

REPUBLIC OF TRINIDAD AND TOBAGO

PRACTICE DIRECTION

RECORDS OF COURT PROCEEDINGS

This Practice Direction is issued pursuant to Part 4 of the Civil Proceedings Rules 1998 (as amended), Part 19 of the Criminal Procedure Rules 2023, Part 4 of the Family Proceedings Rules 1998 (as amended), Part 22 of the Children Court Rules 2018 and is applicable to the entire Judiciary of Trinidad and Tobago which includes the Supreme Court and the District Courts.

Interpretation

In this Practice Direction-

“Source of Truth” means the authoritative, reliable, and trusted data source that provides the most accurate and valid data. It is the primary source from which all other systems and data repositories derive their data;

“SWIF” means the Judiciary’s *Simple and Secure Web Forms* portal for electronic filing by completion of web forms, and is accessible at swif.ttlawcourts.org or eservices.ttlawcourts.org.

Production and Transmission of Records of Court Proceedings

Whereas Section 16(1) of the Indictable Offences (Preliminary Enquiry) Act Chap.12:01 (hereinafter referred to as the **“PI Act”**) provides that:

“When an accused person is before a Magistrate holding a preliminary enquiry, the Magistrate shall take or cause to be taken down in writing, or have recorded, the evidence of the witnesses on the part of the prosecution apart from each other.”;

And Whereas under Section 18(1) *“...every witness called by the accused person who testifies to any fact relevant to the case shall be heard and his evidence shall be taken in the same manner as the evidence of a witness for the Prosecution.”*

And Whereas in the District Courts, the Magistrates cause to have the proceedings including the evidence of the witnesses, recorded by audio digital recording or by digital audio visual recording;

And Whereas Section 16 (4) of the **PI Act** provides that:

“If the evidence is recorded by electronic audio recording, video recording or Computer Aided Transcription (CAT), a transcript of the recorded evidence shall be prepared and verified by the certificate of those responsible for the accuracy of the recording of the

proceedings and of the transcript in accordance with the Recording of Court Proceedings Act” .;

And Whereas, with the marginal note *“Electronically signed message deemed to be original document”*, Section 16 of the Electronic Transactions Act Chap. 22:05 (**hereinafter referred to as the “ETA”**) provides that:

“A copy of a data message containing an electronic signature shall be as valid, enforceable and effective as a document, record or other communication containing a non-electronic signature.”;

And Whereas section 25(1) of the **PI Act**, which speaks to the transmission of certain documents on committal (committal bundle), does not make reference to hard copy original documents;

And Whereas, in any event, sections 8(a), 10(1), 11, 12(1), and 17 of the **ETA** and section 14B(1) of the Evidence Act Chap. 7:02 provide as follows:

Electronic Transactions Act

8. *Information or a record in electronic form or a data message shall not be denied legal effect, admissibility or enforceability solely on the grounds that it is*
(a) rendered or made available in electronic form; ...

10. (1) *The legal requirement that information a record or a data message be provided or sent to a person may be met by providing or sending the information, record or data message by electronic means.*

11. *Where a written law requires information, a record or a data message to be presented in a specified non-electronic form, that requirement is satisfied if the information or record in electronic form or the data message—*

(a) contains substantially the same information; and

(b) is accessible and retainable so as to be usable for subsequent reference.

12. (1) *Where a written law requires information, a record or a data message to be presented or retained in its original form, that requirement is satisfied by the information, record or data message being presented in electronic form if—*

(a) there exists a reliable assurance as to the maintenance of the integrity of the information or record in electronic form or the data message by the person who presented the information; and

(b) it is to be presented to a person, the information or record in electronic form or the data message in electronic form is accessible and capable of retention for subsequent reference.

17. *Information or record in electronic form or a data message will not be deemed inadmissible as evidence-*
- (a) *Solely on the ground that it is in electronic form; or*
 - (b) *On the ground that it is not in the original non-electronic form, if it is the best evidence”*

Evidence Act

14B. (1) *In any criminal proceedings nothing in any written law or the common law shall apply to deny the admissibility of an electronic record in evidence on the sole ground that it is an electronic record.”*

Accordingly the following measures shall take effect:

A. The Official Record of Court Proceedings

1. **For the avoidance of all doubt**, when proceedings are recorded electronically using the method used by the Judiciary, the audio digital or digital audio-visual recording as the source of truth is the Official Record.
2. Any text transcript in which the recording may have been reduced into words by any means used by the Judiciary and certified by the person so transcribing is a transcript of the Official Record.
3. If there is any dispute as to the accuracy of the text transcript, it may be verified as against the audio digital or digital audio-visual recording which remains the source of truth. The Court as the holder of the Official Record is the final arbiter of accuracy.

B. Electronic Filing

1. All documents filed in the District Courts must be filed electronically.
2. All documents filed in the Supreme Court must be filed electronically.
3. Notwithstanding (1) and (2) above, manual filing is limited to exceptional circumstances only as determined and approved by the Magistracy Registrar and Clerk of the Court or the Registrar as the case may be.

C. Proceedings instituted prior to the coming into force of the Administration of Justice (Indictable Proceedings) Act 2011 (hereinafter referred to as “AJIPA”) where no order is made under section 32A of AJIPA

1. The indictment must be filed electronically using the SWIF system provided by the Judiciary for the filing of indictments.

2. The filing of an indictment in proceedings of this category commences a case in the High Court.
3. On the filing of the indictment, the Court Office shall assign the matter to a Judge.
4. In keeping with Rule 7.8(6) of the Criminal Procedure Rules 2023, upon the filing of an indictment, copies of the following documents which were included in the committal bundle are to be filed by the prosecution:
 - The complaint or information;
 - Witness statements; and
 - The warrant of commitment
5. The following must be uploaded by the Prosecution into the electronic case presentation system in keeping with the template identifiers specified in Column 1 of Schedule 2 of the Practice Direction dated December 12, 2023.¹
 - Filed copies of the complaint or information, witness statements tendered in the District Court, the warrant of commitments;
 - Transcripts of proceedings in the District Court;
 - Copies of any cautions to the accused, alibi warning; and
 - Other documents, videos, recordings, or other media on which the Prosecution intends to rely.

D. Transmission of records

1. In accordance with the ETA and section 14B(1) of the Evidence Act, any requirement for a document or record to be transmitted by the Judiciary to anyone or any agency is satisfied when it is transmitted electronically to the address or cloud location identified for this purpose.
2. In accordance with the ETA any document which was tendered into evidence to the District Court in hard copy may be scanned and transmitted electronically to the address or cloud location for this purpose. Section 11 of the ETA is satisfied by the Judiciary's retention of any document, which was tendered to the District Court, in electronic or non-electronic form.
3. When a document is sent to or filed in the court electronically, the data message transmitted electronically is the original. Any printed replica of that document is a copy.
4. When information is created or filed in the court electronically, the data message transmitted electronically is the original. Any printed replica of that information is a copy.

¹ [Gazette No. 179, Vol 62, Tuesday 12th December, 2023 \(printery.gov.tt\)](#)

5. For the further avoidance of doubt, any requirement for committal bundles to be sent to the Director of Public Prosecutions pursuant to section 25 of the PI Act will be satisfied by the Judiciary sending to the Director of Public Prosecutions in electronic format by File Transfer Protocol including Next Cloud.
6. Any requirement for committal bundles to be transmitted to the Registrar by the Director of Public Prosecutions pursuant to section 25 of the PI Act will be satisfied by the Director of Public Prosecutions sending to the Registrar in electronic format by e-filing or uploading to Case Center, the Judiciary’s electronic case presentation system as required by rules of court, law or court order.
7. When sending a data message by File Transfer Protocol including Next Cloud, the following folder structure shall be used:

District Court Committal Bundle Structure and Naming Convention

MAIN FOLDER	<p>This folder is the parent folder in which all sub-folders shall reside.</p> <p>The folder shall be named using the following three (3) components, separated by dashes:-</p> <ol style="list-style-type: none"> 1. the <i>Court-assigned case number</i>; 2. a description of the contents title such as <i>“Committal-Bundle”</i>; and 3. the name(s) of the Defendant(s). <p>For Example: <i>CR-DC-SGW-1016-2019-1-Committal-Bundle-John-Hancock</i> <i>or</i> <i>SGW-1500-2002-Committal-Bundle-John-Hancock-Jane-Doe</i></p>
SUB- FOLDER	<p>Sub-Folders group similar or related documents/exhibits.</p> <p>Each sub-folder is identified using a LETTER and a SECTION TITLE. For Example: <i>E- EXHIBITS</i></p>
INDIVIDUAL DOCUMENTS	<p>Each documents will be placed in its relevant sub-folder/sections as individual and PDFs.</p> <p>The document naming convention is comprised of the following elements, separated by dashes:</p> <ol style="list-style-type: none"> 1. Court assigned Case Number; 2. the letter representing the sub-folder; 3. a number representing the order of the document in the folder; and 4. the document description.

	<p>For Example: <i>CR-DC-SGW-1016-2019-1-A1-Committal-Cover-Sheet</i></p> <p>Where a document or exhibit has supporting documents within the same section, and these supporting documents are separate files/PDFs, these supporting documents are to be named by further extending the convention.</p> <p>For Example:- Document C.3 would be named <i>CR-DC-SGW-1016-2019-1-C3-Further-Statement-of-John-Doe</i>. However the medical report submitted to support it would be identified as document C3.1 and named accordingly <i>CR-DC-SGW-1016-2019-1-C3.1-Medical-Report</i></p>
PAGE NUMBERING	<p>Parties can utilize this structure to reference pages with the specified document.</p> <p>For Example: Page 25 of the 3rd document in Section F would be referenced as F.3.25. Page 15 of the 2nd document in Section B would be referenced as B.2.15 Page 9 of the 2nd supporting document the 3rd document in Section C would be referred to as C.3.2.9</p>

Example of File Transfer Protocol Folder Structure and Document Naming Convention

KEY : **BOLD – FOLDER/SECTION LABEL** *Italics- Suggested Name of Folder/Document*

MAIN FOLDER NAME - *CR-DC-SGW-1016-2019-1-Committal-Bundle-John-Hancock*

SECTION/FOLDER – A - GENERAL DOCUMENTS

DOCUMENT A.1 – *CR-DC-SGW-1016-2019-1-A1-Committal-Cover-Sheet*

DOCUMENT A.2 – *CR-DC-SGW-1016-2019-1- A2-Index-To-Proceedings*

DOCUMENT A.3 – *CR-DC-SGW-1016-2019-1-A3-Information-IndictableOffence*

DOCUMENT A.4 - *CR-DC-SGW-1016-2019-1-A4-Endorsements-Minuted-Fly-Sheet*

SECTION/FOLDER – B-TRANSCRIPTS

DOCUMENT B.1 – *CR-DC-SGW-1016-2019-1-B1-Schedule-of-Transcripts*

DOCUMENT B.2 – *CR-DC-SGW-1016-2019-1-B2-Transcript-of-Hearing-Feb-25-2018*

(Evidence and Submissions)

DOCUMENT B.3 – *CR-DC-SGW-1016-2019-1-B3- Transcript-of-Hearing -Mar-10-2018*

DOCUMENT B.4 – *CR-DC-SGW-1016-2019-1-B4- Transcript-of-Viva Voce-Hearing-Apr-15-2018*

DOCUMENT B.5 – *CR-DC-SGW-1016-2019-1-B5- Transcript-of-Hearing -May-9-2018*

SECTION/FOLDER -C– EXHIBITS

DOCUMENT C.1 – *CR-DC-SGW-1016-2019-1-C1-Schedule-of-Exhibits-and-Exhibits*

DOCUMENT C.2 – *CR-DC-SGW-1016-2019-1-C2-Statement-of-John-Doe*

DOCUMENT C.3 – *CR-DC-SGW-1016-2019-1-C3-Further-Statement-of-John-Doe*

Exhibit C.3.1 – *CR-DC-SGW-1016-2019-1-C3.1-Medical-Report*

Exhibit C.3.2 - *CR-DC-SGW-1016-2019-1-C3.2-Certified-Copy*

DOCUMENT C.4 – *CR-DC-SGW-1016-2019-1-C4-First-Statement-of-Donna-Joh*

SECTION/FOLDER - D – WRITTEN SUBMISSIONS BY PROSECUTION

DOCUMENT D.1 – *CR-DC-SGW-1016-2019-1-D1-Submission-1 (Name, if applicable)*

DOCUMENT D.2 – *CR-DC-SGW-1016-2019-1-D2-Submission-2 (Name, if applicable)*

SECTION/FOLDER - E– WRITTEN SUBMISSIONS BY DEFENCE

DOCUMENT E.1 – *CR-DC-SGW-1016-2019-1-E1-Submission-1 (Name, if applicable)*

DOCUMENT E.2 – *CR-DC-SGW-1016-2019-1-E2-Submission-2 (Name, if applicable)*

SECTION/FOLDER -F – COMMITTAL

DOCUMENT F.1 – *CR-DC-SGW-1016-2019-1-F1-eg Caution-To-Accused (if in separate document)*

DOCUMENT F.2 – *CR-DC-SGW-1016-2019-1-F2 eg-Alibi- Notice (if in separate document)*

DOCUMENT F.3 – *CR-DC-SGW-1016-2019-1-F3-Order-for-Committal-of-Accused*

DOCUMENT F.4 – *CR-DC-SGW-1016-2019-1-F4-Warrant-of-Committment*

SECTION/FOLDER - G– RECOGNISANCE

DOCUMENT G.1 – *CR-DC-SGW-1016-2019-1-G1-Recognisance-of-Witness-for-[John-Doe]*

DOCUMENT G.2 – *CR-DC-SGW-1016-2019-1-G2-Recognisance-of-Witness-[Jane-Doe]*

DOCUMENT G.3 – *CR-DC-SGW-1016-2019-1-G3-Recognisance-of-Bail-for-[Frank-Doe]*

DOCUMENT G.4 - *CR-DC-SGW-1016-2019-1-G4-Witnesses-Pay-Sheet*

E. Effective Date

This Practice Direction takes effect on the 20th day of May 2024.

Dated this 16th day of May, 2024

/s/ Ivor Archie
Chief Justice