

District Court Criminal Practice Note 28
CHILD SEXUAL OFFENCE EVIDENCE PRACTICE NOTE

Commencement

1. This Practice Note replaces Practice Note 11 published on 6 August 2019 and commences on 29 January 2024.

Introduction

2. The purpose of this Practice Note is to outline the listing procedures applicable to proceedings captured by the *Criminal Procedure Amendment (Child Sexual Offence Evidence) Act 2023* (NSW), which inserted ss 294E-294S into the *Criminal Procedure Act 1986* (NSW) ('CP Act').
3. The Court will expect the Prosecution to present an indictment in accordance with s 129 of the CP Act (that is, within 4 weeks of committal for trial) and with an expectation that an indictment be filed in court as soon as possible after committal.
4. At the first mention the Judge may:
 - a. Set dates for:
 - i. The ground rules hearing ('GRH');
 - ii. The pre-recorded evidence hearing ('PREH');
 - iii. The balance of the trial;
 - iv. A callover before the Circuit Judge of the relevant District Court circuit; and
 - v. A callover before the List Judge of the relevant Court at which a date for the balance of the trial may be set.
 - b. Make orders for the appointment of a Witness Intermediary ('WI') and the filing of their report 2 weeks prior to the GRH,
 - c. Make orders for the listing of any legal arguments or other applications as required,

bearing in mind the expectation that the PREH should be held as soon as practicable after the first appearance in court: s 294H CP Act.

5. When a trial date is set, a readiness hearing date is also to be set in accordance with Practice Note 18/19 as applicable.
6. Deadlines for filing and service are to be met in accordance with Practice Note 18/19 as applicable.
7. The GRH is to be conducted before the PREH by the same judge who is to hear the pre-recorded evidence (or another judge of the District Court if required). The GRH will be listed at least one week prior to the PREH, unless it is not practicable to do so, in which case it will be conducted prior to the day on which the PREH is listed.
8. The Prosecution is to file a hearing bundle 7 days before the PREH. That bundle is to include the Indictment, the Crown Case Statement, the recorded interview (disc and transcript) of any witness whose evidence is to be recorded in the PREH (with any necessary edits made), and the GRH transcript. Where agreement has not been reached between the parties on edits to the recorded interview, the bundle will include a list of any proposed edits which require a ruling.
9. The accused is to be arraigned prior to the pre-recorded evidence hearing commencing as that hearing marks the start of the trial.
10. The recorded interview of the child is not to be played at the PREH but will have been viewed by the parties and the presiding judge prior to the listing. At the conclusion of the PREH, the judge will make orders for the timely provision to the Prosecution by the court registry of the recording and transcript of the evidence, to enable checking and editing to take place in time for the commencement of the balance of the trial.
11. Noting that different judges may preside over different parts of the proceedings (s 294I(7) CP Act), the court registry will ensure that all prior rulings are documented and kept on the court file and provided to the parties in a timely manner so that they are available at any subsequent listing.

12. Practitioners should ensure that Legal Aid applications have been lodged and finalised immediately after committal for trial and representatives briefed both for the Crown and Defence will be available for a PREH within approximately 2 months and thereafter at the balance of the trial.

Proceedings committed for trial to Sydney District Court, Parramatta District Court, Penrith District Court and Campbelltown District Court

13. All matters will be listed (by the committing Magistrate) for callover at 9:30am in the Child Sexual Assault List at the District Court at Central, 98 Liverpool Street, Sydney (formerly Central Local Court), on a Monday no later than 14 days after committal for trial. At that callover, the Court may make all necessary orders for listings in accordance with paragraph 4 above.
14. For matters committed for trial to **Sydney** District Court, at the time of that callover, the Court may fix a date for the hearing of the balance of the trial (and make any other necessary case management orders).
15. For matters committed for trial to **Parramatta** District Court, after that callover, the matter will be listed at 9:30am on the first Friday thereafter before the list Judge at Parramatta District Court (or another Judge of the District Court if required) who may fix the date for the hearing of the balance of the trial (and make any other necessary case management orders).
16. For matters committed for trial to **Penrith** District Court, after that callover, the matter will be listed at 9:30am on the first Friday thereafter before the list Judge at Penrith District Court who may fix the date for the hearing of the balance of the trial (and make any other necessary case management orders).
17. For matters committed for trial to **Campbelltown** District Court, after that callover, the matter will be listed at 9:30am on the first Thursday thereafter before the list Judge at Campbelltown District Court who may fix the date for the hearing of the balance of the trial (and make any other necessary case management orders).

Proceedings committed for trial to the following District Courts (which have a resident sitting Judge):

- i. Bathurst

- ii. Coffs Harbour
- iii. Dubbo
- iv. Gosford
- v. Lismore
- vi. Newcastle
- vii. Orange
- viii. Wagga Wagga
- ix. Wollongong

18. The resident Judge of the court (or another Judge of the District Court if required) may make all necessary orders in accordance with paragraph 4 above.

19. The resident Judge of the court (or another Judge of the District Court if required) will preside over the ground rules hearings and the pre-recorded evidence hearing.


Proceedings committed for trial to the following District Courts (which are circuit courts):

- i. Albury
- ii. Armidale
- iii. Bega
- iv. Bourke
- v. Broken Hill
- vi. Coonamble
- vii. Goulburn
- viii. Grafton
- ix. Griffith
- x. Moree
- xi. Nowra
- xii. Orange
- xiii. Parkes
- xiv. Port Macquarie
- xv. Queanbeyan

xvi. Tamworth

xvii. Taree

20. The Chief Judge of the District Court (or another Judge of the District Court if required) during the circuit callover may make all necessary orders in accordance with paragraph 4 above.
21. The GRH will be conducted at least one week prior to the circuit at which the PREH is to take place, by the Judge who will preside over that circuit (or another Judge of the District Court if required).
22. The PREH should be given a fixed start date within the circuit sitting to enable firm arrangements to be made for the attendance of the child witness, WI and any support person.
23. The Chief Judge may determine from time to time that a circuit judge may make all necessary orders in accordance with paragraph 4 above during the circuit sittings.



The Honourable Justice D M Price AO
Chief Judge of the District Court
30 November 2023