

**SUPREME COURT
OF THE
NORTHERN TERRITORY OF AUSTRALIA**

**PRACTICE DIRECTION
NO 2 of 2010**

**ACCESS TO THE COURT BUILDING, JUDGMENTS, EXHIBITS AND
FILES BY THE PUBLIC OR THE MEDIA AND OTHER MATTERS**

Access to Judgments and Sentencing Remarks

1. Where a member of the media is interested in obtaining a copy of a judgment or sentencing remarks about to be delivered, the reporter should advise the Courts Liaison and Education Officer at least 24 hours prior to the judgment being published or the sentence being handed down, requesting a copy at the time of publication.
2. The Courts Liaison and Education Officer, on receiving a request under paragraph 1 is to advise the Judge's Associate of the request and of the number of extra copies required for the media.
3. Upon receipt of the request from the Courts Liaison and Education Officer:
 - (a) The Judge shall consider the request and advise if the copies requested will be made available.
 - (b) If the judgment or sentencing remarks are to be delivered ex tempore, the Judge's Associate shall advise the Courts Liaison and Education Officer accordingly and request Court Reporting to prepare the transcript or sentencing remarks urgently.
 - (c) Each Judge shall settle the transcript of a judgment or sentencing remarks delivered ex tempore as soon as is reasonably practical. If possible, the settled transcript should be posted on the Court's website on the same day.
4. In the case of appeals from the Local Court or Court of Summary Jurisdiction, or orders in the nature of administrative review, the Judge's Associate is to forward a copy of the judgment or transcript of the judgment/sentencing remarks to the Magistrate and to the Chief Magistrate by fax, email or other means as soon as possible.

Access to Exhibits

5. Exhibits are not part of the records of the Court and are not available for inspection without the permission of the Court.
6. Permission to access exhibits must be sought through the Courts Liaison and Education Officer, who will convey the request to the Associate of the trial Judge or if he or she is not available to the Chief Justice's Associate.
7. Whether or not access will be given to exhibits is in the discretion of the Court.
8. In exercising this discretion, the Court will consider all of the circumstances, including:
 - (a) the public interest in granting or refusing access;
 - (b) whether the exhibit is likely to offend public decency;
 - (c) whether the exhibit contains material which is not able to be disclosed by reason of a statutory restriction on disclosure or a court order;
 - (d) whether the exhibit ought to remain confidential for any other reason, for example, because it may contain confidential financial information which could be used by a business competitor, or private information which could be used for an improper or illegal purpose such as identity theft;
 - (e) whether the exhibit needs to be edited before it is released;
 - (f) whether or not conditions should be attached to the permission to be granted and, if so, what conditions.
9. Copies of exhibits will not be made available, even if access is granted, unless the Court approves of the making of a copy or copies.
10. Whether or not copies will be permitted is in the discretion of the Court.
11. In exercising this discretion, the Court will consider all of the circumstances including:
 - (a) whether the exhibit is subject to copyright and, if so, whether permission has been obtained from the owner of the copyright;
 - (b) all of the factors relevant to the exercise of the discretion to grant access;
 - (c) the cost of copying the exhibit and if the applicant is prepared to meet those costs.

Access to the Court's Files

Criminal Trials – Access Prior to Conviction

12. Access to the Court's criminal files is governed by Rule 81A.39 (criminal files) and by s 428 and s 439 of the *Criminal Code*.

13. Only the parties interested in a criminal matter are entitled to access the Court's criminal files and access is limited to the record of the Court (which is defined by Rule 81A.39) or to depositions (s 439).
14. Prior to conviction, the Court will not usually grant access to the Court's criminal file to a non-party.
15. Access to the Court's criminal file prior to conviction may be granted by a Judge upon application to the Court being made to the Courts Liaison and Education Officer, who will convey the request to the Judge's Associate.
16. Whether or not access is granted is in the discretion of the Court.
17. In exercising the discretion, the Court will have regard to the public interest and, in particular, the reasons why access is requested and all of the circumstances of the case including the stage at which proceedings have reached.
18. Except in exceptional circumstances, access by a non-party will be limited to:
 - (a) the indictment; and
 - (b) any orders made by the Court.

Criminal Trials – Access Subsequent to Conviction

19. An application for access to the Court's criminal file after conviction by a person not a party may be made to the Courts Liaison and Education Officer who shall convey the application to the Associate of the trial Judge, or, if he or she is not available, to the Chief Justice's Associate.
20. Access may be granted or refused in the discretion of the Court.
21. In granting or refusing access, the Court will have regard to the public interest; the reasons for the request; and what documents are sought. As a general rule, only documents which form part of the records of the Court as defined in Rule 81A.39 will be available for access.
22. Access will be refused in relation to any document or part thereof which the Court is required by statute to keep confidential or which is subject to a Court order prohibiting or restricting publication.

Civil Files

23. Access to the Court's civil files is governed by Rule 28.05 of the *Supreme Court Rules*. A search fee is payable under the *Supreme Court Regulations*.
24. Notwithstanding Rule 28.05, affidavits which have not been formally read in open Court are not available for inspection by a person who is not a party or a solicitor for a party to the action without the leave of the Court.

25. When an affidavit has been formally read in open Court, the Associate of the Judge hearing the proceedings shall note on the back sheet that the affidavit was formally read in open Court before the Judge concerned and record the date.
26. A file shall not be searched by a member of the public not a party or a solicitor for a party without the prior approval of the Registrar. The Registrar shall remove from the file all documents which are not available for search until the search is completed.
27. Offers of compromise which have been filed are not available for search by any person not a party or a solicitor for a party to the action.
28. An application for leave may be made to the Court by application in writing to the Courts Liaison and Education Officer who will convey the application to a Judge.
29. The Court may grant or refuse the application in its absolute discretion.
30. In exercising its discretion, the Court will consider all of the circumstances including:
 - (a) the public interest in granting or refusing access;
 - (b) whether or not the material sought to be searched contains libellous material or information which the Court considers should remain confidential to the parties; and
 - (c) whether or not the material sought to be searched is the subject of a statutory restriction, rule of Court or Court order preventing disclosure.

Review of Applications for Access

31. No reasons are required to be given if access to a document or file or part of document or file is refused.
32. A person who has been refused access to a document or Court file may apply to the Court by Originating Motion for an order granting access.
33. An application under paragraph 32 shall be heard by the Court as a hearing de novo.

Suppression Orders

34. A party to a proceeding, whether criminal or civil, who intends to make an application to the Court for a suppression order shall:
 - (a) Give notice of the precise order sought, including the title of the proceedings and the action number supported by an affidavit setting out the grounds of the application.
 - (b) File the application and supporting affidavit in the Registry at least 48 hours before the order is sought.

- (c) Serve the application and supporting affidavit on all other parties at least 48 hours before the order is sought.
 - (d) Unless the Court otherwise orders, an affidavit in support of the application is not available for search by a non-party.
 - (e) The application (but not the affidavit) is also to be served on the Courts Liaison and Education Officer to distribute to the media.
 - (f) Any member of the media has the right to intervene and be heard in opposition to the making of the order.
 - (g) The Court may order that the whole or some part of the affidavit in support of the application may be supplied to the media on such terms as the Court considers just.
 - (h) An application by the media may be heard notwithstanding that the Court is closed whether under s 27 of the *Misuse of Drugs Act* or otherwise.
 - (i) If a suppression order is made:
 - (i) the Judge's Associate shall provide a copy of the order to the Courts Liaison and Education Officer for distribution to the media; and
 - (ii) the Court may order that the reasons for the making of the order not be published either in whole or in part beyond the parties or the media heard in opposition to the order, if it is necessary to do so in the interests of justice.
35. Notwithstanding non-compliance with clause 34, the Court, in its discretion, may nevertheless make a suppression order if it is necessary to do so in the interests of the administration of justice and is otherwise authorised by law.

Use of Cameras or Recording Equipment in Court

- 36. The use of cameras or recording equipment in the precincts of the Courthouse or in courtrooms is forbidden unless prior approval is given by the Court.
- 37. An application may be made to the Court to record a proceeding or part of a proceeding by lodging an application to the Courts Liaison and Education Officer, who will refer the application to the Court.
- 38. The Court may either refuse the application or grant the application on any terms it sees fit.

Applications to Use Court Facilities

- 39. Applications to the Court for use of the Court building or facilities are to be made on the appropriate form available from the Sheriff's office or from the Courts Liaison and Education Officer to the Courts Liaison and Education Officer who will refer the application to a Judge for approval.

40. As a matter of policy, the following applications will generally be refused:
- (a) applications to conduct a wedding reception in the Court building;
 - (b) applications to use any of the Court's facilities or premises for a profit-making enterprise; and
 - (c) applications to use any of the Court's facilities or premises at which a charge will be made, either directly or indirectly, to those attending.
41. Save in exceptional circumstances applications to use a Courtroom to conduct a hearing whether by another Court or a Tribunal will not be accepted.

Applications to the Courts Liaison and Education Officer

42. Where an application is required to be made to the Courts Liaison and Education Officer, it may be made by telephone, facsimile or email. Any supporting documentation must be either faxed or emailed. Contact details for the Courts Liaison and Education Officer are:

Ms Malika Okeil
Telephone: (08) 8999 5295
Mobile: 0402 084 861
Fax: (08) 8999 5512
Email: malika.okeil@nt.gov.au

43. If the Courts Liaison and Education Officer is not available enquiries may be made to the Sheriff.

Dated

Chief Justice