

PD Annexure 3: Defence Listing Certificate (PD 9)

LISTING CERTIFICATE – DEFENCE

	District Court of Western Australia At: Number:
Parties	THE STATE OF WESTERN AUSTRALIA / THE QUEEN -and- []

1. STATUS OF ACCUSED

(a) Is the accused:

On bail Remanded in custody Sentenced prisoner

(b) Has the accused been advised of:

- (i) The discount that may be available under s 9AA of the *Sentencing Act 1995* if a plea of guilty is entered at the first reasonable opportunity;
- (ii) The legal practitioner's estimate of the reduction in the head sentence (expressed in years or months) that may be available if a plea of guilty is entered at the first reasonable opportunity;
- (iii) The extent of the discount available under s 9AA of the *Sentencing Act 1995* will generally be reduced the longer the delay in entering a plea of guilty.

Yes No

(c) In relation to the current charges, does the accused intend to:

Plead guilty? Plead not guilty?

Enter another plea? (Please specify) _____

(d) Is there any possibility of the accused pleading guilty to any lesser charges?

Yes No

(e) Have the accused's solicitor and counsel complied with CPR rule 10?

Yes No

(f) Does the accused intend to apply for Legal Aid?

Yes No

If "yes", specify current status of any Legal Aid application:

If a guilty plea, it is not necessary to complete Parts 2 to 7.

2. COMMUNICATION WITH THE PROSECUTION

(a) Have all the accused's requests for information, clarification or better disclosure concerning this prosecution been complied with?

Yes No

If "no", specify the nature of the request and when it was made:

(b) Has there been any discussion with the prosecution as to facts that might be agreed or evidence that might be admitted at trial by consent?

Yes No

If "no", specify why not:

3. RECORDS OF INTERVIEW

In respect of any proposed records of interview:

(a) Does the disc / tape need editing?

Yes No

(b) Has the accused provided the prosecution with any proposed edits?

Yes No

(c) Has the editing been agreed?

Yes No

Practitioners are reminded of the need to comply of paragraph 9.7 of Practice Direction 9 'Criminal Listings' in relation to edits to video evidence.

4. OTHER VIDEO EVIDENCE

In respect of any visually recorded evidence or other video evidence:

(a) Does the disc / tape need editing?

Yes No

(b) Has the accused provided the prosecution with any proposed edits?

Yes No

(c) Has the editing been agreed?

Yes No

Practitioners are reminded of the need to comply with paragraph 9.7 of Practice Direction 9 'Criminal Listings' in relation to edits to video evidence.

5. TRIAL LISTING

(a) Estimated trial length (in days)

(b) Number of defence witnesses

(c) Will any witness be required to travel from interstate or overseas?

Yes No

(d) Dates on which accused's witnesses are not available (due to overseas travel or other specified reason):

(e) Does the accused intend to make any application that may affect whether the matter can be listed for trial (eg for separate trials)?

If "yes", specify the nature of the proposed application and when it will be made:

6. TRIAL PREPARATION

(a) Are there any disputes as to the admissibility of evidence?

Yes No

If "yes", specify the evidence in issue and nature of the dispute:

(b) Is a *Criminal Procedure Act 2004* s 98 directions hearing required?

Yes No

If "yes" specify the issues to be determined:

(c) Does the accused intend to call expert evidence?

(See *Criminal Procedure Act 2004* s 96, *Criminal Procedure Rules 2005* r 21)

Yes No

(d) Does the accused intend to give or adduce alibi evidence?
(See *Criminal Procedure Act 2004 s 96, Criminal Procedure Rules 2005 r 21*)

Yes No

(e) Are there any other issues that need to be attended to prior to trial?

Yes No

If “yes”, specify the issues:

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7. TRIAL ARRANGEMENTS

(a) Does the accused intend to seek orders that any witness be declared a “special witness” pursuant to *Evidence Act 1906 s 106A*?

Yes No

If “yes”, specify:

Witness' name	Date of birth	When application will be made

(b) Does the accused intend to seek orders that any witness give evidence by audiolink or videolink?

Yes No

If “yes”, specify:

Witness' name	Date of birth	When application will be made

(c) Does any witness to be called by the accused require an interpreter?

Yes No

If an interpreter is required, the accused must advise the criminal registry not less than 14 days before the trial is due to commence.

- (d) Is the trial going to require audio visual or electronic arrangements beyond the use of a DVD player, CD player or VHS video player (eg presentation of documentary evidence on computer screens or digital photos)?

Yes No

If “yes”, the accused must advise the criminal registry in writing of its requirements not less than 21 days prior to the commencement of the trial.

The Court’s capabilities as regards electronic evidentiary material are set out in the document entitled “Submission of Electronic Evidentiary Materials in Western Australian Courts” which is available on the Court’s website.

- (e) Does the offence relate to pornography or objectionable material under legislation such as the *Classification (Publications, Films & Computer Games) Enforcement Act 1996* and *Censorship Act 1996*?

Yes No

If “yes”, the practitioners should comply with the directions in Circular to Practitioners 15 ‘Management of Trials – Offence Relating to Pornography and Objectionable Material’.

8. CONTACT DETAILS

Solicitor	
Direct phone number	
Fax	
Email	

9. CERTIFICATION

I am the solicitor with the conduct of the defence in this matter.

I certify that:

- (a) in all respects *or* in all respects other than those noted in this certificate (*delete inapplicable*) the defence is ready for the trial of this matter; and
- (b) the answers in this certificate are correct to the best of my knowledge and instructions;
- (c) it is not anticipated that the accused will change his intention as set out in the answer to question 1(c).

I undertake that I will inform the Court as soon as is reasonably practicable after I become aware of any change in circumstances which results in a change to any of my answers on this Listing Certificate.

Signature

Date