



FAMILY COURT OF WESTERN AUSTRALIA

## Information Note to Practitioners

### Subpoenas for the Production of Documents by the Director of Public Prosecutions for WA

The Director of Public Prosecutions (DPP) has advised of an increasing number of subpoenas being issued by the Court to the DPP for the production of documents relating to criminal prosecutions undertaken by her office, for use in proceedings in the Family Court of Western Australia. Many of these subpoenas are issued without consultation and are too broadly drafted. With a view to assisting the DPP and the Court in that regard, the following information concerning the issuing of subpoenas for the production of documents directed to the DPP is provided to practitioners:

- The documents that are sought be provided should be limited to the items listed in the attached schedule.
- Any request for a “Court transcript” relating to a prosecution needs to be requested from the relevant Court and not the Office of the DPP (ODPP).
- Video recorded evidence should be requested from the WA Police Force.
- Subpoenas may be served by post or email, sent to [dpp@dpp.wa.gov.au](mailto:dpp@dpp.wa.gov.au).
- The Legal Information Management Officer should be contacted if the practitioner wishes to discuss what material is held by the ODPP prior to the issuing of a subpoena ([dpp@dpp.wa.gov.au](mailto:dpp@dpp.wa.gov.au)).
- Material produced to the Court will be in the form of indexed PDFs on a disc labelled “ODPP Materials for Production”.
- Any material over which privilege is claimed will be produced on a separate disc marked “ODPP Privileged Materials – Not for inspection”.
- The contact details of complainants and witnesses, in particular those who are not parties to the Family Court proceedings, will ordinarily be redacted from material produced.
- If a party seeks to copy any material produced by the DPP, they must give notice of their intention to the DPP, and the following undertaking will likely be required to be given to the Court by their legal representative:
  - Only one copy will be made by each party;
  - The copies of the documents will be retained by the legal representative of the party and not be provided to the party for viewing in the absence of their legal representative (or an employee); and
  - The copies will be returned to the Court for destruction within 14 days of the conclusion of the proceedings.

## **SCHEDULE**

- 1 Indictment and amended versions (if any)
- 2 Brief for Prosecution/Brief for Sentence (which may include transcription of pre-recorded evidence and witness conference notes, if any exist)
- 3 Witness statements not in Brief – including Victim Impact Statements
- 4 Transcript of Accused’s Record of Interview with Police (if not in Brief)
- 5 Copies of Exhibits tendered in evidence (if not in Brief)
- 6 Notice of Discontinuance and any transcript recording the reasons for the discontinuance
- 7 Sentencing Transcript (if available)
- 8 Certificate of Final Outcome or Committal Summary Report
- 9 Appeal documents (if any) including –
  - Notice(s)
  - Appeal Books
  - Appeal Judgment
  - Certificate of Outcome of Appeal

**PRINCIPAL REGISTRAR FORREST**

**29 June 2021**