

PRACTICE DIRECTION 1 OF 2012

DEALING WITH SECURE AND SENSITIVE MATERIALS

1. Application

- 1.1 This Practice Direction applies to all exhibits and other material tendered in the Magistrates Court.
- 1.2 Unless otherwise ordered or directed, all exhibits are retained by the Court and dealt with in accordance with s170 Criminal Procedure Act 2004 (WA) or Rule 76 Magistrates Court (Civil Proceedings) Rules 2005 (WA).

2. Normal exhibits

- 2.1 Where a party wishes to tender into evidence a large or bulky item (not otherwise dealt with in this Practice Direction), the party is to notify the Court in writing addressed to the Records Manager where the trial is in Perth but otherwise to the Registrar at the court where the trial is to be conducted, copied to all other parties, not less than 21 days before the commencement of the trial so that appropriate arrangements can be made. The notification should describe the item and set out the arrangements proposed by the party.

3. Pornographic and other offensive or disturbing material

- 3.1 Pornographic or other offensive material is to be brought into the Court secured in a sealed envelope clearly marked as containing pornographic material (or other appropriate description) with a large distinctively coloured label. The envelope is to contain a second unused enveloped which can be used for the return of the material.
- 3.2 Where the images are stored in an electronic medium (eg flashdrive or CD or DVD), the same procedures are to be followed as if the images were in hard copy format.
- 3.3 Where a party proposes to tender any material and the party knows or ought to know that the material may cause undue distress to any person the procedures in Clauses 3.1 and 3.2 apply to the material.

4. Drugs

- 4.1 The Court's preference is that all evidence in relation to the actual drugs the subject of the charge be tendered to the Court as photographic or digital images.
- 4.2 If a party wishes to bring the actual drugs into Court, either for inspection or tender, the party is to notify the Court in writing addressed to the Records Manager if the trial is in Perth but otherwise to the Registrar at the court where the trial is to be conducted, copied to all other parties, not less than 21 days before the commencement of the trial so that appropriate arrangements can be made.
- 4.3 It is impracticable for the Court to store drugs either overnight or at the conclusion of a trial pending the expiration of the appeal period. Accordingly, an order will be made releasing the exhibit to the person who is entitled to custody of it, usually the Commissioner of Police or the Federal Police. When the prosecution brings the actual drugs into Court, it will need to ensure that a police officer or a member of the exhibits management team of the relevant investigating authority is at Court when the Court rises at the end of the day to take custody of the drugs.

5. Weapons and dangerous items

- 5.1 The Court's preference is that evidence relating to firearms, ammunition, weapons and other dangerous items be tendered to the Court as photographic or digital images.
- 5.2 If a party wishes to bring the actual item into Court, either for inspection or tender, the party is to notify the Court in writing addressed to the Records Manager if the trial is in Perth but otherwise to the Registrar at the court where the trial is to be conducted, copied to all other parties, not less than 21 days before the commencement of the trial so that appropriate arrangements can be made.
- 5.3 It is impracticable for the Court to store firearms, ammunition, weapons and other dangerous items either overnight or at the conclusion of a trial pending the expiration of the appeal period. Accordingly, an order will be made releasing the exhibit to the person who is entitled to custody of it, usually the Commissioner of Police or the Federal Police. When the prosecution brings the items into Court, it will need to ensure that a police officer or a member of the exhibits management team of the relevant investigating authority is at Court when the Court rises at the end of the day to take custody of the items.

6. Explosives and hazardous substances

- 6.1 Under no circumstances are live or possibly live explosives to be brought into Court.
- 6.2 Under no circumstances are hazardous or potentially hazardous substances to be brought into Court.
- 6.3 In each case, evidence is to be led using photographs, expert reports or other means approved by a Magistrate prior to trial.

7. Money and other valuable items

- 7.1 The Court's preference is that evidence relating to money and other valuable items (eg gold or diamonds) be tendered to the Court as photographic or digital images.
- 7.2 If a party wishes to bring the actual item into Court, either for inspection or tender, the party is to notify the Court in writing addressed to the Records Manager if the trial is in Perth but otherwise to the Registrar at the court where the trial is to be conducted, copied to all other parties, not less than 21 days before the commencement of the trial so that appropriate arrangements can be made.
- 7.3 It is impracticable for the Court to store money and other valuable items either overnight or at the conclusion of a trial pending the expiration of the appeal period. Accordingly, an order will be made releasing the exhibit to the person who is entitled to custody of it, usually the Commissioner of Police or the Federal Police. The party tendering the items will need to ensure that a police officer or a member of the exhibits management team of the relevant investigating authority is at Court when the Court rises at the end of the day to take custody of the items.

Dated 2nd of January 2013

**S A Heath
Chief Magistrate**