Victoria Police Manual – Procedures and Guidelines

Brief preparation and management

Source Policy

These Procedures and Guidelines support and must be read in conjunction with the following:

- VPMP Briefs of evidence
- Criminal Procedure Act 2009

Application

Procedures and Guidelines are provided to support the interpretation and application of rules and responsibilities. They include recommended good practices and assessment tools to help employees make lawful, ethical and professional decisions. Employees should use the **VPM Professional and ethical standards** to inform the decisions they make to support interpretation of Procedures and Guidelines.

Procedures and Guidelines are not mandatory requirements on their own. However, where rules and responsibilities state that employees must have regard to Procedures and Guidelines, the Procedures and Guidelines must be used to help make decisions in support of the rules.

Procedures and Guidelines

1. Content requirements for briefs

1.1 General

As stated in the **VPMP Briefs of evidence** it is the informant's responsibility to include specific documents in a brief of evidence (or 'brief') to meet the requirements of s. 37 or s.41, *Criminal Procedure Act 2009* ('the CPA'). Members should refer to the checklist in either Appendix A - Table - Summary Jurisdiction – Prosecution Brief Order or the Preliminary Brief – Statement made by Informant [Form 1372] when determining the relevant attachments.

1.2 Visual audio recorded evidence (VARE)

The informant should serve a copy of the VARE transcript (s.368 (1) (a), *Criminal Procedure Act*) on the accused or accused's legal practitioner at least 14 days before a contest mention or when a copy of the full brief is requested;

whichever occurs sooner. Also see **VPM Visual Audio Recorded Evidence (VARE)**.

1.3 Criminal records

- As required by s.77 CPA, criminal records that are to be used for court purposes are to be endorsed with the following:
  - Signature
  - Name
  - Rank and position
  - Registered/employee number
- This applies to all types of criminal histories (dockets, LEAP, interstate etc) and includes infringement convictions (see s.3, CPA). Infringement convictions are defined in s.89A, *Road Safety Act* as drink driving, drug driving and excessive speed.
- Endorse each type of record individually on the first page.
- In accordance with s.43 CPA, only previous convictions are to be supplied.
- LEAP criminal record extracts for attaching to briefs are obtained from the LEAP criminal history module print facility by selecting the 'vetting for court' option.
- LEAP records that display the message 'Full Criminal History on LEAP - No Further priors held by RSB' indicate that the complete criminal history is on LEAP.
- Where LEAP records display the message 'Further information may be held by RSB' select the iLEAP option to access copies of manual cards (records that have letters and numbers ie: XX123). For manual docket (records that end with a year ie: 123/79) contact the Police Enquiry Service via VP [Form 1211] e-mail to the PBEA: POLICE ENQUIRIES SERVICE-RSD-MGR to arrange for a copy of criminal history.
- For further information on release of criminal convictions refer to section 7.5.

1.4 Parole breaches

Where the informant has charged an accused and a finding of guilt will result in the automatic cancellation of parole, the informant is to:

- seek advice from the Fugitive Task Force
- attach a copy of the original imprisonment warrant and the Corrections Victoria report notifying the court of cancellation of parole to the brief (supplied by Fugitive Task Force)

Notation must be made in the summary to notify the prosecutor of the automatic cancellation of parole upon a finding of guilt.

1.5 Briefs submitted for non-authorisation

Where the informant has investigated a matter concluding in the submission of a brief for non-authorisation, the brief may be submitted without the Charge Sheet and Summons [Form 402] and Continuation of Charges [Form 404] attached.

If the charges relate to traffic offences only, the brief may also be submitted without the Charge Record (Traffic) [Form L16] attached. Where the charges relate to traffic related deception matters (number plate fraud) or matters arising from a police pursuit or fail to stop, charges are to be submitted.

Where the authorising member determines that the matter should proceed, and that the charges should be authorised, the brief is to be returned to the informant prior to authorisation to ensure the correct charges and forms have been attached. The brief may then be checked and authorised in the normal manner.

Section 1.5 of **VPMG Brief preparation and management** does not override Divisional, Regional or local instructions that may conflict with these guidelines.

2. Co-accused and counter claim briefs

2.1 Appointment of a Brief Coordinator

- As stated in **VPMP Briefs of evidence**, a Brief Coordinator must be appointed 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 senior informant from the PSA where the offences occurred will automatically assume this role, unless a Sub-officer directs otherwise.
- Where informants are from different PSAs the appointment of the Brief Coordinator may be made by agreement of the respective Work Unit Managers.
- For persistent contraventions of Family Violence Interim Intervention Orders, Family Violence Intervention Orders or Family Violence Safety Notices and the allocation of a Charge Coordinator, see **VPM Family violence**.

2.2 Brief Coordinator responsibilities

The Brief Coordinator ensures that:

- appropriate consultation and liaison occurs between the informants during the investigation, charging and preparation of the brief
- briefs for all offenders, including those in counter claim matters, are placed together with a Co- accused Cover Sheet [Form 205] and format/pagination of the combined brief is then the same as for a single accused brief.
- an additional report is included when there is additional information or to explain the absence of any co- accused brief
- all briefs are submitted together, to a Sub-officer, for checking and assessment
- all offenders are bailed or summonsed for hearing on the same date at the same mention court. Where this is not possible, details are to be included on the Co-defendant Cover Sheet [Form 205].

2.3 Police prosecutions' role

When co- accused briefs are received by prosecutions unit;

- where possible, one prosecutor is allocated for the prosecution of all of the co- accused
- any application by the defence for separate hearings is opposed, except in matters involving counter claims that came before a court in a contested hearing
- request that a joint hearing occurs, unless the court says otherwise or the prosecutor considers it advantageous to seek separate hearings
- arrange for the co- accused folder to be returned to the Brief Co-ordinator's station for recording and filing in the normal manner at the conclusion of the hearing.

3. Obtaining extracts

- Make requests for the following extracts by submitting a report, via the Work Unit Manager to the Special Projects Unit, Covert Support Division, Intelligence and Covert Support Command, which is responsible for coordinating this information:
  - Certificates of Birth, Marriage or Death.
  - Certificate of incorporation or other Corporate Affairs Office/ASIC document.
  - Land Registry documents.

- Office of Fair Trading and Business Affairs – provide details of businesses conducted under licensing Acts.

- VicRoads - use the electronic Application for Extracts [Form 209 or 209A] when applying for motor vehicle and driver licence extracts.
- Private Security extracts - make requests for extracts by contacting Licensing Regulation Division. See **VPM Private security, firearms and weapons regulation**.

4. Checking and authorising briefs

4.1 Checking briefs

When determining whether the brief is ready for authorisation, the member checking the brief should have regard to a number of key factors. These factors are discussed in the Brief Quality Assurance Course Student Notes (published by the Research and Training, Prosecutions Division) and include whether:

- the correct court process has been used (e.g. correct application of the statutory and regulatory rules and Victoria Police forms)
- the charge is correctly worded and expresses each point of proof
- all available evidence has been collated, reviewed and the brief is complete with all evidence attached (e.g. the investigation is complete, sufficient relevant details have been included)
- there is sufficient admissible evidence
- if the brief involves allegations against a child aged 12 or 13, an assessment of *doli incapax* must occur in accordance with the process provided by **VPMP Briefs of evidence**. A Criminal responsibility of child aged 12 or 13 years [VP Form 1536] must also accompany the brief.
- it is appropriate to prosecute (see below on further information about prosecutorial discretion)
- if approving briefs involving zero blood alcohol restrictions, approval should only be given when the blood alcohol concentration is .02 or higher. See **VPM Road Policing - enforcement**
- if approving briefs involving fraud offences in the *Road Safety Act*, the authorising member must ensure that all relevant reports have been submitted to CDEB for recording in LEAP.
- the accused is contesting an infringement notice.

4.2 *Prosecutorial discretion*

An important consideration when checking and determining whether a brief should be authorised is whether it is appropriate to prosecute the accused. In making this determination, consideration should be given to the following principles:

- the prospect of conviction – the evidence should be such that there is a reasonable prospect of a conviction
- the public interest – the circumstances of the case are of a nature that the public would reasonably expect the accused to be held accountable (e.g. the seriousness of the offence and the potential deterrence provided by a conviction).

The Policy of the Director or Public Prosecutions for Victoria gives further detail about prosecutorial discretion.

4.3 *Obtaining financial advice*

- Forensic Accountants (available via Specialist Resources Group, Crime Command) can provide expert accountant statements and advice on statements, exhibits and charges relating to fraud/financial matters. Refer to **VPM Crime and event reporting and recording** for further assistance available to support investigations.
- Requests for assistance – initial advice may be obtained by telephone or email in the first instance. Submit a Specialist Resource Request for Assistance Form [Form 1411], endorsed by the Inspector with line control of the matter where advice/statement will be formalised.

4.4 *Obtaining legal advice*

Further legal advice can be obtained from:

- Prosecutions Division – questions and files relating to an existing or pending summary prosecution
- Duty Solicitor, Victorian Government Solicitors' Office (via Legal Service Department) – any legal question regarding operational policing activities and not related to an existing or pending prosecution.
- Crime Specialist Resource Lawyers (via Crime Command) – for legal advice in relation to indictable offence criminal investigations.
- Office of the Chief Examiner – for legal advice in relation to offences under the *Major Crime (Investigative Powers) Act 2004*
- Specialist Sexual Offences Prosecution Unit, Prosecutions Division – for pre-charge advice in relation to sexual offences in both the summary and indictable stream.

To obtain other types of legal advice or services, employees must comply with **VPM Obtaining legal advice or representation**.

4.5 Obtaining written legal advice for criminal prosecution matters

Requests for written legal advice (other than pre-charge advice for sexual offences) should be forwarded in a report to the inspector with line control of the matter. Details of the circumstances, a copy of the brief and other relevant documents are to be attached to the report. The inspector is to assess the request and, where legal advice is considered appropriate, forward the endorsed request to:

- Director, Legal Services Department for matters where a legal question arises which may:
  - have serious implications for Victoria Police, or
  - affect Victoria Police policy
- Prosecutions Division, Crime Courses Unit or other qualified area of Victoria Police – for guidance in routine operational or investigative matters.
- Crime Specialist Resources Lawyers – for legal advice on indictable offence criminal investigations. Reports are to include the Specialist Resources Request for Assistance [Form 1411]
- Office of Public Prosecutions (OPP) – for guidance on indictable matters to be prosecuted by OPP. Requests for advice should be submitted:
  - through the Director, Legal Services; or
  - directly to the OPP, via the Directorate Manager of Policy and Advice where specialist portfolio contacts exist.

Legal advice from any source cannot be given to areas outside Victoria Police without approval from the Director, Legal Services Department. Second or alternative opinions should not be sought from other areas. Refer **VPM Obtaining legal advice or representation.**

4.6 Legal privilege

- Client legal privilege can be claimed in respect of legal advice, but it should be noted that:
  - Care should be taken to avoid unintended waiver of that privilege. Unintended waiver can occur if the existence or content of the advice is disclosed.
  - Stating a view that is based on legal advice does not waive privilege providing the legal advice is not referred to or quoted from.
  - If client legal privilege is waived, the whole of the legal advice may have to be produced in litigation or under FOI.
  - The privilege belongs to Victoria Police and not to the requesting individual investigator.
- Where consideration is being given to waiving privilege by disclosing the legal advice or extracts from it, consultation is to occur with the relevant

area providing the advice (including the OPP, where applicable). Approval is to be obtained from the Director, Legal Services before any waive of privilege, comply with VPMP Obtaining legal services and advice.

4.7 Indemnity from prosecution

- When assessing the admissibility of evidence included in the brief, consideration should be given to whether the evidence was obtained from a human source or co-accused and whether indemnity or a decision not to prosecute apply.

- Where this action is considered appropriate, apply to the Director Public Prosecutions (DPP), via the relevant Department Head, and include the brief and covering report from the PSA or Senior Manager. The DPP will then advise the appropriate action.

4.8 Authorising briefs – circumstances requiring special authorisation

Offences requiring special authorisation		
Offences	**Authority**	**VPM reference**
Against the *Liquor Control Reform Act 1998* or Regulations	Licensing Inspector	**VPMP Public order**
Against the *Major Crime (Investigative Powers) Act 2004*	Principal Legal Officer, Office of the Chief Examiner	
• Sexual Offences • Failure to disclose a sexual offence committed against a child under the age of 16 (s.327, Crimes Act 1958)	• See requirements at section 4.9	**VPM Sexual offence investigations**
Arising from a police boating accident – proceedings against public	Superintendent, Specialist Response Division, Transit and Public Safety Command	**VPM Road policing - general**
Committed by Victoria Police employees	Dependant upon type of offence	**VPM~~P~~ Complaints and VPM Discipline**
Perjury	Detective Senior Sergeant or above	
Where an emergency vehicle is involved and at fault	Officer	
Connected with fatal collisions	Fatal collisions investigated by MCIG – Inspector, MCIG	
Dangerous driving involving death	Briefs of evidence where the major charge is Dangerous Driving Causing Death (s.319, *Crimes Act 1958*) are to be listed in the indictable stream for filing hearing	
Driving whilst impaired by drugs and relating to a drug impairment assessment	Road Policing Drug and Alcohol Section, Road Policing Command	
Any other offence where special approval to prosecute required	As required by the appropriate Act, Regulation or Administrative direction	

4.9 Authorising briefs for sexual offences and failing to disclose a sexual offence

- Only Detective Senior Sergeants or above of the following units may authorise sexual offences or the offence of failing to disclose a sexual offence committed against a child under the age of 16 (s.327, *Crimes Act*):
  - Sex Offence and Child Abuse Investigation Teams (SOCIT)
  - Sexual Crimes Squad
  - Family Violence Investigation Units
  - Taskforces with sex offences included in the charter or objectives
  - Investigations Division, PSC - where the accused is a former Victoria Police employee.

  The above members must be BQAC SOCIT qualified.

- When a Detective Senior Sergeant position specified above is vacant or not SOCIT BQAC qualified, the relevant Superintendent may give written authority to the following BQAC SOCIT qualified members to authorise these charges:
  - Detective Sergeant of the work unit listed above
  - Senior Sergeant or above who is a regional Crime Advisor and holds Advanced Diploma of Investigation (or equivalent).

- The Superintendent, Serious Crime Division Operations may approve SOCIT BQAC qualified sergeants and above with relevant experience to authorise these charges.

- The Assistant Commissioner, PSC may authorise these charges against current employees only. The SOCIT BQAC qualification is not required; however the brief must be checked by a SOCIT BQAC qualified member.

4.10 Authorisation Process – non-authorised briefs

As indicated by **VPMP Briefs of evidence,** where the authorising member has decided not to authorise the brief, they should:

- record the non-authorisation on [Form 208A] and the Intent to Summons Report [Form LAZ02A]

- attach a report explaining the reason for not authorising the brief and make this report available for auditing purposes

- return the brief to the informant for information so the [Form LAZ02A] can be faxed to CDEB as soon as practicable

- arrange for the victim to be informed in writing of the reason for not authorising the brief

- ensure exhibits are lawfully disposed of

- close the Brief Register entry and file the brief in accordance with the section below

- take the following steps where criminal proceedings have commenced:
  - forward the brief with an explanatory report to the relevant prosecutions office recommending charges be withdrawn
  - if the accused is in custody notify the Manager, Prosecutions Office immediately of the intention to withdraw charges; in all other instances email the relevant prosecutions office PBEA and specify the pending court date
  - arrange for the accused to be notified once the prosecutor has advised of the outcome.

5. Specific listing requirements – Criminal matters involving family violence

- Family violence Fast Track Initiative (FTI) timelines apply to criminal matters where the offending involves family violence. Magistrates Court Victoria has issued Practice Directions for each court the FTI is in place. Members must comply with the listing practice where there is a practice direction in place.

- The listing date relates to the date of process of the offender and the manner in which the accused is compelled to appear at court. Accordingly, the first mention date must be within the following timeframes:
  - Remand – next sitting day
  - Bail – within 1 week of offender processing i.e. date of interview
  - Summons – within 4 weeks from offender processing
  - Warrants – within 1 week of execution regardless of where the file originated.

- The informant must use the Electronic Mention Court Diary when listing the matter and select “Family violence fast tracking” as case type.

- All subsequent listings will occur within the next 28 day period i.e. mention to summary case conference, summary case conference to contest mention and contest mention to hearing (as appropriate); there are to be no administrative adjournments.

- For summons matters members should use s.14, CPA to ensure that the matter is listed and filed within the time lines and served within 14 days (s.16).

6. Media attention

Where the informant believes that the issue addressed in the brief may result in attention from the media at court, the informant should notify the relevant prosecutions office and the Media Unit, Media and Corporate Communication Department.

7. Movement and recording of briefs

7.1 Work Unit Manager's Responsibilities – Making an entry in the brief register

Making an entry – start an entry in the Brief Register on receipt of any of the following:

- Form 208A
- brief from another station
- Notice of objection in relation to an infringement notice
- a document that indicates that a brief is to be prepared (e.g. Attendance Register, LEAP report, Patrol Duty Return, or Property Book entry).

7.2 Work Unit Manager's Responsibilities – Closing an entry in the brief register

- Leave entries in the Brief Register open until the brief is finalised by one of the following:
  - issue of a Caution Notice
  - no further action is to be taken (i.e. non authorisation)
  - returned after a court imposes a sentencing order at court
  - the accused has been found not guilty or the case was dismissed
  - the accused completes a diversion program
  - the victim has been notified of the result (if not a Children's Court case)
  - property exhibits are disposed of (if practicable).

- The Brief Register entry records:
  - the manner in which the brief was finalised and the date of finalisation
  - details of non authorisation of prosecution
  - where the brief has been forwarded for filing.

7.3 Briefs pending result of a diversion

After notification from the court, briefs pending the result of a diversion should be handled as follows:

- diversion is finalised – treat brief as being finalised. The prosecutor will attach the diversion plan to the brief and return it to the informant's Work

Unit Manager for retention. The diversion brief is retained with the court file

- matter has been adjourned to open court – return brief to Prosecutions Division at least seven days prior to the adjourned mention hearing date.

7.4 Work Unit Manager's Responsibilities – Transfer of employees and briefs

- In relation to managing the briefs of transferring members under their supervision, the Work Unit Manager should have regard to the following:
  - before transferring, the member completes any incomplete briefs
  - the incomplete briefs are delegated or reassigned to another member within the unit for completion

- Briefs remain the responsibility of the Work Unit Manager where the brief originated and are not to be transferred to the members' new workplace unless the brief is initiated by a probationary constable at Road Policing Drug and Alcohol Section (RPDAS).
- With the exception of briefs transferred by RPDAS, property relating to briefs remains the responsibility of the Work Unit Manager of where the brief originated and is to be retained with the brief. Consider transferring property to Central Property Management Unit for storage if applicable.
- Briefs filed at Records Services Division, pending execution of warrants, are to be reassigned within the Work Unit when the informant transfers.

8. Process for pre-hearing disclosure for matters to be heard summarily

8.1 Disclosure of the brief at first mention

- Section 53A, CPA requires that a second copy of the brief be available to provide to the accused or their legal representative at the first mention hearing. To satisfy this requirement, as stated in **VPMP Briefs of evidence**, the accused copy must be authorised for disclosure and uploaded into the Central Brief Storage System (CBSS). Refer to the Prosecutions Frontline Support Unit intranet page for guidance on accused brief requirements.

- Where a brief is not prepared, the following are to be provided (s.53A(2)):
  - a copy of the charge sheet in respect to the alleged offence
  - a statement of the alleged facts on which the charge is based
  - either a copy of the criminal record or a statement that the accused has no previous convictions or infringement convictions known at the time.
- Neither of the above dot points apply to offences under:

- *Road Safety Act 1986* or its regulations/rules if detected by a road safety camera, a speed detector or a process prescribed for the purposes of that Act
- *Melbourne City Link Act 1995* or *EastLink Project Act 2004* if detected by a tolling device.

8.2 Information release to defence

- The accused may request information prior to the mention date (s.43, CPA). These requests are to be in writing and must be made to the informant at least seven days before the mention date (although the Court may order a shorter time period).

- All information provided under s.43 CPA must be assessed and redacted where necessary, see s.45 CPA for grounds on which information disclosure may be refused. See also section 8.6

- Record requests and responses in the Brief Register; also see **VPMP Information sharing**.

- In the informant's absence, Work Unit Managers should ensure requests from the defence are dealt with.

8.3 Providing copies of the brief to the accused

- At any time after the commencement of a proceeding, the accused may request, in writing, that the preliminary brief be served. Where this occurs, the informant must serve an accused copy of the preliminary brief within 14 days after receipt of the written request. This does not preclude the member serving the brief at any other time (s.35).

- If the accused makes a request for a full brief and has already been served a preliminary brief within 21 days after filing the charge at court, the informant should not serve a copy of a full brief until after a Summary Case Conference has occurred (see Summary case conferences below). Liaise with the relevant Prosecutions office to ascertain if a Summary Case Conference has been held.
- If the informant receives a request in writing for a full brief (s.39(1)), the informant must serve an accused copy of the brief, including Form 1371, on the accused or their legal representative at least 14 days before the:
  - contest mention hearing; or
  - if a contest mention is not held, before the contested hearing.

8.4 Material or statements that become known to the informant after the service of the brief

- Material or statements may come to the attention of the informant after the brief has been served, which would have been required to be listed or a copy served in the brief. Where this occurs, a copy of the statements or notice of the existence of other material must be served on the accused as soon as the material comes into the informant's possession or to their attention (s.42(1), CPA). When this occurs, update the copy of the brief on CBSS to include the additional material.

- The informant may refuse to disclose information in accordance with s.45. In these circumstances, the informant is to serve a written notice on the accused identifying the grounds for refusal (s.42(3), CPA).

8.5 Obtaining details of prior convictions or findings of guilt against witnesses and defendants

- The informant is to conduct a LEAP name enquiry on all witnesses including police members (except themselves) and record the reasons for access on LEAP

- Where:
  - the informant has a criminal history they are to notify a supervisor who is to conduct the LEAP enquiry
  - there is a conflict of interest (i.e. LEAP check on a family member) the informant is to notify a supervisor, who will facilitate the LEAP enquiry
  - the person has a criminal history, LEAP vetted criminal records are to be provided to the prosecutor. A copy of the request is to be retained by the informant
  - prior convictions are recorded against a police member an informant should notify their direct supervisor and seek advice from them. The informant should also notify the prosecutor where the matter is contested or the witness is likely to be called. Criminal records are defined as 'Sensitive Information' pursuant to Schedule 1, *Privacy and Data Protection Act* 2014, and must be handled confidentially and disclosed only to those who have a legitimate business need
  - the person has an interstate criminal history email a VP [Form 1121] to the Police Enquiry Service PBEA: POLICE ENQUIRIES SERVICE-RSD-MGR. Advise that the details are to be given to the defence under s.41, CPA

- Sign the first page of the record as required by s.77, CPA.

- Where criminal records for witnesses are requested as part of the disclosure request they must be assessed against s. 45 CPA, in particular s.45(3) and redacted where appropriate. This includes any security classification requirements and any reference which may identify the witness by association and lead to disclosure of private information. Members are to redact witness' details i.e. dates of birth, associates names, MNI etc from the criminal record prior to releasing the information to the defence.

- The following requests for information are to be rejected:
  - witness' dossiers or involvements

- all prosecutions requests for information on witnesses outside the requirements of s.43

8.6 Other requests for release of information prior to completion of court cases

- Further and better particulars – informants receiving a request for further and better particulars must contact their local prosecutor for advice and assistance in preparing the response.

- Victim Impact Statement – under the *Victims Charter Act 2006*, police must inform victims that they are able to complete a "Victim Impact Statement" after a person has been charged. To support victims through this process, referral to an appropriate victim support agency must be made on consent of the victim.

- Police should provide support in the service of the "Victim Impact Statement" to assist the victim through this process. Refer to *Section 8K and 8N of the Sentencing Act 1991* for instruction on when a victim may make a "Victim Impact Statement" and the distribution requirements.

- Freedom of Information (FOI) requests – where an FOI request is received for information that is outside the pre-hearing disclosure provisions, seek advice from the FOI Office.

- Subpoenas – see **VPM Court processes** when served with a subpoena.

9. Summary Case Conferences

- A Summary Case Conference (s.54, CPA) is as an out of court discussion between the prosecutions and accused for the purpose of managing the progression of the case and identifying issues in dispute.

- The police prosecutor conducts the Summary Case Conference. The informant is not required to attend.

10. Hand-up briefs

- In addition to the requirements at section 1, informants must include further documents when the matter proceeds to a committal mention hearing and a hand-up brief are required. To ensure that briefs are compiled uniformly, particular protocols for hand-up briefs are to be used.

- The hand-up brief is to be paginated at the top right hand corner with numbering commencing from the front of the brief to the back. The numbering should start at Form 29.

- Refer to the below table for the documents which need to be included and the content of the brief that is to be made available to the prosecutor and the content that may be given to the Magistrate/Defence.

- The brief checking and authorisation process for hand-up briefs is the same as for matters heard in the summary jurisdiction. Refer to the checking and authorisation process.

Table: Hand-up briefs

Documents to be included (in this order)	Copy available to:	
☐ Index to Brief ☐ Notice of Committal Mention [Form 571] ☐ List of Material to be included in the hand-up brief [Form 1010] ☐ Summary of evidence relevant to the charges, with paragraphs numbered ☐ Copy of charges ☐ List of witnesses (who have made a statement) ☐ List of exhibits ☐ List of photographs (if appropriate) ☐ Copy of all statements (including handwritten statements) as per the witness list ☐ Copy of transcript of record of interview(s) ☐ Copy of all exhibits/photographs	Prosecution	Magistrate Defence
The following documents should be placed at the front of the prosecution's copy of the brief and do not require pagination. ☐ Brief Head [Form 208A] ☐ LEAP Charge Sequence and Result of Charge Record form ☐ Any relevant notes or memoranda ☐ Forfeiture/disposal orders ☐ Where applicable – Copy of Application for Exclusion Orders (Sentencing Act or Liquor Control Reform Act) ☐ Restitution, compensation or costs applications ☐ Prior convictions	Prosecution	

Further Advice and Information

For further advice and assistance regarding these Procedures and Guidelines, 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**
22/11/10	Correction of form numbers from 4A and 7A to 29 and 30 respectively in section 1 table 3: Hand up briefs	058946/09
06/12/10	Inclusion of offences against the Major Crime (Investigative Powers) Act 2004 requiring special authorisation by the Principal Legal Officer, Office of the Chief Examiner.	058946/09
28/02/11	Inclusion of reference to new instructions, **VPMP** and **VPMG Obtaining legal services and advice**	063096/10
15/03/11	Incorporation of CCI 01/10 in Section 1 to include criminal records endorsement and hand-up brief service requirements Correction of form numbers in Table: Hand up briefs.	057957/09
04/07/11	Informant to include copies of summary, charges and prior convictions on brief for disclosure to Legal Aid (section 1.2)	062958/10
01/08/11	Amendment to 4.1 – accused contesting an infringement notice	060807/09
15/08/11	Clarification of offences that require Road Policing Drug and Alcohol Section, Transit and Public Safety Command to approve briefs.	068760/11
07/11/11	Inclusion of requirement to serve a copy of VARE transcript (section 1.2).	069212/11
30/01/12	Section 6.4 – clarification of circumstances where briefs should be transferred with transferring members.	067032/11
16/03/12	Section 1.3, 1.4 and 7 amended to reflect requirements of s.53A, CPA. (correction to 1.3 made 13/04/12)	071719/12
18/06/12	Table 2 and Table 3: requirement to number paragraphs in the summaries.	071719/12
02/07/12	Inclusion of reference to CCI 06/12 and requirement to complete LAZ02A (section 4.7).	069324/11
27/08/12	Amendment to section 4.6 regarding briefs involving dangerous driving causing death and those causing serious injury.	071661/12
12/10/12	Amendment made on 4/7/12 reinserted due to inadvertent removal on 16/3/12.	
07/01/13	Addition of reference to legal privilege, Criminal Specialist Resource Lawyers and client privilege.	072655/12
08/07/13	Inclusion of reference to parole breaches at section 1.4	FF 077750

22/07/13	Inclusion of CPA disclosure requirements (sections 1.4 and 8.2)	060936/09
05/08/13	Inclusion at section 2 for brief coordinator for breach of FVIIO, FVIO and FVSN.	076176
28/02/14	IMSSD references updated.	069562/11
17/04/14	Incorporation of CCI 08/13 preliminary brief requirements. Hand-up brief instructions reordered.	060936/09
01/09/14	Additions to table at section 9 re: Exclusion Orders	FF 087665
29/09/14	Various amendments: inclusion of counter claim brief instructions, process for requesting legal and financial advice updated, inclusion of instruction for withdrawing charges once criminal proceedings have commenced.	FF-078361 FF-076418
27/10/14	Addition of s.327, Crimes Act offence to 'Offences requiring special authorisation'.	FF-090436
22/12/14	Update instructions re disclosure of prior convictions	FF – 079494 FF – 079783
16/03/15	Instructions updated to include the permanent exemption of RPDAS from the requirement of retaining briefs of evidence when members transfer.	FF – 091843
17/04/15	Inclusion of CCI 05/14 Brief Quality Assurance Course requirements, specifically BQAC SOCIT.	FF – 060936/09
25/05/15	Change to Section 4.1 to emphasise collation and review of all evidence for brief authorisation	FF – 094915
17/08/15	Instructions as to non-requirement of charges attached to briefs submitted for non-authorisation	FF – 091925
28/09/15	Incorporation of "victim centric" direction for Victim Impact Statements and clarity in the service of a disclosure brief to the accused	FF – 090088
29/02/16	Inclusion of Appendix A – Table – Summary Jurisdiction – Prosecution Brief Order to support compilation of briefs and support Jones Review recommendations for MNI information	FF – 092068
15/03/16	As part of developing the Workplace Standards and Inspection manual, changes were made to improve brief management practices in relation to entries in the brief register remain open for when the accused is committed for trail or cannot be located.	FF – 099120
01/06/16	Inclusion of CBSS, further guidance on obtaining criminal records and LEAP reports required for nominated traffic offences	FF – 098327
19/12/16	Standard ITS practice will apply to matters of Dangerous Driving causing Serious injury, s.319, *Crimes Act 1958.*	FF – 099116

20/02/18	Incorporation of CCI 05/17 Family Violence Fast Track Initiative.	FF – 109942
18/04/18	Change to specialist brief authorisation for incidents involving emergency vehicles or collisions with police vehicles	FF – 124893
19/11/18	Expansion of members who can authorise sex offence and failure to disclose offence.	FF – 104487
21/10/19	Instrument names updated to reflect amended court processes policy.	FF-139297
21/09/20	Removal of requirement for second hard copy briefs to be forwarded to Prosecution Units	
19/02/21	Updated to reflect revised family violence policies	FF-189857
11/04/22	Administrative changes; delete reference to Prosecutor's Manual, replacement of OPP Guidelines to DPP Policy and inclusion of BWC footage in Appendix A	FF-201310
13/10/22	Cross reference updated to new VPM Road policing - enforcement	FF- 190724 2
11/07/24	Amendments following expansion of the SSOPU to provide pre-charge advice for sexual offences	FF-229091 1
30/09/25	Updated to include changes made by the Youth Justice Act 2024 including requirements in charging and prosecuting 12 and 13 year old children and requirements regarding spent childhood convictions.	FF-275595

Appendix A - Table - Summary Jurisdiction – Prosecution Brief Order

Form	Requirements
Co-accused coversheet [Form 205] (where applicable)	• Attach coversheet on all co-accused briefs • Ensure a brief co-ordinator is allocated (usually senior member) • All co-accused briefs are attached • Co-accused, where practicable, should be listed to appear on the same date and court
Brief Head [Form 208A]	• All areas are completed correctly • MNI is correct and completed for all crime and traffic (if previously recorded) • If the accused is not deemed suitable for diversion, an explanation must be included i.e. substantial prior criminal history, offending too serious, no remorse shown etc. • Diversion may still be deemed appropriate where a 'no comment' interview occurs, provided at court the offender accepts responsibility for the offending
Diversion Notice [Form 948]	• If none attached, the reasons for no diversion are entered on the Brief Head [Form 208A] • Up to three conditions are entered for consideration by the court • If there is no actual victim i.e. statute based offending, use see below. • If there is an actual victim, use Victim Contact Details – Diversion Notice [Form 948B] ensuring victim details are completed on court copy of notice
Charge record [Form L16] – Traffic offending only	
Crime or combination of crime and traffic	Include if applicable: • Intent to Summons (Generated by LEAP) • Notice to appear report (Generated via LEAP) • Identifiers Report (Generated via LEAP)
Preliminary Brief – Statement made by informant [Form 1372] (minimum 5 pages)	• Statement of alleged facts is sufficient to cover the points of proof • Includes a background to the offending (where applicable) • It is an accurate account of what the accused did. • Includes how the prosecution is going to prove the matter via inclusion of critical eye witness accounts, identification evidence or full or partial admissions • Exhibit / witness lists attached, accurate and all sections are complete • Acknowledgement is signed including date, time and location and it is witnessed
• **Notice to appear [Form 406] prosecution copy (if applicable)**	
Charge [Form 401] or Charge and Summons [Form 402] and Continuation of Charges [Form 404] if applicable	• Correct MNI (if recorded) must be entered on Forms 401, 402 and all 404 • All charges attached are "prosecution" copies • Unsuitable court dates are relevant and included • Correct charges for the circumstances • Correct wording of the charges • Correct Act and Section number • Correct "date of offence" entered • Charges are within the statute of limitations, noting that for a child offender 6 months from the time of offence • If known, include the offender's mobile number

Copy of Undertaking of Bail [Form 472] - Informant Copy (if applicable)	
Witness statement [Form 287A] or account (handwritten or typed) from all witnesses	• Signed by the witness and contains a full acknowledgement • If interpreters are required, this is endorsed on the witness list • Include the age of witness if they are a child • Provided the handwriting is clearly legible, it does not need to be typed
Field interview of the accused	• Provided the handwriting is clearly legible, it does not need to be typed
Copies of all available exhibits (where possible)	Including: • Colour photographs / documents / CCTV as per exhibit list • Photograph list where applicable • Evidentiary certificates (Vic Roads / EBT / Toxicology reports etc)
May include any other attachment that is relevant to the offence and may assist the accused to understand the evidence against them. Note: The more you provide in the first instance the less likely you will be requested for further disclosure throughout the court process. Additional information may also assist in the resolution of the matter.	
Any proposed orders or applications	• Forfeiture [Form 745] • Forensic Procedure[Form F17] - (3 copies and informant details completed and form signed by informant) • Notice of Application for an Impoundment or Immobilisation Order / Forfeiture Order [Form 1258] • Witness Cost / Restitution / Compensation Sheet [Form 1098] with quote for damages attached • Others such as sex offender registration application (as applicable)
Prior Convictions (only include relevant priors)	• Criminal priors must be a “vet print” copy / Traffic from Record Services. • Both traffic and crime must be signed with name, rank and number, on the first page only • Check LEAP for relevant interstate prior convictions and where applicable make application to Record Services Division utilising Police Enquiries Section – Request for Vetted Criminal History / Priors [Form 1122]
Digital Evidence Capture (DEC) Interview	• Attached for review
CCTV footage	• Attached and has been reviewed by you to confirm accuracy of the alleged evidence contained therein. • Applicable dates / times and descriptions are attached where applicable • Operating instructions for supervisor or prosecutor as to how to play the footage if applicable.
Body Worn Camera footage	• Listed on the Exhibit List and attributable to the police witness who wore the BWC • Refer **VPM Body worn cameras**.
Contemporaneous notes	• Attached and remain on brief until authorisation
Backing sheet	