



Policy:

Trial Without Jury – Section 469 Offences – Consent of Attorney General

Policy Code:

TRI 1

Effective Date:

January 15, 2021

Cross-references:

It is a Regional Crown Counsel, Director, or their respective deputy who provides the requisite consent of the Attorney General to trial without jury (by judge alone) for murder and other offences listed in section 469 of the *Criminal Code*, pursuant to a direction under section 4(3) of the *Crown Counsel Act*.

Trial by jury allows public participation in the trial process and can contribute to public confidence in the administration of justice; however, in appropriate cases, trial by judge alone may lead to a more efficient, timely, and orderly trial process.

The advantages of trial by judge alone in certain cases include:

- more flexibility in responding to scheduling, security, and logistical challenges
- minimization of trial delay
- a more efficient trial process (e.g., by eliminating the need to repeat *voir dire* evidence)
- elimination of the need for complex jury instructions and resulting appeals, especially where there are difficult legal issues, for example involving mental disorder
- reduction in the number of mistrials arising from pre-verdict publicity or the inadvertent leading of prejudicial evidence
- the availability of reasons for judgment explaining the verdict

Crown Counsel should consider the above-mentioned factors on a case-by-case basis and seek the consent of the Attorney General when a judge-alone trial would be in the interests of justice.

When faced with an application by the accused for a change of venue with respect to an offence listed in section 469, Crown Counsel should consider whether the consent of the Attorney General to trial by judge alone would address the concerns about the ability of the accused to have a fair trial in the community where the offence is alleged to have taken place.