Victoria Police Manual – Policy Rules

Briefs of evidence

Context

A brief of evidence (or 'brief') is a compilation of all documents relevant to the prosecution of a particular case. To present a case before the court, one of the following types of brief must be compiled and authorised:

- Brief of evidence – where a summary or indictable offence is to be heard summarily by the Magistrates' Court or Children's Court
- Hand-up brief – for indictable offences to be presented at a committal hearing or trial.
- Coronial brief – for an investigation or inquest to be conducted by a coroner on the collated evidence.

The *Criminal Procedures Act 2009* makes provision for two types of summary jurisdiction briefs, a preliminary brief (s.37) and a full brief (s.41). It is essential that these briefs are compiled in accordance with legislation and these Rules to ensure that the content is at the standard necessary for the case to be heard at court.

Application

Policy Rules are mandatory and provide the minimum standards that employees must apply. Non-compliance with or a departure from a Policy Rule may be subject to management or disciplinary action. Employees must use the **VPM Professional and ethical standards** to inform the decisions they make to support compliance with Policy Rules.

These Policy Rules apply to:

- operational members
- work unit managers
- police prosecutors

Rules and Responsibilities

1. Informant/Coronial investigator responsibilities

- Informants or Coronial investigators are required to submit a brief for matters where a person will be charged or where directed by a Coroner to prepare a Coronial brief.

- A preliminary brief must be compiled in the first instance, unless the informant is otherwise instructed to compile a full brief by the authorising member. In both circumstances, the brief must be compiled in accordance with the *Criminal Procedure Act* using the Preliminary Brief – Statement made by Informant [Form 1372].

- A brief is not required for matters subject to an infringement notice, unless a notice of objection is lodged.

- See **VPM Crime investigation – Case management** for case management and investigation requirements.

- Informants must comply with the procedure detailed in **VPM Laying charges**.

2. Brief content requirements

2.1 General requirements

The informant must ensure that:

- all briefs are typed, apart from witness statements and the Brief Head [Form 208A] which may be legibly handwritten

- Form 208A and all applicable documents are attached in accordance with s.37 or s.41, *Criminal Procedure Act 2009*

- where the case will be presented at a committal hearing, the hand-up brief is compiled as required by s.110, *Criminal Procedure Act* and copied as necessary. See hand-up briefs in **VPMG Brief preparation and management** for guidance

- the matter is listed as required by legislation and the brief is served accordingly. Refer to the **VPMG Brief preparation and management** for specific instructions relating to hand-up briefs and the relevant timeframes in which proceedings can commence

- all documents presented on a Coronial brief are typed. Hand written statements or reports are to be reduced to type and presented with the handwritten version for comparison.

2.2 Co-accused and counter claim briefs

- Co-accused briefs must be prepared as individual briefs and kept together by including all material relevant to all accused.

- A Brief Coordinator must be appointed and manage the compilation of the brief where two or more persons:
  - have been charged with offences arising from the same set of circumstances where they have either acted in concert or aided and abetted the commission of one or more offences, or
  - are accused of committing offences against one another at the same time.

- The prosecutor is responsible for advising the court that there are co-accuseds and that a joint hearing is required. Refer to **VPMG Brief preparation and management** for guidance about prosecuting co-accused and counter claim briefs.

2.3 Plea briefs

- Informants must not initiate plea brief discussions. Where the defence initiate plea brief discussions the informant must consult the OPP before taking any action or indicating any agreement and serve the brief in accordance with s.394, *Criminal Procedure Act*.

- The informant or prosecutor must consult the victim before accepting a plea, including a guilty plea to a lesser charge.

- Within 7 days of service the informant must file a copy of the brief with the registrar and forward a copy to the DPP where relevant.

- For details regarding the contents of a plea brief, see s.117, *Criminal Procedure Act*.

2.4 Coronial briefs

- The Coroners Court of Victoria (CCoV) will advise police when a Coronial brief is required in relation to a Reportable Death.

- Refer to **VPM Inquests and coronial briefs** for detailed information on the preparation and submission of Coronial briefs.

- The member submitting the Death Report via the Death Reports Application, or Report of Death [Form 83] if the application is unavailable, will be recorded by the CCoV as the assigned coroner's investigator and will be forwarded future notifications regarding actions to be taken.

- Reportable deaths involving an event or incident that took place outside of the reporting member's PSA, should be investigated by a police member from the area where the event or incident took place.

- If the assigned investigator changes from the member submitting the Death Report, the CCoV is to be given written notification detailing the name, registered number and work location of the new investigator.

- If the assigned coroner's investigator transfers from their work location and they have outstanding matters at the CCoV, written notification must be provided to the Court regarding who will be responsible for the ongoing investigation.

3. Timeframes for brief preparation and submission

3.1 Informant responsibilities

Prosecutorial briefs

- Where an informant has charged or intends to charge a person, before the end of their shift they must:
  - submit to their supervisor a Form 208A with contemporaneous notes attached or a Case File, if applicable, in accordance with **VPM Crime investigation – Case management**
  - complete relevant LEAP forms, including an Intent to Summons [Form L14A] where appropriate.
- Where the informant commences and completes a shift away from their home station (e.g. State Highway Patrol) the Form 208A is to be submitted by close of business the day they return to their home station.

- The informant must ensure that a brief is submitted for checking and authorisation:
  - within one month of the date of the accused being interviewed
  - so there is sufficient time for the brief to be received by the prosecutor at least 14 days prior to the hearing.
- Where a brief is returned to the informant for further attention prior to authorisation, the informant must ensure the brief is resubmitted for assessment within seven days from the date of return.

Coronial briefs

When an investigator receives notification from CCoV to prepare a Coronial brief they must ensure:

- this notification is brought to the attention of their work unit manager for recording

- any due date specified by the Court is met

- the brief is submitted for checking at least 1 week prior to the due date the brief is required at Court

- they respond in writing to any enquiries received from the CCoV regarding the investigation or preparation of the brief
- they communicate with CCoV in respect to any inability to comply with the due date of the brief at least five working days prior to such date (see **VPM Inquests and coronial briefs**, for details on extensions).

3.2 Supervisor responsibilities

Prosecutorial briefs

Where an informant submits a Form 208A as detailed in section 3.1 of this policy, their Supervisor must:

- assess the appropriateness of the matter proceeding to a brief of evidence, giving consideration to the enforcement framework provided in **VPMP Disposition of offenders**
- ensure that a record is created on the Brief Register within one day of submission
- return the file to the informant within three days of submission of the Form 208A with advice on progressing the matter recorded on the file
- assess the progress of the file and preparation of the brief 14 days from submission of the Form 208A.

Coronial briefs

When a coroner's investigator receives notification from CCoV to prepare a Coronial brief the supervisor must:

- make inquiries with the investigator to assess the requirements of any further investigation required to be undertaken
- assess the progress of the file and preparation of the Coronial brief every 28 days.

3.3 Work unit manager responsibilities

To ensure the timeframes required by sections 3.1 and 3.2 of this policy can be met, the work unit manager must ensure that tasks are managed or delegated as required.

4. Checking and authorising briefs

4.1 Authorised members

- Except where the offence requires special authorisation (refer to **VPMG**

Brief preparation and management for a list of these offences), the brief must be authorised by one of the following persons:

- senior sergeant or above
- work unit manager
- specific police members approved, in writing, by Local Area Commanders.

Members must have completed the Brief Quality Assurance Course prior to authorising a brief.

- An authorised member cannot be:
  - a prosecutor, unless they are the Work Unit Manager
  - the informant.

4.2 Authorisation process

The work unit manager must ensure:

- that the brief has been checked as described in the following section before the brief has been authorised or not authorised
- the decision to authorise or not authorise the brief is recorded on Form 208A
- the informant is informed of the decision and is advised of the best way to bring the accused before the court if the brief was authorised
- upon authorisation an accused copy of the brief is compiled and authorised for disclosure as required by s.37 or s.41, *Criminal Procedure Act* and redacted in accordance with s.48, *Criminal Procedure Act*. This copy is to be scanned and uploaded into the Central Brief Storage System (CBSS) before the prosecution copy is forwarded to the prosecutions office. The original hard copy of the prosecution brief must be retained until retention periods are met (refer to 10.2). Refer to the Prosecutions Frontline Support Unit intranet page for guidance on accused brief requirements (see below for serving requirements of this copy of the brief)
- the authorised brief is returned to the informant within seven days of receipt
- the informant is notified within seven days of receiving the brief if further attention is necessary
- that process is issued on all summons briefs within seven days of the brief being authorised.

Refer to **VPMG Brief preparation and management** for the additional requirements where the brief is not authorised.

4.3 *Checking the brief*

Prior to authorisation, a Sub-officer or other authorised member must ensure that:

- briefs are accurate and include sufficient admissible evidence to cover all points of proof relevant to each charge and that there is a reasonable prospect of a conviction being secured. For further guidance, refer to **VPMG Brief preparation and management**

- DNA evidence is only included where there is additional corroborating evidence, unless exceptional circumstances exist; see **VPMG DNA evidence** for further information

- they complete Part B of the Form 208A (unless the brief is to be authorised at the Traffic Camera Office), recommending whether a prosecution should be authorised

- where there are co- accused:
  - the Brief Coordinator has collated briefs for all of the co-accused or has explained the absence of any brief
  - all briefs are listed for hearing on the same date and at the same mention court, or that any variance is recorded on an attached report, to ensure that all the briefs are combined later
  - briefs are assessed collectively, when determining the appropriateness of charges and whether the briefs should be recommended for authorisation
  - all briefs are recorded and forwarded together to the relevant prosecutor's office.

4.4 *Withdrawal of authorisation prior to court proceedings*

- An authorised member may recommend the withdrawal of the authorisation, with the approval of the prosecutor, in the following circumstances:
  - the original complaint has been withdrawn
  - any new or additional facts, circumstances or evidence indicate that a prosecution will not be successful or it is inappropriate to continue.

- Prosecutors have the authority to withdraw charges and must comply with the same rules relating to the withdrawal of charges at court (refer to **VPM Court processes**) and attach a report to the brief explaining the withdrawal.

- To withdraw charges where criminal proceedings have commenced see **VPMG Brief preparation and management** for the procedure.

5. Considerations where the accused is a child

5.1 Minimum age of criminal responsibility

The minimum age of criminal responsibility is 12 years. A brief of evidence must not be authorised in relation to any child under 12 years at the time of the alleged offence.

5.2 The principle of doli incapax for children aged 12 or 13 years

- It is presumed that a child who is 12 or 13 years of age cannot commit an offence (doli incapax).

- This presumption may be only by rebutted if the prosecution proves beyond reasonable doubt that the child knew at the time of committing an alleged offence that their conduct was seriously wrong.

- Prior to charging a child aged 12 or 13 years at the time of the alleged offence, informants and brief authorisers must have regard to whether there is admissible evidence available to prove beyond reasonable doubt that the child knew, at the time of committing the offence, that the conduct was seriously wrong. This cannot be inferred merely from the fact that the child engaged in the conduct which constituted the offence.

- In assessing whether there is sufficient evidence, the informant and brief authoriser must consider as far as practicable any information available regarding:
  - the child's age, maturity and stage of development
  - if the child has a disability or mental illness
  - any previous decisions by a court or person that suggests the child could be held criminally responsible for any other conduct
  - any other matter considered relevant

- A Criminal responsibility of child aged 12 or 13 years [VP Form 1536] must be completed by the informant and submitted to the brief authoriser for checking along with the brief of evidence for authorisation. The informant must use the Form 1536 to record the reasons for deciding to commence criminal proceedings and file this in addition to charges with the relevant Court.

5.3 Spent childhood convictions

- A spent childhood conviction refers to any conviction imposed on a person aged 10 or 11 years.

- The *Spent Convictions Act 2021* prevents the use of spent childhood convictions for sentencing purposes following a finding of guilt. Additionally, spent childhood convictions and information in relation to conduct that lead to the conviction may not be used by prosecutors to rebut the presumption of doli incapax.

- The existence of a spent childhood conviction will be flagged within the LEAP dossier of an accused. Before including LEAP priors within any type of brief of evidence, informants must:
  - check the LEAP dossier to confirm whether the accused has a spent childhood conviction(s) and
  - redact any identified spent childhood convictions from priors before inclusion within the brief.

- Brief supervisors must also check the dossier and ensure that any spent childhood convictions are redacted.

- It is an offence against s 24E, *Spent Convictions Act 2021* to knowingly use a spent childhood conviction in a manner that contravenes restrictions relating to certain law enforcement functions including for sentencing purposes.

6. Remand and bail applications

For remand matters informants must prepare a Preliminary Brief – Statement Made by Informant including Remand/Bail Application [Form 1372]. This must be checked in accordance with section 4.3 of this policy prior to the remand hearing. See **VPM Bail and remand** for further details.

7. Movement and recording of briefs

Work unit managers must:

- ensure that briefs are correctly compiled and submitted with sufficient time to allow checking and authorising

- maintain a Register of Briefs or other approved recording method, refer to **VMPG Brief preparation and management** for when an entry must be made in the register

- enter the Brief Number in the relevant entry of the Attendance Module

- ensure that briefs reach the prosecutor at the appropriate court at least 14 days prior to the hearing of the case

- forward Coronial briefs to the relevant Coroner's Court as required by **VPM Inquests** and coronial briefs

- have regard to **VPMG Brief preparation and management** in relation to managing the briefs of transferring or recently transferred members under their supervision.

8. Serving the brief

8.1 General requirements

Once the brief is authorised, the informant must ensure that:

- the brief is forwarded to the relevant prosecutions unit, including the Notice Accompanying Preliminary Brief [Form 1370] or Notice Accompanying Full Brief [Form 1371]

- an authorised accused copy of the brief is served on the accused or their legal representative for:
  - Notice to Appear matters – within 21 days of filing the charge at court
  - summons matters – when serving the summons
  - charge and bail matters – within 21 days of filing the charge at court

- if the preliminary brief or full brief is served at the same time as a summons, the "Affidavit/Declaration of Service of Charge – Sheet and Summons" should be endorsed with the service of the preliminary or full brief. This is completed in the "List other Documents / Statements / Exhibits" box. The Notice Accompanying Preliminary Brief [Form 1370] or Notice Accompanying Full Brief [Form 1371] affidavit of service is not required

- if the preliminary or full brief is served independently of the summons, then the [Form 1370] or [Form 1371] completed affidavit of service is required to prove service.

8.2 Non appearance of an accused charged with a summary offence

So that the matter can be heard in the absence of the accused, the informant must:

- serve an accused copy of the preliminary brief on the accused at least 14 days before the date of the hearing (s.84, *Criminal Procedure Act*)

- file a copy of the brief at the court with proof of service documents.

9. Disclosure

- Following the service of the summons and accused copy of the brief, police have an ongoing obligation to provide the accused with specific information (Part 3.2, Division 2, *Criminal Procedure Act*). Refer to **VPMG Brief preparation and management** for the procedure by which the informant may release:

  - contents of a full brief in accordance with s.44
  - details of prior convictions or findings of guilt against the accused and witnesses.

- Section 45, *Criminal Procedure Act* lists the circumstances where an informant does not have to comply with a request for information.
- The informant is responsible for taking the following action within seven days of receiving a request under s.43, *Criminal Procedure Act*:
  - when complying with the request, the informant must deliver the documents or information to the accused or their legal representative
  - when not complying with the request, serve on the accused a written notice that the informant refuses to comply and the grounds for refusing disclosure.

- When an informant receives a request for other information not listed in s.41, *Criminal Procedure Act* refer to **VPMG Brief preparation and management** for guidance.

10. Prosecuting the brief

- Briefs received by the prosecutions unit must be checked for readiness for court prior to the court date.
- Where a summary proceeding is commenced against a child aged 12 or 13, a prosecutor review of doli incapax must occur in accordance with the procedure outlined in **VPM Court processes**.
- Where the brief requires further attention prior to the court date, the prosecutions unit will notify the work unit manager and detail the action that is required within seven days of identifying the need for action.
- The work unit manager must ensure that tasks directed by the prosecutions unit are completed at least seven days prior to the court date and the prosecutions unit is notified accordingly. Where urgent direction is given (e.g. less than seven days before the court date), tasks must be completed before the court date.
- For contested hearings, the work unit manager must ensure tasks are completed within 28 days of receiving notification from the Prosecutions Unit.

11. Filing and disposing of briefs

11.1 Filing briefs

After the case has been heard at court, briefs must be filed as follows:

- Accident and collision Briefs – Originating station

- Drink driving offences – Originating station
- Fire and related offences (excluding breaches of fire bans) – Arson Crime Theme Desk
- Other offences – as directed by the Local Area Commander.

11.2 Disposal

- Briefs of evidence must be retained until approved for disposal in accordance with **VPMP Information review, retention and disposal**. Refer to the Victoria Police Archive Storage Centre (VPASC) intranet site for guidance and the current minimum retention periods. For serious crime briefs see **VPM Crime investigation – Case management**.
- Property exhibits – are to be disposed of in accordance with **VPM Property and exhibit management**.

Quick Links

- VPMG Brief preparation and management
- VPM Inquests **and coronial briefs**
- Records disposal guidelines
- Records Management Unit intranet site

Further Advice and Information

For further advice and assistance regarding these Policy Rules, contact your supervisor or the local prosecutor's office.

Update history

Date of first issue	22/02/10	
Date updated	**Summary of change**	**Force File number**
25/10/10	Section 4 – additional requirement during brief checking process to ensure that DNA evidence is only used where there is corroborating evidence and a link to new guidelines is provided, VPMG DNA Evidence.	063876/10
01/08/11	Section 1 – Additional requirement to submit briefs for	060807/09

	drunk / drunk and disorderly infringement matters subject to a notice of objection.	
05/10/11	Incorporation of CCI 01/10 to include service requirements for Plea Briefs and amend CPA reference	057957/09
30/01/12	Section 2 – clarification of requirements for preparing co-accused briefs.	067032/11
02/07/12	Section 1 – Cross reference to CCI 06/12	069324/11
08/10/12	Amendments to section 4.4 in regards to prosecutors withdrawing substantive charges.	072754/12
04/03/13	Replaced reference to CCI 06/12 with VPMG Laying of charges.	069324/11
22/07/13	Restructuring of section 1 and inclusion of following: timeframes for brief preparation/submission /authorisation (section 3 & 4), brief service (section 7) and prosecuting the brief (section 9)	060936/09
17/04/14	Inclusion of CCI 08/13 preliminary brief requirements and authorisation process for accused copy of brief.	060936/09
29/09/14	Various amendments: Expansion of co-accused briefs section to include counter claim briefs, Form 208A may be submitted upon return to home station, exemption from Part B Form 208A for TCO.	FF-078361 FF-085815 FF- 074796
01/10/14	Update to bail/remand application process to include revised Form 1372 and reinforce checking requirement.	FF-089096
17/04/15	Inclusion of CCI 05/14 Brief Quality Assurance Course requirements	FF-060936/09
27/04/15	Review of documents by PCSU re Coronial briefs.	FF 086974
03/08/15	Clarification of the affidavit requirements when serving a brief of evidence	FF 092385
01/06/16	Inclusion of Central Brief Storage System requirements	FF 098327
21/10/19	Instrument names amended to reflect updated property management policies	FF-116667
21/09/20	Removal of requirement for second hard copy briefs to be forwarded to Prosecution Units	
30/12/20	Updated in response to Royal Commission into the Institutional Response into Child Sexual Abuse recommendations. Includes: contacting the victim when deciding on a plea brief.	FF-154475
30/09/25	Updated to include changes made by the Youth Justice Act 2024 including raising the minimum age of criminal responsibility, requirements regarding spent childhood convictions and requirements in charging and prosecuting 12 and 13 year olds.	FF-275595