

SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY

PRACTICE DIRECTION NO. 1 OF 2014

***COURT PROCEDURES
FOR BREACHES OF GOOD BEHAVIOUR ORDERS***

If an offender is alleged to have breached a condition of a good behaviour order made in the Supreme Court, ACT Community Corrections/Youth Justice may request a listing to have a summons or warrant signed, and for the hearing of the breach proceedings.

This Practice Direction sets out the procedures for the listing of breaches of good behaviour orders for an adult and a young person.

1. ACT Community Corrections/Youth Justice must report a breach of an offender's good behaviour order to the sentencing court (s.102 *Crimes (Sentence Administration) Act 2005*). When the sentencing court is the ACT Supreme Court, ACT Community Corrections/Youth Justice should contact the List Clerk to request a date to have a summons or warrant signed for a breach of a good behaviour order.
2. The contact officer is Gaeleen Curley (phone 6207 1219, email: gaeleen.curley@act.gov.au).
3. The List Clerk will allocate a date for the Director of Public Prosecutions (DPP) to appear before the Court to apply to the Judge to sign the summons or warrant.
4. The date will usually be set on a Friday at 9.30am before the Judge who made the good behaviour order (the **sentencing Judge**), if available, otherwise before the duty Judge, within 7-10 days of the request being received by the List Clerk.
5. ACT Community Corrections /Youth Justice must file in the Supreme Court **at least 2 days before the allocated date**:
 - (a) the summons (Form 6 - *Crimes (Sentence Administration) Act 2005*) or warrant (Form 5 - *Crimes (Sentence Administration) Act 2005*) (as applicable); and
 - (b) the sworn/affirmed Breach Report (from ACT Community Corrections) or sworn/affirmed affidavit (Form 6.11 - *Court Procedures Rules 2006*) (from Youth Justice).
6. ACT Community Corrections /Youth Justice must arrange for the DPP to appear on the allocated date and provide the DPP with a copy of the documents.
7. The return date in the summons should be left blank as it will be allocated by the Judge.
8. An original set of documents are to be lodged with the Court.

Distribution of documents by Registry

9. If a summons is issued (s. 106 *Crimes (Sentence Administration) Act 2005*), the registry will write up the documents on the inside cover of the file, including allocating numbers to all documents, **seal** the signed summons, make any additional copies as necessary and distribute them as follows:

- (a) original + 1 copy to Sheriff's Office for service of the summons, with copies of the Breach Report or affidavit attached to each (for service and for the affidavit of service);
- (b) 1 copy each to ACT Community Corrections/Youth Justice, the DPP and the court file.

The Sheriff's Office will have the summons, with a copy of the Breach Report or affidavit, served and prepare an affidavit of service. The affidavit of service will be given to registry to put on the file and the Sheriff's Office will retain a copy for their records.

10. If a warrant is issued (s. 104 *Crimes (Sentence Administration) Act 2005*), the registry will write up the documents on the inside cover of the file, including allocating numbers to all documents, **seal** the signed warrant, make any additional copies as necessary and distribute them as follows:

- (a) original + 2 copies to the DPP to arrange for execution of the warrant;
- (b) 1 copy each to ACT Community Corrections/Youth Justice and the court file.

If a Summons is issued

11. If the duty Judge signs the summons, then:
- (a) if the order that was breached was made by a current resident judge who is available to deal with the breach within a reasonable period of time – the return date should be a date in a call-over list before that sentencing Judge; or
 - (b) if the order that was breached was made by a retired judge or a judge unavailable to deal with the breach within a reasonable period of time – the return date should be a hearing date before the duty Judge.
12. If the duty Judge gives a return date before the sentencing Judge, being a date in a call-over list, the sentencing Judge may hear the breach on that day, or may set a further date for the hearing of the breach.
13. At the return date for a summons, it is expected that the DPP will appear, instructed by an ACT Community Corrections officer. If the ACT Community Corrections officer is not the same officer who made the Breach Report or affidavit, then that latter officer must, subject to any order of the Court, be available at the time of the hearing of the breach (including the first return date) to give evidence by telephone/facetime/CCTV.

If a warrant is issued

14. When a warrant has been executed, ACT Corrective Services will contact the List Clerk to advise they have the offender in the Court cells. The List Clerk will liaise with the sentencing Judge's chambers (if the sentencing Judge is available), or the duty Judge's chambers (if the sentencing Judge is not available) to ascertain a suitable time to list the matter.
15. When a time has been agreed, the List Clerk will advise the DPP, ACT Community Corrections/Youth Justice and the offender's solicitor (if the offender is legally represented and this information is available).
16. It is expected that the DPP will appear on the return of the warrant, instructed by an ACT Community Corrections officer. If the ACT Community Corrections officer is not the same officer who swore/affirmed the breach report, then that latter officer must, subject to any order of the Court be available at the time of the hearing of the breach (including the return date) to give evidence by telephone/facetime/CCTV.
17. If the matter is listed before the duty Judge and the duty Judge is not the sentencing Judge, then:
 - (a) if the order that was breached was made by a current resident judge available to deal with the breach within a reasonable period of time – the duty Judge will adjourn the matter to a date in a call-over list before the sentencing Judge; or
 - (b) if the order that was breached was made by a retired judge or a judge unavailable to deal with the breach within a reasonable period of time – the duty Judge will hear the matter either on the return of the warrant or at a later date when the Judge is available to hear the matter.

By direction of the Judges.

Annie Glover
Registrar

4 August 2014