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REMANDS TO FEDERAL INSTITUTIONS

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NOTE:

THIS POLICY DOCUMENT IS TO BE READ IN THE CONTEXT PROVIDED BY THE **PREFACE** TO THIS PART OF THE MANUAL.

CERTAIN WORDS AND PHRASES HAVE THE MEANINGS ESTABLISHED IN THE "**WORDS & PHRASES**" SECTION OF THIS PART OF THE MANUAL.

REMANDS TO FEDERAL INSTITUTIONS

Generally, the place to which a prisoner is remanded (other than for psychiatric assessment) is of little significance to the Crown; accordingly, Crown Attorneys usually do not, and should not, get involved in the selection of the facility to which a prisoner is remanded. The prudent course is to allow the prisoner to be placed according to the procedures and protocols established by institutional officials and the courts for the placement of prisoners.

If defence counsel makes a request in court that the accused be remanded on an interim basis to a federal institution, the Crown should not consent to such a remand. In many cases, the Crown may find it appropriate to actively oppose such a remand.

The rationale for this position includes the following considerations:

- The Crown usually does not have all relevant information relating to the ability of an institution to house the accused and the logistical difficulties which may be encountered in returning the accused to court in a timely fashion. Such difficulties may lead to an unexpected adjournment, resulting in unnecessary delay and inconvenience to Crown witnesses.
- The Crown usually does not have all relevant information relating to the dangers of placing the accused in a particular institution. Before an order is made that the accused be placed in a particular institution, it may be necessary to make inquiries concerning the presence in the institution of known associates or accomplices, Crown witnesses, gang members, etc.
- Warrants of Remand and Warrants of Committal (*Criminal Code* Forms 8 and 19) are almost always directed to peace officers in a specific territorial jurisdiction. Many federal institutions are outside of Nova Scotia. Jurisdictional issues may arise if the accused is not in Nova Scotia on the date of his scheduled appearance. The issues may become more complicated if one of the orders holding the accused in custody expires or is vacated, e.g. by a successful appeal, before the scheduled appearance in the court which remanded the accused.

Note: In *R. v. Chaulk*, [1991] M.J. No. 285, Philp, J. A. stated as follows:

Inter-governmental procedures whereby the province and the federal corrections authorities transfer prisoners between one jurisdiction and the other apply only to sentenced prisoners. The courts cannot order a remand prisoner to be held at a federal institution [p. 286].

No legal foundation for this dictum is noted in the case. The *Criminal Code* requires that prisoners on remand be held in custody “in prison” (see, for example, section 516). In view of the wide definition of “prison” in the *Criminal Code* (which specifically includes “a penitentiary”) it may be difficult to rely on this dictum.