

**PRACTICE DIRECTION CRIM 3 OF 2011
CONSENT ORDERS**

1. Background

- 1.1 Pursuant to *Criminal Procedure Rules 2005* (WA) (“CPR”) rule 25A, the parties to a case may consent to the making of an order or direction in the case by lodging one or more documents that set out the order or direction sought and evidence the consent of the parties to the making of the order or direction.
- 1.2 This Practice Direction takes effect from 10 November 2011.
- 1.3 Practice Direction CRIM 4 of 2008 is withdrawn and superseded by this Practice Direction.

2. Jurisdiction

- 2.1 The power to make a consent order in CPR rule 25A has not been delegated to Registrars of the District Court. It will be exercised either by a Judge or Criminal Commissioner of the Court.

3. Fax or electronic lodgment

- 3.1 Pursuant to *Criminal Procedure Rules 2005* (WA) rule 25A(3) the address for electronic lodgement of a consent order is: districtcourt@justice.wa.gov.au
- 3.2 The facsimile number for lodgment at the District Court is (08) 9425 2268.

4. Form

- 4.1 The form of the consent order is set out in Annexure A.
- 4.2 If basis for the making of the order or direction sought is not readily apparent from the face of the order, the party lodging the consent order is also to lodge with the Court a letter stating out the basis on which the order or direction is sought. .
- 4.3. Where the order is to edit a record of interview or visually recorded interview, the application is to annex a copy of the transcript with the portions to be edited out marked.

5. Consent orders for the use of video link facilities

5.1 Where the consent order seeks orders pursuant to [Evidence Act 1906 \(WA\)](#) (“EA”) s121, Practice Direction GEN 1 of 2011, Use of Video Link Facilities, provides that:

- (a) the orders sought must specify the venue at which the witness, party or practitioner proposes to appear; and
- (b) where the venue at which the witness, party or practitioner proposes to appear is not on Court’s List of [Preferred Video Link Facilities](#)., the applicant must file with the application or consent order a letter or an affidavit setting out how it proposes to comply with the obligations in Part 5 of Practice Direction GEN 1 of 2011.

PETER MARTINO
Chief Judge

Annexure A

<i>Criminal Procedure (District Court)</i> <i>Rules 2008</i> District Court At: Number:		CONSENT ORDER
Accused		
Prosecutor		
Orders sought (<i>Examples</i>)	<p>The prosecution and the accused consent to the Court making the following orders:</p> <ol style="list-style-type: none"> 1. The evidence of Mary Smith be taken by video link; 2. Mary Smith be declared a special witness pursuant to <i>Evidence Act 1906</i> s106R and that her evidence be taken by video link; 3. The original visual recording of the evidence / record of interview of Mary Smith be edited as marked on the copy of the transcript of the interview annexed to this order; 4. The State take possession of the original visual recording of the evidence of Mary Smith and have leave to copy and edit it as ordered by the Court; 5. Mary Smith be permitted to receive a copy of the record of interview of John Brown dated 1 March 2006; 6. The things described in the schedule to this consent order be released to [name of claimant]/ destroyed / forfeited to the State pursuant to <i>Misuse of Drugs Act 1981</i> s28(3). 	
Prosecution lawyer Signature	Date:
Accused's lawyer Signature	Date:
<p><input type="checkbox"/> The Court hereby makes orders in terms of paragraphs [] to [] above.</p> <p><input type="checkbox"/> The Court declines to make the orders by consent and requires the relevant party to make an application.</p>		
Judicial officer		
Signature		Date: