



Department of Justice and Public Safety
Adult Custody Services

Policy: **Review of Detention Where Trial is Delayed C8**
Effective: March 2001
Revised: December 2022

MISSION STATEMENT

Adult Custody Services is committed to providing professional practices that respect human rights and ensure safety for all. To be successful we will deliver fair practices, incorporate transparent policies and procedures, ensure independent quality assurance processes, and provide program access that allows for educational, cultural, traditional, and faith-based services as well as mental wellness and community re-entry assistance.

PURPOSE

To establish procedural standards for Superintendent or designate, having jurisdiction in the place in which the client is in custody, to follow when a client's trial is delayed. ...

LEGISLATIVE AUTHORITY

[Section 525. \(1\) Criminal Code of Canada, R.S.C., 1985](#)

SCOPE

This policy applies to all employees of the Adult Custody Services division of the Department of Justice and Public Safety.

POLICY GUIDELINES

The Superintendent or designate will make application for judicial review of a client's detention, where their trial is delayed, in certain circumstances.

PROCEDURE

Time for application to judge

525 (1) The person having the custody of an accused — who has been charged with an offence other than an offence listed in section 469, who is being detained in custody pending their trial for that offence and who is not required to be detained in custody in respect of any other matter — shall apply to a judge having jurisdiction in the place in which the accused is in custody to fix a date for a hearing to determine whether or not the accused should be released from custody, if the trial has not commenced within 90 days from

- (a) the day on which the accused was taken before a justice under section 503; or
- (b) in the case where an order that the accused be detained in custody has been made under section 521, paragraph 523.1(3)(b)(ii) or section 524, or a decision has been made with respect to a review

Department of Justice and Public Safety
Adult Custody Services

under section 520, the later of the day on which the accused was taken into custody under that order and the day of the decision.

The person shall make the application immediately after the expiry of those 90 days.

Waiver of right to hearing

(1.1) However, the person having the custody of the accused is not required to make the application if the accused has waived in writing their right to a hearing and the judge has received the waiver before the expiry of the 90-day period referred to in subsection (1).

(2) Subsections 525(3) to (9) of the Act are replaced by the following:

Cancellation of hearing

(3) The judge may cancel the hearing if the judge receives the accused's waiver before the hearing.

Consideration of proceeding's progression

(4) On the hearing described in subsection (1), the judge shall consider whether the prosecutor or the accused has been responsible for any delay and, if the judge is concerned that the proceedings are progressing slowly and that an unreasonable delay may result, the judge may

(a) give directions for expediting the proceedings; or

(b) require a further hearing under this section within 90 days or any other period that the judge considers appropriate in the circumstances.

Release order

(5) If, following the hearing, the judge is not satisfied that the continued detention of the accused in custody is justified within the meaning of subsection 515(10), the judge shall make a release order referred to in section 515.

Provisions applicable to proceedings

(6) Sections 495. 1, 512. 3, 517 to 519 and 524 apply, with any modifications that the circumstances require, in respect of any proceedings under this section.

Directions for expediting proceedings

526 Subject to subsection 525(4), a court, judge, or justice before which or whom an accused appears under this Part may give directions for expediting any proceedings in respect of the accused.



Department of Justice and Public Safety
Adult Custody Services

RELATED POLICY

- C12 Access to client File Information
- D12 Conditions of Confinement
- D36 Police Lineups
- D37 Police Search Warrants
- D38 Questioning of Offenders by Law Enforcement
- Adult Institutional Policy Manual NB