

**PRACTICE DIRECTION CRIM 4 OF 2008
CONSENT ORDERS**

1. Application

- 1.1 This Practice Direction is made pursuant to *Criminal Procedure (District Court) Rules 2008*.
- 1.2 This Practice Direction takes effect from 1 September 2008.

2. Orders that can be made by consent

- 2.1 The matters which may be the subject of an order made by written consent are:
- (a) an order pursuant to *Evidence Act 1906* (WA) (“EA”) s121 that the evidence of a witness be taken by video link;
 - (b) an order pursuant to EA s106A to s106T relating to the evidence of children and special witnesses;
 - (c) an order pursuant to *Criminal Investigation Act 2006* (WA) s122 in relation to a record of interview;
 - (d) an order for destruction or forfeiture pursuant to *Misuse of Drugs Act 1981* (WA) s27 or s28;
 - (e) an order pursuant to *Criminal Code* s731 for the forfeiture to the State, or the destruction or disposal, of any thing that was used in or in connection with the commission of the offence;
 - (f) an order pursuant to *Sentencing Act 1995* (WA) (“SA”) s20 for the preparation of a pre sentence report about an offender, including a psychiatric or psychological report;
 - (g) an order pursuant to SA s27 for the preparation of a mediation report;
 - (h) orders in relation to witness summonses pursuant to *Criminal Procedure Act 2004* (WA) (“CPA”) s163, including for leave to inspect and copy documents; and
 - (i) an order extending the time within which the prosecution is to commence or discontinue a prosecution CPA s94 .

3. Form

- 3.1 The form of the consent order is set out in Annexure A.
- 3.2 A party lodging a consent order is also to lodge with the Court a letter stating the facts which justify the making of the order sought.
- 3.3 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.

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: