

APPENDIX F – Exhibit Access Policy

Nova Scotia Court of Appeal Supreme Court of Nova Scotia Provincial Court of Nova Scotia

Media Access to Exhibits

The Supreme Court of Canada has recognized that the media, as representatives of the public, must be given special consideration when applying certain rules and policies of the Courts. Openness and access should be the rule, except in instances when a Judge deems it necessary to limit access to protect the administration of justice.

Although it is acknowledged that journalists should have timely access to exhibits during and after a trial concludes, the Courts need to ensure that access does not interfere with the administration of justice. For that reason, the Nova Scotia Courts have adopted the following policy to maintain the integrity of exhibits and protect the administration of justice, while facilitating media requests for access.

1) Requests for Access During a Trial

- a) During a trial, requests for access to exhibits must be made to the Judge, through the Court Clerk and the Judiciary's Communications Director. The Court Clerk will notify the Judge and the Communications Director will arrange supervision, if the request is approved.
- b) Some Judges may entertain informal requests for access to exhibits. Other Judges may require a formal application to the Court.
- c) If access is granted, the Judge may restrict what the exhibits may be used for (i.e. make them available for inspection but not for publication or broadcast). If the Judge allows full access, those making the request will be allowed to view, photograph or take video of the exhibits. If a journalist makes the request, and if resources allow, court staff should make copies of audio and/or video exhibits for media.
- d) The Judge may grant access to only those exhibits which have been properly admitted as evidence in open court.
- e) If the matter is being heard by a jury, the Judge may grant access to exhibits admitted outside the presence of the jury (i.e. voir dire exhibits); however, their use is restricted by all applicable publication bans or court orders.
- f) In high-profile trials being covered by multiple media outlets, the journalists are encouraged to make an application on behalf of the group. If access is granted, the Court will arrange a time for all interested media to view the exhibits at once.

- g) Access will be arranged at the earliest opportunity, at a time convenient to both the Court and the applicant(s).

2) Requests for Access During a Hearing in the Court of Appeal

- a) During the hearing of an appeal, requests for access to exhibits must be made to the Panel, through the Court Clerk and the Judiciary's Communications Director. The Court Clerk will notify the Panel and the Communications Director will arrange supervision, if the request is approved.
- b) The provisions of Subparagraphs 1(b) to 1(g) of this Policy apply to requests for access during a hearing in the Court of Appeal, with any necessary modifications and when not inconsistent with this Paragraph 2.

3) Supervision

- a) Media who are granted access to exhibits must be supervised at all times by Court staff in a secure area of the courthouse.
- b) Court staff approved to supervise access include the Court Clerk, Sheriffs, the Prothonotary (or his/her designate), the Court Administrator, and the Communications Director.
- c) For groups of three (3) or more members of the media, at least two (2) approved Court staff must be present to supervise access.
- d) Supervising staff must record each time access is granted in the Exhibit Access Log Sheet (found at the end of this document). A copy should be included in the court file.

4) Handling of Exhibits

- a) Only Court staff identified in 3(b) are permitted to handle physical exhibits (i.e. drugs, weapons, currency, etc.). Media are not permitted to handle such items.
- b) Absent an order of a Judge to the contrary, media shall be permitted to handle documentary exhibits (i.e. photo books, reports, etc.), one exhibit at a time.
- c) Exhibits must be returned in the same condition and numerical order as they were when granted access.

5) Requests for Access After a Trial, other than During a Hearing in the Court of Appeal

- a) Once a trial has concluded, requests for access to exhibits that remain in the custody of the Court must be made to the Judiciary's Communications Director or the Prothonotary (or his/her designate) at the courthouse where the matter was heard.
- b) The same criteria for supervision and handling of exhibits apply for access granted after a trial and after an appeal.
- c) After the completion of a trial and all appeals or expiration of appeal deadlines, the Prothonotary may return exhibits to the party who tendered them, or exhibits may be destroyed or turned over to any person by order of a judge.
- d) Rule 84.04 of the Civil Procedure Rules governs the Prothonotary's role as exhibit custodian for exhibits that remain in the custody of the Court.

