



CRIMINAL JUSTICE BRANCH, MINISTRY OF ATTORNEY GENERAL
CROWN COUNSEL POLICY MANUAL

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SUBJECT: Preliminary Inquiries		CROSS-REFERENCE: CHA 1 DIR 1

POLICY

Where the accused does not request a preliminary inquiry, Crown Counsel should not request one unless it is required by exceptional circumstances. It is expected that this will occur rarely.

Before requesting a preliminary inquiry in such cases, Crown Counsel should consult with Regional or Deputy Regional Crown Counsel and consider all alternatives to a preliminary inquiry, such as preserving the evidence of an ill, aged, transient or potentially recanting witness by means of a statement which meets the requirements for admissibility set out in Regina. v. B. (K. G.) [1993] 1 S.C.R. 740. Further, Crown Counsel should not request a preliminary inquiry where deficiencies in relation to the investigation, particularly in regard to the taking of witness statements, can reasonably be remedied by means other than a preliminary inquiry.

In exercising discretion on whether to request a preliminary inquiry, Crown Counsel should also consider whether a trial can be set for an earlier date than a preliminary inquiry and whether there is a delay factor (Askov) in proceeding with a preliminary inquiry.

Where a preliminary inquiry has been requested, Crown Counsel should conduct the preliminary inquiry in as efficient a manner as possible while still calling sufficient evidence to ensure that the preliminary inquiry is of value in the conduct of the trial. Crown Counsel are encouraged to conduct an efficient and focused preliminary inquiry while recognizing that considerable flexibility is necessary in order to deal with the unique circumstances of individual cases.

Where the statement of issues and witnesses provided by defence counsel under section 536.3 of the *Criminal Code* is not, in the opinion of Crown Counsel, sufficiently focused on the relevant issues and essential witnesses, Crown Counsel should engage in discussions with defence counsel to seek an agreement to limit the scope of the preliminary inquiry.

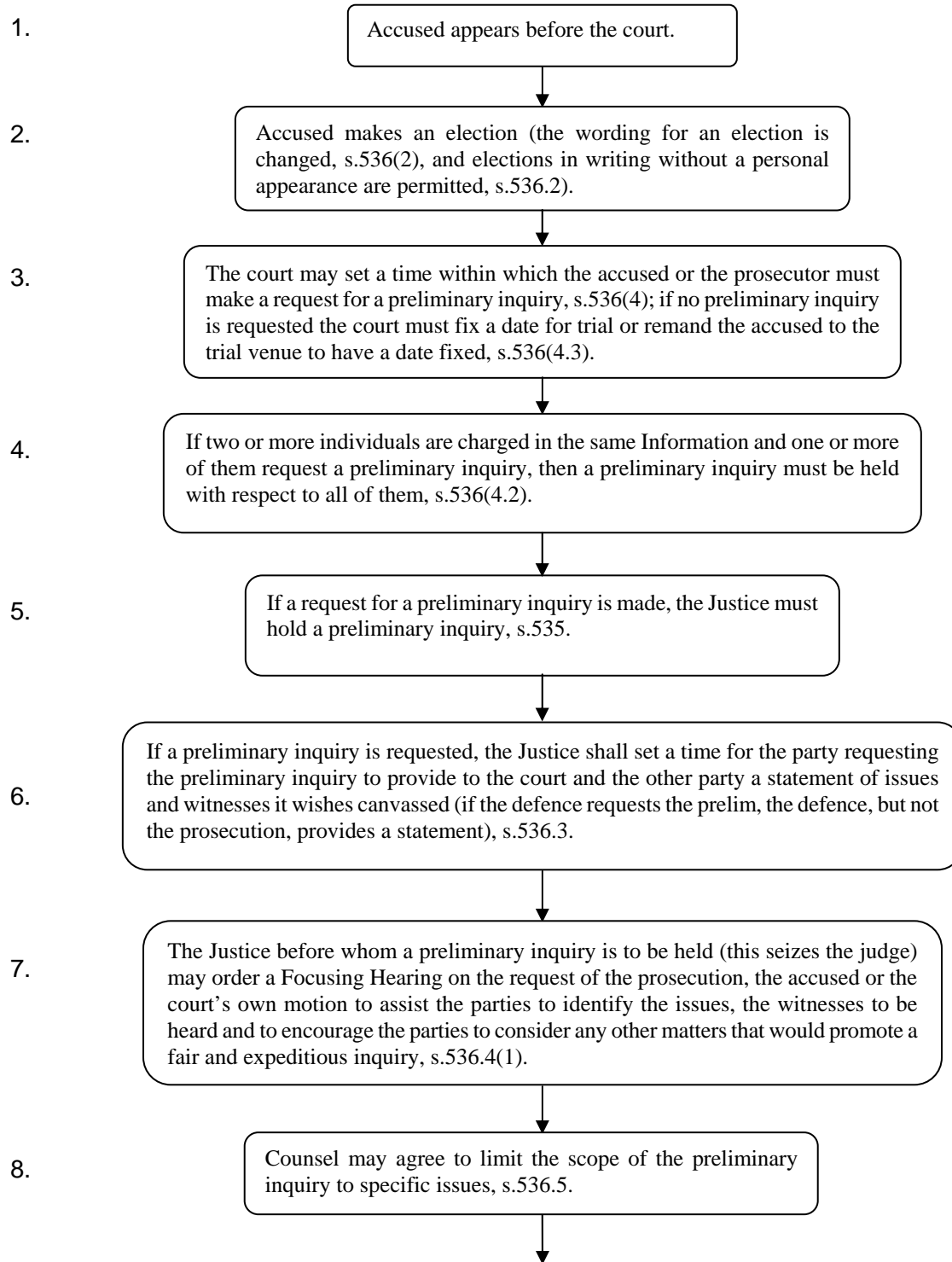
If discussions with defence counsel are not successful in limiting the scope of the preliminary inquiry, Crown Counsel should request a focusing hearing pursuant to section 536.4.

Crown Counsel must assess the evidence during and at the end of a preliminary inquiry, consistent with the policy on Charge Assessment (CHA 1). Where there is a committal, the committal report should include an assessment of the Crown's case and recommendations regarding trial.

DISCUSSION

A "New Preliminary Inquiry Procedure Flowchart" describing the procedures under Bill C-15A, which came into effect on June 1, 2004, is attached as appendix A.

APPENDIX A NEW PRELIMINARY INQUIRY PROCEDURE FLOWCHART



New Preliminary Inquiry Flowchart
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