SMITHE STREET  
VANCOUVER, B. C.  
V6Z 2E1

## PRACTICE DIRECTION

### **Re: Publication Ban Notification Project – Expansion to New Westminster**

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1. This Practice Direction replaces the original Practice Direction dated September 9, 2005 (and amended February 23, 2006) concerning the pilot project commenced at the Vancouver Registry. The project established a procedure to provide electronic notification to media outlets, and any other member of the public who subscribes to the notification service, of applications for discretionary orders to ban publication or to close the courtroom in criminal or quasi-criminal matters. Notification is made through an electronic e-mail subscription service maintained on the Court's website. This Practice Direction is still in effect in the Vancouver Registry.
2. Effective November 1, 2007 the Court will expand the project to New Westminster.
3. The purpose of this Practice Direction is to define those applications that trigger the requirement for parties and counsel to use the automated notification system to notify the media. This Practice Direction does not alter the existing rules regarding the requirement to provide notice of an application to parties to a proceeding as set out in the *General Criminal Rules*.
4. Unless the Court otherwise orders, an application for a publication ban or an order to exclude the public from the courtroom must be brought in accordance with Rule 2 of the *General Criminal Rules*.
5. In making an application for a publication ban or to exclude the public from the courtroom, counsel must set out in the notice of application the particular terms of the order being sought. The notice of application should also state the authority under which the order is sought, whether it is the common law discretion of the Court or a specific statutory provision.

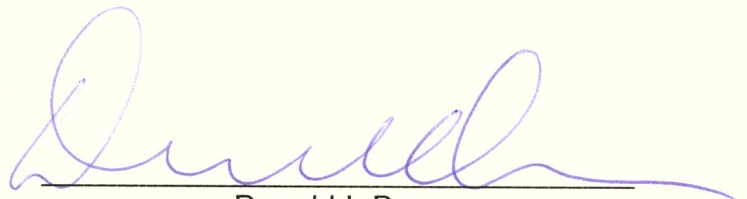
6. The additional requirement to notify the media as set out in this Practice Direction applies only to proceedings in the New Westminster Registry that relate to the prosecution of criminal or quasi-criminal charges. It does not apply to proceedings that relate to the authorization of investigative measures in criminal or quasi-criminal matters.
7. The media notification requirements also do not apply to applications made for mandatory publication bans which are required by law to be granted or to publication bans which exist as a matter of law without an application.
8. Unless the Court otherwise orders, the party who has filed an application for any of the following orders:
  - a) to ban publication of all or part of a proceeding or to exclude the public from the courtroom pursuant to the common law authority of the Court;
  - b) to exclude the public from the courtroom for all or part of the proceeding under section 486(1) of the *Criminal Code*;
  - c) to ban publication of the identity of a complainant or witness under section 486.4 of the *Criminal Code* only when the application is made by the accused or a witness who is not the complainant and is aged 18 years or older;
  - d) to ban publication of the identity of a victim, witness or justice system participant under section 486.5 of the *Criminal Code*;
  - e) to direct that the application for a ban under section 486.5 be heard in private pursuant to section 486.5(6) of the *Criminal Code*;
  - f) to ban publication of the proceedings at a judicial interim release hearing under section 517 of the *Criminal Code* when the application is made by the Crown;
  - g) to ban publication of the identity of jury members pursuant to section 631 of the *Criminal Code*;
  - h) to ban publication of the evidence at an extradition proceeding under section 26 of the *Extradition Act*;
  - h) to exclude the public from the courtroom for all or part of an extradition proceeding under section 27 of the *Extradition Act*;

- i) to ban publication of the identity of a young person under section 75(3) of the *Youth Criminal Justice Act*; and
- j) to exclude the public from the courtroom under section 132 of the *Youth Criminal Justice Act*;

must also provide notice to subscriber media outlets by completing and submitting the notice form on the Supreme Court website ([www.courts.gov.bc.ca](http://www.courts.gov.bc.ca)) at least two clear days before the date stated in the notice of application for the hearing of the application or within such other time-frame as directed by the Court.

- 9. The Court may order that the media notification requirements apply to an application for a ban on publication or to exclude the public from the courtroom not listed in paragraph 8.
- 10. The media notice requirements of this Practice Direction will also be triggered by any application to vary, vacate or set aside a discretionary order that is the result of an application listed in paragraph 8 of this Practice Direction.
- 11. Only those media outlets that have subscribed to the electronic notification service will receive notification pursuant to this Practice Direction. Standing to be heard on the application remains in the sole discretion of the judge hearing the application.
- 12. When making an application in Court for any ban under section 486.4 or 486.5, regardless of whether that ban is mandatory or discretionary, counsel are expected to advise the Court whether there is a family relationship between the complainant or other person sought to be protected by the ban and the accused such that the publication of the name of the accused would defeat the purpose of the ban.
- 13. Once ordered, the terms of publication bans and orders excluding the public from the courtroom will be posted on the Court's website at [www.courts.gov.bc.ca/publicationban](http://www.courts.gov.bc.ca/publicationban). Orders made in the Vancouver Courts since October 3, 2005 are posted on the website. Orders made in the New Westminster Courts after November 1, 2007 will also be posted. Information on bans ordered in Supreme Court prior to this date is available from the Court registry.

October 29, 2007



Donald I. Brenner,  
Chief Justice