

STREAMLINING PROCESSES FOR JURY SUMMONS AND SELECTION – A CASE STUDY OF NEW BRUNSWICK

A Statement from the Action Committee

Our Committee exists to support Canada’s courts as they work to protect the health and safety of all court users in the COVID-19 context while upholding the fundamental values of our justice system. These mutually sustaining commitments guide all of our efforts.

As part of its mandate, the Committee facilitates information sharing amongst Canada’s courts – which includes highlighting useful practices emanating from individual courts, as appropriate – in recognition that such efforts can serve to promote coordination and collaboration in key areas to help restore court operations across the country.

ISSUE

On 26 October 2020, the Action Committee heard from two representatives of the Justice Services of the Department of Justice and Office of the Attorney General of New Brunswick: Donald Higgins, Director of Innovation and Support Services, and Robin Huisman, Acting Director of Support Enforcement. These individuals were asked to share their experience in streamlining processes for jury summons and selection in light of the COVID-19 pandemic, and from the broader viewpoint of modernizing court operations in the longer term.

The Action Committee undertook to consider this theme in order to help shed light on the challenges and possible solutions to help individual courts to safely and effectively conduct jury selections in the unprecedented context of the pandemic.

BACKGROUND

Traditionally, the process to summon and select juries for trials has involved long wait times in court and complicated procedures for prospective jurors to understand and navigate. The COVID-19 pandemic, in magnifying these difficulties, has also led individual courts to innovate in order to keep jurors safe and informed while preserving the integrity of the jury selection process set out in the *Criminal Code*.

With this in mind, New Brunswick’s recent experience in streamlining its processes for jury summons and selection is summarized below. This case study aims to document useful practices to optimize court processes and improve the safety and experience of jurors within the justice system. While such practices are particularly important in the context of the pandemic, they can also pave the way forward for longer-term efficiencies as part of a broader effort to modernize court operations.

THE NEW BRUNSWICK EXPERIENCE – AN OVERVIEW

As part of their ongoing efforts towards scalable and sustainable modernization, Justice Services in New Brunswick had begun to review the summons and selection process for jurors prior to the COVID-19 pandemic. The goal was to simplify and streamline procedures gradually within the existing legislative

and regulatory framework. However, the circumstances of the pandemic prompted immediate action, and processes to streamline jury summons and selection were successfully designed and implemented on an urgent basis.

This initiative was carried out by leveraging existing tools and technologies already at the courts' disposal, and the expertise of in-house staff. Affected stakeholders – including the judiciary, Crown counsel, defence counsel, court administrators and governmental policy makers – were consulted to ensure feasibility and buy-in within the overall justice sector.

New Brunswick has offered to share information on this initiative, and to collaborate with court and justice officials in other jurisdictions who may be interested in exploring a similar approach. The tools described in this case study were created using Excel, a customizable Microsoft-based software that is readily accessible in most office settings.

Automating the Jury Summons Process

The standard summons and certificate forms used for prospective jurors were revised in several ways, which led to jurors completing forms more accurately and helped to screen out ineligible or exempted jurors more quickly and efficiently. The changes made to the forms did not require any legislative or regulatory amendment.

First, the language – which previously relied heavily on legalese – was simplified to make it more understandable and easy to follow for prospective jurors. Frequently Asked Questions (FAQs) were added to the summons to explain the jury summons and selection process. A checklist was added to the certificate, outlining clear criteria of eligibility and possible exemptions for relief from jury duty. The checklist also provides step-by-step instructions for completing the certificate, requesting an exemption or seeking special arrangements to enable attendance in court as needed.

Second, an individualized barcode is now assigned to each prospective juror, both on the summons and certificate forms. This feature has enabled the following improvements to existing processes:

- Automated calculation of juror fees based on their registration information
- Assigned seating within the court to facilitate automated contact tracing during the pandemic
- Automated printing of juror cards tied into individual barcodes, to further expedite processing

Third, an information sheet is now provided to jurors outlining current health and safety measures in place to protect them in court, both during jury selection and jury trials, to help jurors feel safe about attending court.

Streamlining the Jury Selection Process

In order to further reduce the number of persons attending court, along with wait times and contagion risks for those required to attend, New Brunswick implemented a tiered approach to the screening and selection of jurors.

Prospective jurors qualifying for legislative exemptions are pre-screened and advised not to attend court. Those requesting a discretionary exemption are called to a pre-screening hearing before the

presiding judge for decision. Therefore, only those remaining who did not qualify for a legislative or discretionary exemption are called upon to attend the final selection hearing to empanel a jury.

Efficiencies achieved

New Brunswick reports that this expedited process, which has been implemented in several cases, has reduced the overall numbers and duration of juror attendance in court, thus minimizing the resulting risk of contagion as the pandemic continues. This process has also led to costs savings in juror fees and time savings for court staff, all of which will serve the longer-term interests of justice.

Point of Contact for Heads of Court Administration

For more information on this initiative, Heads of Court Administration are invited to contact:

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