

MANUAL OF GUIDANCE FOR PREPARATION OF CASE FILES

HOW TO USE THIS MANUAL

This manual has been prepared for use by law enforcement agency officers, law enforcement agency staff and prosecutors concerned with the preparation, processing and submission of case files. Every effort has been made to ensure that this manual uses straight forward language and that it reflects current criminal justice processes in Saint Vincent and the Grenadines.

This manual introduces the concept of a "Prosecution File Standard" (PFS) and outlines the process for upgrading files for committal/preliminary inquiry or trial.

Section 1 provides guidance on the roles and responsibilities of personnel within the National Prosecution Service (NPS) and Law Enforcement Agencies for the purposes of this Manual of Guidance.

Section 2 provides a concise outline of the case file building process, required file contents and the process for obtaining advice where necessary. Adherence to the guidelines contained within this section will greatly assist both the law enforcement agency and the NPS in ensuring that files are built proportionately and contain the key information required to support a prosecution.

Section 3 provides guidance to law enforcement agency Supervising Officers (SO) regarding the supervision of case files. It outlines the responsibilities that SO's have in respect of the endorsement of particular Manual of Guidance FORMs, and in supervising the content in terms of quality assurance. Also included in this section is a description of how to manage case files with multiple offences and multiple offenders, together with some practical examples to illustrate variations.

Section 4 provides guidelines on upgrading files for committal/preliminary inquiry or trial.

Section 5 establishes a clear desk policy.

Section 6 sets out the policy for storing files.

Section 7 explains the procedure for warrant files.

Section 8 describes the procedure for closing files.

Section 9 determines the procedure for retaining files.

Section 10 details those files retained for long term interest.

Section 11 sets out each of the FORMs in numerical order.

It is recommended that this Manual is reviewed yearly to ensure that it remains up to date with any changes that may have occurred to law and policy during the year.

GLOSSARY

When reading this Manual reference will be made to the following:

- a. The 2010 Code for Prosecutors ("**Code**") – This document establishes the Full Code Test so that suspects can only be charged where there is a reasonable prospect of conviction ("**Evidential Stage**") and it is in the public interest to charge ("**Public Interest Test**")
- b. Points to Prove ("**P2P**") – This document should be referred to by all law enforcement agencies to understand the evidence required to satisfy the **Evidential Stage** of the **Code**.
- c. The 2013 Witness Charter ("**Witness Charter**") – This document sets out the basic standards of care for witnesses.
- d. The Guide to Investigation and Prosecution of Serious Organised Crime ("**Guide**") – This four-part compendium is designed to assist both law enforcement agency officers and Prosecutors on procedure and the law. The first part provides legal guidance on common issues that may arise investigating and prosecuting drug trafficking, human trafficking, cybercrime and money laundering matters. The second part provides guidance on restraint orders, the third on confiscation and the fourth on civil recovery.
- e. Standard Operating Procedures for the Video Recording of Suspect Interviews for Serious Crimes ("**SOP**") – This document determines the procedure for conducting video interviews of suspects by a law enforcement agency.
- f. Case Management Spreadsheet ("**CMS**") – This document records **NPS** information on a file, such as next hearing dates.
- g. "Law enforcement agency" means the Royal Saint Vincent and the Grenadines Police Force, the Customs Department, the Immigration Department, The Financial Intelligence Unit or other State investigatory agency within Saint Vincent and the Grenadines.
- h. A "suspect" means a person arrested for an offence, but not yet charged by a law enforcement agency.
- i. An "accused" is a person charged with an offence or offences following the procedures in this Manual.

CONTENTS

	Page
SECTION 1 – ROLES AND RESPONSIBILITIES	
1.1 Case Tracking Manager (CTM)	5
1.2 Departmental Record Officer (DRO)	6
1.3 File Keepers (FK)	6
1.4 Advocate	7
1.5 Director of Public Prosecutions (DPP)	7
1.6 Administration Staff (AS)	8
1.7 Law Enforcement Agency	8
SECTION 2 - A GUIDE TO CASE FILE BUILDING	9
2.1 Introduction	9
2.2 The Protected Marking Scheme	9
2.3 Law Enforcement Agency Case Number (CN)	10
2.4 Guidelines for File Building	11
2.5 The Prosecution File Standard (PFS)	12
2.6 Bail	12
2.7 NPS Case Management	20
2.8 At Court	21
2.9 Case Management	22
2.10 Typing of Case Files	26
2.11 Records of Interview	26
2.12 The Disclosure Process	28
2.13 Asset Recovery	34
2.14 Discontinuance	35
SECTION 3 – LAW ENFORCEMENT AGENCY SUPERVISION	36
3.1 Introduction	36
3.2 Supervisory Endorsement of Forms	37
3.3 File Type and Content	40
3.4 Case Files Involving Multiple Offences and/or Offenders	41

SECTION 4 – CREATING UPGRADED FILES	46
4.1 When to Perform this Procedure	46
4.2 The Contents	46
4.3 Appeals	50
SECTION 5 – CLEAR DESK POLICY	51
5.1 The Policy	51
5.2 Principles	51
SECTION 6 – STORING FILES	53
6.1 The Policy	53
6.2 Principles	53
SECTION 7 – WARRANT FILES	54
7.1 When to Perform this Procedure	54
7.2 The Procedure	54
SECTION 8 – CLOSING FILES	55
8.1 When to Perform this Procedure	55
8.2 The Procedure	55
SECTION 9 – RETENTION SCHEDULE	56
SECTION 10 – LONG TERM INTEREST CRITERIA	59
SECTION 11 – FORMS	60
ANNEX A Pre-charge Referral Process to the NPS	104
ANNEX B Prosecution File Standards	105
ANNEX C Disclosure of Unused Material Process	106
ANNEX D Pre-hearing Process Map	107
ANNEX E Post-hearing Process Map	108
ANNEX F Not Guilty Process Map	109
ANNEX G Remand Process	110
ANNEX H NPS Referral Offences	111
ANNEX I Breach of Bail File	112

when requesting **NPS** advice, providing files after charge, supplying evidence or any other case work related contact.

1.2 Departmental Record Officer (DRO)

1.2.1 The **DRO** is responsible for supporting the efficiency and quality of the **NPS** through effective management and security of information.

1.2.2 The specific responsibilities of the **DRO** are:

- a. Devise, promulgate, monitor and keep under review the policies and procedures related to any record keeping;
- b. Ensure that files are effectively managed and available as a resource in accordance with the retention schedule (see section 9 below) and long-term interest criteria (see section 10 below);
- c. Ensure the destruction of material that is no longer required;
- d. Be aware of all collections of records in the **NPS** and the purposes and value of keeping them;
- e. Ensure that the records selected for preservation are prepared for transfer and then transferred for archiving;
- f. Make arrangements to deal effectively with requests, from inside or outside the **NPS** for access to or information relating to records held by the **NPS**.

1.3 File Keepers (FK)

1.3.1 The **FK** maybe Crown Counsel or a Police Prosecutor and will be responsible for the following on case files allocated to them by the **CTM**:

- a. Effective file preparation, in accordance with this Manual;
- b. Applying the **Code** when reviewing all files upon receipt and on a continuing basis;
- c. Security of files allocated to them. Therefore, when the case file is taken out of the office, to court or an attendance, the **FK** must inform the **CTM** by email, who will record this on the **CMS**;

SECTION 1 – ROLES AND RESPONSIBILITIES

1.1 Case Tracking Manager (CTM)

- 1.1.1 The Case Tracking Manager (**CTM**) is responsible for the creation, maintenance and destruction of files within the **NPS** applying the Prosecution File Standard (**PFS**).
- 1.1.2 The **CTM** will manage the Case Management Spreadsheet (**CMS**) and ensure that the whereabouts of all files is known on a daily basis and for all future court hearings. Therefore the **CTM** will know if a case file is taken to court or to an attendance out of the office.
- 1.1.3 The **CTM** must also manage the **CMS**, to ensure that all actions to be undertaken on a file and directions of the court, are entered and complied with by the **File Keeper**.
- 1.1.4 The **CTM** will allocate a case file to a **File Keeper** after receiving the same from the law enforcement agency. Files will be allocated as follows:
- a. Offences committed by juveniles to the Police Prosecutor/s allocated to the Family Court;
 - b. Offences to be tried at the Serious Crimes Court to the Police Prosecutor/s allocated to that court;
 - c. Indictable only offences to be tried at the High Court to Crown Counsel;
 - d. Any other offences on a case-by-case basis taking into account the capacity of any potential File Keeper, complexity and seriousness.
- 1.1.5 The **CTM** must be aware of all record types that are created and/or received in whatever format (i.e. case files, audiotapes, videotapes, digital and non-digital databases, and copy exhibits sent by the **IO**) and store them appropriately.
- 1.1.6 The **CTM** will be the first point of contact for law enforcement agencies

- d. Ensure that the **CTM** is informed by email of all future hearings so they are recorded in the **CMS** with an estimate of their time length;
- e. Ensure that all actions on a file and court directions, are recorded in the **CMS** and responsibility for ensuring they are carried out.

1.4 Advocate

1.4.1 This maybe a Police Prosecutor, Crown Counsel or an approved agent and should (when not an approved agent) be the **FK**. The **Advocate** will be responsible for:

- a. Completing the **FORM2** (Court Attendance Note) after each hearing and returning the file to the **FK** (if a different person);
- b. Completing the **FORM8** (Plea and Sentence Form) before any sentencing hearing in the High Court and serve on the court and defence Attorney in good time before that hearing.

1.5 The Director of Public Prosecutions

1.5.1 The Director of Public Prosecutions (**DPP**) will be responsible for all prosecutions. Therefore he will:

- a. Review any advice given where appropriate;
- b. Take appropriate action on any failure to comply with this Manual;
- c. Liaise with the Head of any law enforcement agency in relation to any failings by the Investigating or Supervising Officer; and
- d. Delegate any functions as deemed necessary applying section 64(3) of the Constitution.

1.6 Administration Staff (AS)

1.6.1 The **CTM** may designate tasks to **AS** which could include the following:

- a. Preparing the contents of an **upgraded file**;
- b. Preparing disclosure or trial bundles for court;
- c. Liaising with law enforcement agencies when instructed by the **CTM**.
- d. Archiving files at the direction of the **DRO**.

1.7 Law Enforcement Agency

1.7.1 In this manual reference will be made to a Supervising Officer (**SO**) and Investigating Officer (**IO**).

1.7.2 The **IO** will be the officer with the day-to-day conduct of the case as determined by the law enforcement agency. His or her contact details should be provided to the **CTM** as a point of contact.

1.7.3 The **SO** will be responsible for any investigative decisions taken (unless otherwise stated in this Manual), complying with the **PFS** and will ensure:

- a. The **Code** is applied when charging;
- b. All files or further evidence for the **NPS** should be sent to the **CTM** who will be the **NPS** point of contact for the law enforcement agency;
- c. A file sent for **NPS** advice has the required forms as outlined in Annex B column 1a;
- d. A file sent to the **NPS** after charge has the required information as outlined in Annex B column 1b;
- e. In a contested case the required information as outlined in Annex B column 2 is supplied to the **NPS**.

SECTION 2 - A GUIDE TO CASE FILE BUILDING

2.1 Introduction

2.1.1 This second section of the Manual of Guidance provides best practice for preparing a case file together with an outline of the process for obtaining an **NPS** charging decision.

2.1.2 The law enforcement agency and the **NPS** share a common goal, the successful prosecution of persons who have committed offences in circumstances where the public interest requires a prosecution. It is the responsibility of the law enforcement agency to investigate offences, and the responsibility of the **NPS** to prosecute people who are charged as a result of law enforcement agency investigations. There must be an emphasis on a team approach so that all parties are well informed at every stage of an investigation and prosecution to secure a just result.

2.1.3 The law enforcement agency will usually determine the charge, however serious and complex cases should be referred to the **NPS** for charging advice. Those offences that are serious and complex and where the **NPS** will determine charge are listed in **Annex H**.

2.1.4 All files sent to the **NPS** for prosecution must be prepared and submitted in accordance with this Manual. This Manual sets out the required standards for the preparation of case files, their content and format.

2.1.5 This Manual applies to all cases, whether the accused is charged or summonsed.

2.2 The Protected Marking Scheme

2.2.1 The forms used to prepare a case file are numbered and have the prefix '**FORM**'. All **FORMs** carry a Protected Marking Scheme header and footer. The scheme assists the law enforcement agency and **NPS** by ensuring that all agencies, which share information, handle it according to the same security classification.

2.2.2 **FORMs** carry the protective headings 'Restricted' and/or 'Confidential':

- a. **Restricted information:** Material falls into this category if accidental or deliberate compromise of the material would be likely to cause substantial distress to individuals; prejudice the investigation; facilitate the commission of crime; breach undertakings to maintain confidence of information provided by third parties, for example, information supplied to law enforcement agency by a witness in confidence (home address details) or law enforcement agency briefing material.
- b. **Confidential information:** Material falls into this category if it would prejudice individual security or liberty; impede the investigation or facilitate the commission of serious crime, for example, material regarding covert operations/observation points or information supplied by an intelligence source (which does not reveal his/her identity). Material that would reveal the identity of a source/undercover officer should be classed as '**Secret**'.

2.2.3 It is up to the person completing the **FORM** to decide what the correct classification should be.

2.2.4 Material which, when complete, is not disclosable to an accused, should be clearly marked.

2.2.5 Where possible, taking account of the classification of any documents, any **FORMs** sent between a law enforcement agency and the **NPS** should be sent by email.

2.3 **Law Enforcement Agency Case Number (CN)**

2.3.1 A **CN** must be allocated to a case file at the earliest opportunity to allow tracking and monitoring of the case where possible. This process should start at the point of arrest where the **CN** will be recorded on the law enforcement agency file.

2.3.2 When completing a case file the **CN** must be entered on all **FORMs**.

The endorsement of the **CN** on each form ensures that if material becomes separated from the file, it can be easily identified and maintains continuity.

2.3.3 Allocating a **CN** for case files involving multiple offences and/or offenders will need to be closely monitored to avoid duplication. Specific guidance on when and how these case files should be numbered is contained at 3.4 of Section 3. This includes obtaining guidance from the **NPS** regarding the splitting or merging of case files.

2.4 Guidelines for File Building

2.4.1 An **IO** must gather together the documents acquired during the investigation of an offence from the outset. The case file is built from those documents, whether they contain evidence or not. **It is not necessary for a suspect to be held in custody before starting to build the case file.** All reasonable lines of inquiry must be followed, not only those that appear to point to a certain person being responsible.

2.4.2 The content of the file, according to the '**Prosecution File Standard**' will depend on the stage of the investigation and/or prosecution (see 2.5 onwards).

The Charging Decision

2.4.3 For a list of offences which should be referred to the **NPS** for a charging decision see **Annex H**.

2.4.4 Charging decisions taken by the **NPS** or a law enforcement agency need to take into account the provisions of the **Code** and the Full Code Test (see 2.4.5 below), which need to be satisfied before a case can be properly charged (An example is provided in the **Guide** after paragraph 4.3.36).

2.4.5 The Full Code Test has two stages:

- a. **Evidential Stage** (paragraphs 7.5-7.8 of the **Code**): Firstly that the evidence is sufficient to provide a 'reasonable prospect of

conviction'; and

- b. **Public Interest Stage** (paragraphs 7.9-7.17 of the **Code**): It is in the Public Interest to proceed with a prosecution.

Only if these two tests are satisfied can a charge be laid.

2.5 Prosecution File Standard (PFS)

Introduction

2.5.1 The **PFS** will ensure that all files are consistently prepared. This means any **IO**, **SO**, **FK**, and **Advocate** can efficiently use a file and the **NPS** can provide the best possible advice with all available and necessary information provided.

2.5.2 **Annex B** details the necessary contents of files at three different stages applying the **PFS**:

- a. **NPS** referred cases;
- b. Law enforcement agency charged cases; and
- c. **Upgraded files** for committal/Preliminary Inquiry or trial

NPS Referred Cases

2.5.3 The **FK** will ordinarily advise on charging decisions on the information provided by the **FORMA** (law enforcement agency report) and any **key evidence** (see 2.5.4 below). **Annex A** provides a map for the process of referring a file to the **NPS** for a charging decision. **Annex B column 1A** provides the content of the files submitted to the **NPS** applying the **PFS**. Where possible it is recommended that any **FORMs** and any documents applying the **PFS** that can be sent by email are done so in order to speed up the decision making process.

2.5.4 **Key evidence** is that evidence which either alone (*i.e. the evidence of one key witness*) or taken together with other evidence (*e.g. a number of key witnesses each of whom provide some key evidence*) and relevant exhibits, establish every element of the offence to be proved (applying the **P2P**), identify the offender and show that he or she committed the offence

with the necessary criminal intent. A “key” witness will be either the victim, an eye-witness or any other witness whose evidence is crucial to satisfying the **Evidential Stage** of the Full Code Test.

- 2.5.5 Where witnesses provide accounts of the same events that differ in a material respect, witness statements must be supplied in respect of each. As a general guide, where an **IO** considers that witnesses' accounts vary sufficiently, then statements should be provided for each witness and this should be recorded on **FORMA** for the information of the **FK** providing the charging decision. Further the file must include antecedents of prosecution witnesses who have provided key statements.
- 2.5.6 Corroborative statements or continuity evidence will not be required to be submitted with the **FORMA** unless already contained within the statement of a key witness. Other evidence supporting or repetitive of key statements will not be required. However, the **FORMA** should indicate corroborative or continuity evidence is available and evidence proving the points to prove as provided in the **P2P**.
- 2.5.7 Information impacting upon the decision to withhold or allow the granting of bail must also be included and provided to the **FK** in **FORM3** (see paragraph 2.6 below)
- 2.5.8 Checklists required for specific investigations involving domestic violence, rape, violent offences and drug trafficking (**FORMS14-17**) must also be included to inform the **FK** how the evidence could be strengthened and may help to inform the **Public Interest Test**.
- 2.5.9 The **DPP**'s copy of an electronic interview should be provided pursuant to the **SOP** and a summary (**SDN**) in accordance with paragraph 2.11 below. If a statement has been taken from a suspect or a written interview, this should be provided.
- 2.5.10 A copy of the suspect(s) antecedents is also required where available.
- 2.5.11 The **FK** will make a charging decision on **FORM1**. The Action Plan

may be completed to determine dates when any further evidence should be submitted to the **NPS**.

- 2.5.12 If the **FK** cannot make a charging decision, **FORM1** will be completed with an Action Plan outlining what **key evidence** is required together with any other specified information. If this material cannot be secured, the **IO** or **SO** should arrange to seek further advice from the **FK**. Once further action has been carried out, the law enforcement agency report should be re-submitted as **FORMB**.
- 2.5.13 The **FORMA/B** and Checklist forms are **confidential documents subject to legal privilege and MUST NOT be given to the accused or any third party under any circumstances as they contain information on the strengths and weaknesses of the case.**
- 2.5.14 The **NPS** will operate an out of hours advice capability so that law enforcement agencies know who they should contact when a matter needs to be referred outside of business hours.
- 2.5.15 The **NPS** will provide to law enforcement agencies a list of those on duty out of hours and their contact details.

Law Enforcement Agency Charged Cases

- 2.5.16 Where the law enforcement agency have charged, the rationale for the charging decision should be recorded on **FORMC**. This then becomes part of the post-charge file for the first hearing at court.
- 2.5.17 **FORMC** will be submitted to the **NPS** before the first court hearing.
- 2.5.18 See **column 1B** at **Annex B** for the contents of a file after charge.
- 2.5.19 A process map pre-hearing where an accused is on bail/summonsed is at **Annex D** and where an accused is remanded in custody by the Police at **Annex G**.
- 2.5.20 Upon **NPS** receipt of the case file the **CTM** will allocate the file according to paragraph 1.1.4 above.

2.5.21 An **FK** when allocated a charged case must review the file applying the Full Code Test on **FORM1** before the first appearance at court.

2.5.22 If there is an opportunity a summary (**FORM 5**) should be prepared by the **FK** to disclose to the accused at this first hearing. The **FK** should remember when preparing **FORM5** to only include material that will form part of the prosecution case that isn't restricted or confidential.

2.5.23 The **NPS** have a continuing duty to review a case and to be satisfied that there is sufficient evidence to provide a reasonable prospect of conviction against each accused for each offence and that it is in the public interest to proceed. **FK's** must also consider any fundamental rights issues, pursuant to the Constitution, that arise.

2.5.24 The **FK** at this initial review will allocate a coloured sticker to any case file that falls into the following categories:

- a. Domestic Violence – Red
- b. Asset Recovery - Green

2.5.25 For the purposes of the allocation of the coloured stickers the following definitions will apply:

- a. Domestic Violence means: Any offence that demonstrates any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, the following offences:
 - i. Common Assault;
 - ii. ABH;
 - iii. GBH (malicious wounding);
 - iv. GBH with intent;
 - v. Attempted Murder;
 - vi. Murder;

- vii. Rape;
- viii. Indecent Assault.
- b. Asset Recovery means: Where a person is arrested (where a **NPS** referral) or charged with an acquisitive offence under the **Proceeds of Crime Act**. This will require all **IO's**, **SO's** and **FK's** to be aware of such offences.

2.5.26 The purpose of the file stickers is to highlight to all **NPS** and law enforcement agency staff the importance of these files and that they may require specific actions within specific time limits.

Upgraded File (For indictable only and 'contested' cases)

2.5.27 After an accused decides to enter a not-guilty plea at court or elects to have the case heard at the High Court or the proceedings are adjourned for a preliminary Inquiry/committal proceedings, an '**upgraded file**' will be required. See **column 2** at **Annex B** for the contents of an **upgraded file** received from a law enforcement agency.

2.5.28 An **upgraded file** will include the disclosure forms (**FORM9A, 9B, 9C, 9D** and **9E**) and must be submitted to the **NPS** in accordance with paragraph 2.12 below.

2.5.29 Any relevant documents referred to in **FORM11** (Upgraded File Index) will also need to be included by the **FK** to produce an **upgraded file**.

2.5.30 See section 4 for the complete **upgraded file** contents.

2.6 Bail

Law Enforcement Agency Bail Decisions

2.6.1 Where the Full Code Test of the **Code** is applied, the law enforcement agency will need to decide whether to:

- a. Release on bail for further inquiries (Section 35(3) Criminal Procedure Code); or

- b. Charge and bail; or
- c. Remand in custody following charge to put the accused before the next available court

2.6.2 Where the law enforcement agency decides to remand the accused in custody, the **SO** must ensure that a file is provided to the **NPS** before 8:00am on the day of the accused's court appearance (See **Annex G** for process map). The contents of the file are described in **Annex B column 1b**. The **FORM3** (Remand Hearing Form) will be required in all such cases.

Breach of Post-Charge Bail

2.6.3 See **Annex I** for the contents of a breach of bail file.

Remand in Custody and FORM3

2.6.4 After charge, the law enforcement agency has to make a decision on whether to grant bail, or whether there are reasons why bail should not be granted. If there are reasons why bail should not be granted, then the **NPS** should seek a remand in custody at the first court hearing.

2.6.5 The **IO** is responsible for ensuring the law enforcement agency has all the relevant information in order to make a decision on whether grounds exist to refuse bail.

2.6.6 If the accused is kept in law enforcement agency custody after charge, the decision as to whether a remand in custody is to be sought at court lies solely with the **NPS**.

2.6.7 The detention or continued detention of an accused is a serious step to take.

2.6.8 Custody cases must be prioritised and delays must be explained or escalated according to agreed local procedures. Common causes of delay are medical and forensic evidence; these need to be requested and provided as quickly as possible.

2.6.9 **FORM3** must be as detailed as possible. It must contain details of any **substantial grounds** that support the request for a remand in custody or the imposition of bail conditions. Failure to provide sufficient information may lead to a refusal to impose conditions or remands in custody.

2.6.10 Confidential information must not be included on the **FORM3**. Use the **FORMA, B** or **C** for this purpose. If any information undermines the prosecution case or assists the accused in their bail application, this should be disclosed to the **NPS** on **FORM3** before the first hearing for them to determine disclosing to the accused.

2.6.11 If possible, if an **FK** has advised on charge, they should attend the first hearing, supported by the **IO**.

Grounds to Seek a Remand in Custody

2.6.12 The **NPS** when making an application for a remand in custody should consider the following grounds and will need information from the relevant law enforcement agency on **FORM3**:

- a. **Fail to surrender** – Consider if:
 - i. Antecedent for absconding;
 - ii. Accused has no fixed abode;
 - iii. The accused has indicated he/she will not appear.
- b. **Commit offences on bail (current and previous)** – Consider if:
 - i. Present offence committed on bail (details of charges, bail dates and conditions should be given);
 - ii. The 'lifestyle' of the accused is such that it is likely offending will continue, e.g. a drug habit.
- c. **Obstruct the course of justice and/or interfere with witnesses** – Consider if:

- i. The accused has threatened to interfere with witnesses (or has a history of such behaviour); or
 - ii. Will hinder the recovery of property.
- d. **A remand in custody is necessary for the person's safety** – Consider if:
- i. There is a real threat of revenge from the victim's family, or friends etc.; or
 - ii. The accused is suicidal, a drug addict or suffering from mental disorder.
- e. **If a child or young person, for that person's own welfare or own interests** – Consider if:
- i. The accused has threatened self-harm;
 - ii. The accused is being coerced by older youths/adults to commit crime;
 - iii. The accused does not have a stable family background.

2.6.13 Guidance for when to bail/remand an accused in custody can be found at in the **Guide** at paragraph 6.2

Intimidated and Vulnerable Witnesses

2.6.14 Where a remand in custody is sought, consideration must be given as to whether there is a risk of the accused trying to intimidate witnesses (directly or indirectly) whilst remanded in custody. If there are grounds to believe this is likely, full details of witnesses and their contact details must be included on **FORM3** and if appropriate this information can be passed onto the Prison in order to prevent the accused from contacting witnesses whilst on remand.

Court Imposed Conditional Bail

2.6.15 In order to be prepared for those occasions when the court may not

remand in custody but grants bail, consideration should be given to including suitable and appropriate bail conditions on the **FORM3** which the **NPS** can ask the court to impose in the event bail is granted. Conditions should be imposed on bail by the court if they are necessary to prevent the person from:

- a. Failing to surrender to custody;
- b. Committing further offences whilst on bail; and/or
- c. Interfering with witnesses or obstructing the course of justice.

2.6.16 The following are suggested bail conditions which can be sought from the court where relevant:

- a. To live and sleep at a specified address;
- b. To notify law enforcement agency of any change of address;
- c. To report to a police station (daily, weekly, or other period);
- d. Not to enter a certain area or building (include a map where possible);
- e. Not to contact (directly or indirectly) the victim and/or any prosecution witness;
- f. To surrender his/her passport; and/or
- g. To observe a curfew between set times (consider a 'doorstep condition' where the accused must appear at the door if/when required by the law enforcement agency)

2.7 Case Management Spreadsheet

2.7.1 Upon receipt of the following information the **CMS** should be updated by the **FK** emailing the **CTM** with any relevant updates:

- a. CN;
- b. Police CR;
- c. Accused name;

- d. Bail or remand status;
- e. Grounds for refusing bail;
- f. Court granting bail
- g. Bail/remand date
- h. Charge/s and applicable Acts/sections;
- i. Name and contacts details of Accused's Attorney (if known);
- j. Name of IO;
- k. Prosecutor/Counsel (FK) assigned;
- l. Name and number of witnesses
- m. Virtual complainant
- n. Current status – including any actions to be taken;
- o. Next court date;
- p. Location of the file;
- q. Summary of indictable matter
- r. Date committed for trial;
- s. Date Indictment drafted;
- t. Date Indictment filed;
- u. Date arraigned;
- v. Case outcome; and
- w. Outcome date

2.8 At Court

2.8.1 The importance of progressing must be recognized and the Magistrates Court Pre-Trial Limits must be adhered to.

2.8.2 Local arrangements should be made for the efficient service of disclosure

of the prosecution evidence to the court and to the accused (this of course differs to disclosure of unused material referred to from paragraph 2.12). This may be undertaken at any stage from point of charge onwards. The **NPS** should ensure the accused signs for receipt of any evidential disclosure, particularly any hard copy of audio/visual recordings served.

2.8.3 At the end of any court hearing, the **Advocate** should complete **FORM2** and ensure prompt delivery of the form to the **NPS**. This may also be provided to the law enforcement agency to notify the law enforcement agency as soon as practicable after court of any relevant directions, which require action by that law enforcement agency and to update the victim and witnesses as to the bail position of the accused.

2.9 Case Management

“Not Guilty” Plea

2.9.1 In any case in which a not guilty plea is entered, the **Advocate**, at the hearing, will:

- a. Proactively assist the court in the identification of the issues for trial.
- b. Agree a timetable for the management of the case with the court.
- c. Notify the law enforcement agency and **FK** of any specific further evidential requirements as soon as possible and in any case within seven days.

2.9.2 After a not guilty plea is entered at court the **Advocate** should note in the **FORM2** (Court Attendance Note). The file will be returned to the **CTM** within three days and it will be **upgraded**. The date for the next hearing will be provided, and if known, the trial date will also be notified to the **CTM**. The **CTM** will endorse the **CMS** accordingly.

2.9.3 If the matter is listed for a summary trial an **Advocate**, if different to the **FK**, will be allocated by the **CTM**.

- 2.9.4 If the matter is listed for Committal/Preliminary Inquiry the file will be **upgraded**. If the original **FK** was a Police Prosecutor, Crown Counsel may now be allocated at this stage or after the Committal/Preliminary Inquiry as the **FK**.
- 2.9.5 A newly allocated **FK** will then have three days to collect the file.
- 2.9.6 The **FK** will then have five days, to review the file for trial or Committal/Preliminary Inquiry and complete the **FORM7A** or **B** (Trial Preparation/Preliminary Inquiry/Committal Form). The **FORM7A** or **B** will be emailed to the **CTM**. The **CTM** will then request the administrative staff to complete any tasks to be completed by the **NPS** such as preparation of trial bundles.
- 2.9.7 The **CTM**, if no **FORM7A** or **B** is received within seven days, will inform the **DPP** of the failure. The **DPP** will take further action by addressing the **FK** regarding their failure to submit the required documents. If the **FORM7A** or **B** has been received the **CTM** will email it to the law enforcement agency **SO** and provide a target date for completion of fourteen days thereafter. The trial date, if known, will also be provided. If a trial date has been set then the **IO** must cause the witnesses to be warned for trial within 24 hrs of notification from the **CTM**. The **CTM** will then endorse the **CMS** accordingly. In addition the **CMS** will be endorsed with any additional work that has been requested by the **FK**.
- 2.9.8 When the **CTM** receives the law enforcement agency response to the **FORM7A** or **B** for further evidence on the **FORM10** (Further Evidence Information Report), they will forward this to the **FK**. The **CTM** will provide the **FK** with a target date of seven days thereafter to review the material and respond with any further work that is required.
- 2.9.9 If the **CTM** does not receive the law enforcement agency response

(**FORM10**) within eight days, they will escalate the matter to the Superintendent (or equivalent law enforcement agency rank) and give a target date of four days. The **CMS** will be endorsed accordingly.

2.9.10 If there is no response within three days the **CTM** will escalate the matter to the head of the relevant law enforcement agency (i.e. Commissioner of Police, Comptroller of Customs, Director of FIU) and will copy in the **DPP**. The **CMS** will be endorsed accordingly.

2.9.11 For matters committed to the High Court the principles of the **Witness Charter** should be followed for **key witnesses** including (and not limited to):

- a. A Needs Assessment (paragraph 10);
- b. Notification of the Trial Date and any other hearings where attendance is necessary (paragraphs 14 and 15)
- c. Use of Special Measures (paragraph 23)

2.9.12 It should be standard practice to provide a copy or access to a copy of the **Witness Charter** to **key witnesses**.

Pre-trial

2.9.13 The **CTM** will email the **FK** two weeks before trial to confirm that the matter is trial ready. The **FK** must respond via email within 24 hrs of that email attaching the file review checklist **FORM19**. If **FORM19** is not received from the **FK** at the end of the period given to them, then the **CTM** will notify the **DPP** within 24 hrs of the failure. The **DPP** will take further action by addressing the **FK** regarding their failure to respond. If the matter is trial ready then the **CMS** must be marked accordingly. If the matter is not trial ready, then urgent liaison must take place with the law enforcement agency **SO**. All attempts should be made to get the case trial

ready. However, if it is going to be impossible to get the matter trial ready in time, then the case should be listed at court for an urgent application to break the trial and relist.

2.9.14 Where the trial is length and/or complex it would be good practice to have a conference between the **Advocate** and the **IO/SO** to ensure all is prepared.

2.9.15 **FORM8** (Plea and Sentence Form) should be completed by the **Advocate** prior to a trial in the High Court to assist the Judge when sentencing. **FORM8** will also address any applications for forfeiture of instrumentalities, destruction of any items and compensation. However any **Advocate** appearing at the Magistrates Court should also be aware of any appropriate applications for forfeiture, destruction and compensation post conviction.

2.9.16 When prosecuting any acquisitive offence the **Advocate** must consider if the accused has benefited from the offence (that is, has the accused received cash, property or a pecuniary advantage from the crime). If so the **Advocate** should postpone any confiscation proceedings and be ready to propose a timetable. If in the Magistrates Court, the **Advocate** should be in a position to know if the accused needs to be committed to the High Court for confiscation proceedings.

Post-trial

2.9.17 After the matter has been completed the **FK** has three working days to complete the **FORM2** (Court Attendance Note) and return the file to the **CTM** for storage/archiving.

2.9.18 If the matter proceeds to confiscation proceedings the file will not be stored/archived until completion. The FIU should be immediately notified of any timetable and a case conference should be arranged between the

Advocate and the FIU to determine the next steps.

2.9.19 It is best practice after the trial of an offence listed in **Annex H**, to have a de-brief conference between the **FK, Advocate** (if not the **FK**), **IO** and **SO**, to discuss lessons learnt and best practice for the future.

2.10 Typing of Case Files

2.10.1 Where documents are typed they should be Times New Roman, font size 12 and 1.5 line spacing. Manuscript or hand-written statements can be provided in cases to be finalised as guilty pleas in Magistrates' Courts and may present the most proportionate approach to case preparation.

2.10.2 It will be best practice to have typed statements. Where provided, hand-written statements must be legible, comprehensible and sufficiently clear to produce good quality photocopies.

2.10.3 Committal papers prepared for, and statements used in, the High Court should be typed.

2.11 Records of Interview

2.11.1 It is necessary to provide a short descriptive note (**SDN**) of the interview for the first hearing in the Magistrates Court.

2.11.2 Where an accused has provided a statement or a handwritten note has been made of an interview, this must be provided to the **NPS** as part of the post charge file for the first hearing.

2.11.3 Where an accused has been interviewed pursuant to the Interviewing of Suspects for Serious Crimes Act 2012, the **SOP** must be followed and the **DPP** copy disc provided to the **NPS** before the first hearing. It will also be necessary to provide a **SDN** of the interview/s in accordance with paragraphs 2.11.4-5 below.

Short Descriptive Note (SDN)

2.11.4 WHAT IS AN SDN?

An **SDN** is a brief account of what was said by the accused in an interview. It should be recorded on **FORMA, B** or **C** (law enforcement agency Report) and be available for the first Magistrates Court hearing.

2.11.5 WHAT MUST AN SDN CONTAIN?

An **SDN** should generally be written in the third person, although specific sections should be written in direct speech (see admissions below). It should summarise the questions covering the points to prove of the offence(s) (refer to the **P2P**) and the responses given.

An **SDN** must include the following:

- a. Admissions, which prove 'the points to prove of the offence', written in direct speech. It is not sufficient to say 'the accused fully admitted the offence'. The words 'full and frank admission' should also be avoided;
- b. The accused's version of events where this is disputed, specific denials and any explanation for committing the offence(s);
- c. Any mitigating circumstances given, including any expressions of remorse;
- d. Anything said by the accused in relation to aggravating factors:
 - i. Pre-meditation;
 - ii. Admission of prior knowledge of vulnerability of the victim;
 - iii. Lack of remorse shown.
- e. The date and start and end time of the interview. Where there have been a series of interviews there should be an **SDN** for each interview.

2.12 The Disclosure Process

- 2.12.1 The disclosure process must not be confused with the service of the prosecution evidence against the accused. We will consider in this part application of the disclosure test to unused material.
- 2.12.2 The **disclosure test** is the process of informing the accused of any material not served as evidence and in the possession of the law enforcement agency, which would tend either to materially weaken the prosecution case or materially strengthen the case for the accused (**Maureen Peters v The Queen HCRAP 2009/5 Territory of the Virgin Islands; Donnason Knights v the Queen Criminal Appeal No.15 of 1995, Grenada; and R v Ward (Judith Theresa) [1993] 2 All E.R. 577**).
- 2.12.3 **Unused material** is relevant material obtained or generated during the course of a criminal investigation but which is not being used as evidence. All **unused material** must be **retained and recorded** by a law enforcement agency.
- 2.12.4 The **NPS** will make the decision as to whether any **unused material** satisfies the **disclosure test**. This disclosure process continues as long as proceedings remain, whether at first instance or on appeal.
- 2.12.5 The **NPS** and law enforcement agency are treated collectively as the 'Prosecution' and a failure by one is a failure by them both. It is therefore important that the **NPS** and law enforcement agency adopt consistent practices. A process map is provided at **Annex C**.

When Does the Duty to Disclose Arise?

- 2.12.6 Generally, the disclosure process is triggered by:
- a. **Unused material** that could assist a bail application; or
 - b. A not guilty plea in the Magistrates' Court; or
 - c. A committal/preliminary inquiry,

When and How Must Material be Recorded

2.12.7 **Unused material** must be recorded at the time it is obtained/seized, or as soon as is practicable after that. **Unused material** must be recorded in a durable or retrievable form. If it is not practicable to retain the original record, e.g. because it forms part of a larger record which is to be destroyed, the information must be transferred accurately to a durable and easily retrievable form. Photocopies are acceptable.

Disclosure Roles and Responsibilities

2.12.8 There are three distinct roles which impose different duties on the law enforcement agency:

- a. The **IO**: All law enforcement agency officers have a responsibility to record and retain relevant **unused material** obtained or generated by them during the course of the investigation.
- b. The **SO**: Has special responsibility to ensure that all reasonable lines of inquiry are pursued, irrespective of whether the resultant evidence is more likely to assist the prosecution or the accused
- c. The Disclosure Officer – the person responsible for:
 - i. Examining the **unused material** retained during the investigation; and
 - ii. Revealing **unused material** to the **FK** on **FORM9B**, **FORM9C**, **FORM9D** schedules, ensuring that the descriptions are sufficiently detailed and contain enough information to enable the **FK** to make an informed decision as to whether or not the item meets the test for disclosure; and
 - iii. Certifying where necessary that action has been taken in accordance with these requirements.

The disclosure role involves different functions and may be performed by

three different people or the **IO** may also be the Disclosure Officer.

Disclosure Forms

2.12.9 There are five disclosure forms that will be provided to the **NPS** as part of the **upgraded file**:¹

- a. **FORM9A**: This form is a record for the **FK** to document all actions taken when applying the disclosure test. Therefore this will include the date when any **unused material** is reviewed or disclosed to the accused, with a description of what is disclosed.
- b. **FORM9B**: This gives details of the disciplinary record and convictions (if any) of any law enforcement agency officer/member of law enforcement agency staff that is involved in the case. If no officer/member of law enforcement agency staff has a disciplinary consideration (or conviction) there is no need to put the form on the file.
- c. **FORM9C**: The schedule of relevant non-sensitive **unused material** will be disclosed to the accused and any **unused material** described on it may also be disclosed to the accused on instruction from the **NPS** applying the **disclosure test**. Material that must be listed on the schedule covers all relevant non-sensitive **unused material** recorded, retained or generated during the course of an investigation. If an item of **unused material** contains both sensitive and non-sensitive material, it must be listed on the **FORM9C** as being an, 'edited version' or 'edited' e.g. a police notebook entry containing both the personal details of a witness and the circumstances of the arrest - block out the sensitive part (witness details) on a copy of the original with a dark marker pen (never white correcting fluid). The original must never be marked. Only list the unedited version on the **FORM9D**.

¹ Please note these FORMs do not have to be provided for a bail application before a matter becomes an **upgraded file** or where unused material may mitigate the seriousness of an offence.

d. **FORM9D** - The schedule of relevant sensitive **unused material** will not be disclosed to the accused because it is not in the public interest to do so. You must state the reason why the item should not be disclosed to the accused on the basis of sensitivity. The following are common examples:

- i. Details that identify an observation;
- ii. Disclose how covert technology operates
- iii. Disclose covert methodology used by the law enforcement agency;
- iv; Disclose contact details for witnesses;
- v; Disclose how intelligence material is obtained;
- vi Disclosure that could cause harm to a person – whether physical or economic;
- vii. Disclosure that could affect the interests of the State;

If there is no sensitive material in a case, endorse form **FORM9D** to that effect and submit it with the **FORM9C** and **FORM9E**. Where you think you have **unused material** that is very sensitive, such as information from an informant, make contact with the **DPP**.

e. **FORM9E** - Disclosure Officer's Report. On the **FORM9E** any **unused material** that satisfies the **disclosure test** must be brought to the attention of the **NPS**.

The disclosure officer must record on the form the following:

- i. Whether the undermining or descriptive information was originally listed on the **FORM9C** or **FORM9D**
- ii. The original item number from the **FORM9C** or **D**
- iii. Briefly, the reason for it being recorded on the **FORM9E**, e.g. *'May cast doubt on reliability of witness'*.

Describing the Material

2.12.10 The **FORM9B**, **FORM9C** and **FORM9D** schedules must describe the material in a detailed and accurate way by the Disclosure Officer so that it is obvious to anyone reading the form what the item is and a decision can be taken as to whether that item should be disclosed to the accused or not.

Inspection of the Material by the FK

2.12.11 The **FK** must always inspect, view or listen to any material that could reasonably be considered capable of undermining the prosecution case against the accused or of assisting the case for the accused. The Disclosure Officer may need to consult with and allow the **FK** to inspect the retained material if necessary.

Endorsing the Disclosure Decision by the FK

2.12.12 **FORMS 9B, 9C, 9D** and **9E** must be sent to the **NPS** by the Disclosure Officer at least one month before any summary trial or committal/Preliminary Inquiry. Once the form is sent to the **NPS**, the **FK** will endorse the decision whether to disclose or otherwise with a reason for the decision. The **FK** will also complete **FORM9A** confirming that the disclosure forms have been received, any items inspected and when disclosure decisions have been made.

Common Areas Satisfying the Disclosure Test

- 2.12.13 The **FK** should consider disclosing the following, at pre-committal/Preliminary Inquiry stage, applying the **disclosure test**:
- a. Antecedents of the victim, or any **unused material** that might assist an application for bail;
 - b. Anything that may assist the accused to argue that there should be no committal/Preliminary Inquiry at all, or committal/Preliminary Inquiry on a lesser charge;

- c. Anything that may assist an argument for abuse of process;
- d. Information that may assist the accused to prepare for trial where delay may affect such preparation (i.e. witnesses that the **NPS** do not intend to rely upon). This information is not always going to be disclosed to the accused since this would depend very much on what the accused chose to reveal about the nature of his case.

2.12.14 These are only examples and must not be construed as a definitive list of categories. In all cases the **FK** must consider disclosing in the interests of justice any **unused material** that is relevant to sentence (e.g. information that might mitigate the seriousness of the offence or assist the accused to lay blame in whole or in part upon a co-accused or another person).

Information to protect the Public Interest

2.12.15 There may be material in possession of the prosecution that satisfies the **disclosure test** but is sensitive.

2.12.16 In these circumstances an application will be made to the court to determine if the matters should be disclosed to the accused (see Annex W in the **Guide** for precedent application forms). The **NPS** may reasonably apply to the court to withhold sensitive **unused material** where in principle:

- a. Disclosure would mean that other investigations could be compromised;
- b. Disclosure of covert methodology would undermine future investigations;
- c. Risk of life to an intelligence source.

2.12.17 In such situations the **FK** should consult with the **DPP** and the **SO** to decide the most appropriate way forward. If following a court application the prosecution are ordered to disclose, the **DPP** must decide, taking account of views from the **SO**, whether to proceed with the prosecution.

Service on the Accused

2.12.18 Once the disclosure forms have been reviewed the **FK** will serve upon the accused, at least two weeks before summary trial or committal to the High Court/Preliminary Inquiry, **FORM9C** and any items that are to be disclosed. If the item to be disclosed is not capable of being copied then arrangements can be made for the accused or his Attorney to view the original at a Police Station in an appointment with the Disclosure Officer.

2.13 Asset Recovery

2.13.1 When investigating any acquisitive offence the **IO** must determine if the accused has benefited from the offence (that is, has the accused received cash, property or a pecuniary advantage from the crime). This must be endorsed on **FORMA** or **FORMC**

2.13.2 Where it is determined that the accused has benefitted, the **IO** should complete **FORM6** and send to the Financial Intelligence Unit (FIU) as soon as possible after arrest in order that any investigative orders or cash detention/forfeiture can be applied for by the FIU. Consideration must be given to any pre-charge application for restraint to prevent dissipation of assets and again the FIU should be contacted by sending **FORM6** .

2.13.3 The FIU will take the requisite steps needed with regard to instructing the **NPS** on confiscation proceedings.

2.14 Discontinuance

2.14.1 The **FK** should consult with the law enforcement agency before reaching a decision to terminate a case. The **DPP** shall authorise discontinuance, but may delegate this task where appropriate.

2.14.2 Whenever a decision is made to terminate a case, the **FK** will notify the law enforcement agency, who will then notify the victim of the reasons for the decision.

2.14.3 If the law enforcement agency have indicated that they do not wish to be consulted, either by local arrangements about types of case or in a specific case, then there is no requirement on the **FK/DPP** to consult before making the decision, although confirmation of the reasons should nevertheless be given.

SECTION 3 – LAW ENFORCEMENT AGENCY SUPERVISION

3.1 Introduction

- 3.1.1 Effective supervision of a case file should ensure that the evidence is gathered in time and to the right and proportionate standard. The law enforcement agency must ensure that processes are in place to ensure that case files are built and quality assured to the appropriate **PFS** in order to avoid any subsequent re-working after submission to the **NPS**.
- 3.1.2 Law enforcement agency supervision should support an investigation from the beginning and should intervene to ensure that evidence is gathered in accordance with any investigation plan. Where necessary, there should be early consultation with the **NPS**. **SO**'s should also ensure that any Action Plan is followed. **NPS** may provide guidance and advice to **IO**'s throughout the investigative and prosecuting process and this may include lines of inquiry, evidential requirements and assistance in any pre-charge procedures and ID parades. The **NPS** will be pro-active in identifying, and where possible, rectifying evidential deficiencies and bringing to an early conclusion those cases that cannot be strengthened by further investigation. In **NPS** referred cases, any charging decision or advice will be recorded on **FORM1** and supplied to the law enforcement agency with an expectation that the Action Plan for any further investigation will be followed.

Role of SO and IO

- 3.1.3 The **SO** role in case preparation may be carried out by senior law enforcement agency officers. Early front-end proactive law enforcement agency supervision during the investigative stage is a critical component for success.
- 3.1.4 It is essential that the **IO**, as a single point of contact, is clearly identified whilst the investigation is ongoing and a case file is being built. The

arresting officer is not necessarily the **IO** who deals with the accused and compiles the case file from start to finish. Responsibility and accountability for the case file is paramount.

3.1.5 **SO's** must check that the file complies with the **PFS**.

3.2 Supervisory Endorsement of Forms

FORMA – Law Enforcement Agency Report

3.2.1 **FORMA** will provide a summary of the investigation to date including:

- a. The SDN or **DPP** copy of electronic interview or copy of suspect's statement;
- b. The case against the suspect referring to key witness statements;
- c. Any information that may undermine a potential prosecution or assist the suspect; and
- d. Evidence outstanding with dates when it will be obtained.

3.2.2 The **SO** should ensure that the **IO** submitting **FORMA** is identified.

3.2.3 The **SO** should ensure where a file involves domestic violence, rape, violent offences or drug trafficking, that the appropriate checklists are completed (**FORMS14 to 17**). Furthermore **FORM6** must be completed in appropriate cases confirming the FIU have been notified so they can commence a financial investigation or prepare the necessary documentation for a restraint application.

3.2.4 Where the law enforcement agency refer a decision to the **NPS**, the **SO** should be aware that the charging decision will be based upon the file submitted to the **NPS** and will be indicating on the **FORMA** that he has certified the contents applying the **PFS**.

FORMB – Law Enforcement Agency Report (Supplementary)

- 3.2.5 This form is used to update the **NPS** on the progress of an inquiry in cases where an Action Plan was completed in **FORM1**, requiring further evidence before charge. The **IO** must ensure that **FORMA** is attached to the file and the results of a **FORM1** Action Plan are recorded. Where yet further evidence is required before the charging decision can be given, this should be recorded by the **FK** on a new **FORM1** and another Action Plan should be agreed between the law enforcement agency and **FK**.
- 3.2.6 After a review of the new evidence, the **FK** should consider whether the charging decision can now be taken. Charges should be specified, or drafted as appropriate.
- 3.2.7 The date of the **FORMA** or the most recent **FORMB** should be entered by the **IO** on any further **FORMB**

FORMC - Law Enforcement Agency Report (Charge)

- 3.2.8 All cases charged by a law enforcement agency will be notified to the **NPS** through **FORMC**. It is crucial that the content of the **FORMC**, including the case and interview summaries, are objective, fair and balanced and are of the highest quality. **A poor quality FORMC is likely to lead to wasted time, increased costs and delayed proceedings.** The **FORMC** should include the following:
- a. The SDN, **DPP** copy of interview or copy of suspect's statement;
 - b. The case against the accused referring to **key witness** statements;
 - c. Any information that may undermine a potential prosecution or assist the suspect; and
 - d. Evidence outstanding with dates when it will be obtained.
- 3.2.9 In all cases the **SO** must complete the '**SO's Certification**'. This certifies that the information in the **FORMC** is an accurate summary of the available evidence in the case and the Full Code Test has been applied

and satisfied. It also ensures that the file has been built to the required **PFS**. If it has not been possible to obtain all necessary information to ensure the file has reached the required **PFS**, the **FORMC** must indicate why and when missing information/evidence will be available.

3.2.10 Again the checklists referred (**FORMS14 to 17**) and **FORM6** must be completed as appropriate.

FORM9 – Disclosure Series

3.2.11 It is not expected that **SO's** will acquaint themselves with the details of all unused material in every case. What is required is the appropriate check to ensure that:

- a. **FORM9B, FORM9C** and **FORM9D** contain a sufficient description of the items to enable the **FK** to decide whether they are likely to require disclosure to the accused;
- b. **FORM9E** contains adequate information; and
- c. Any item that requires further examination by the **FK** is available for inspection.

3.2.12 The **SO's** comments on any of the above aspects of the case or deficiencies in the file should be made on **FORMA, FORMB** or **FORMC**.

FORM3 – Remand Application

3.2.13 Endorsement means the **SO** is satisfied that adequate information has been provided to the **NPS** and agrees with the recommendation for the type of remand sought and the grounds upon which it is based.

FORM10 – Further Evidence/Information report

3.2.14 Where the law enforcement agency supply further information/documents to the **NPS**, the **SO** will sign **FORM10** to show that such information is attached, legible and complete. Where a file, or the provision of further information requested by the **NPS**, will not be submitted within a

required timescale, the **IO** must ensure that there is an adequate explanation for the delay on the **FORM10** and that this information is communicated to the **NPS**.

3.2.15 **SO's** will ensure officers and law enforcement agency staff respond to **NPS** requests within an appropriate timescale and facilitate the necessary resources and time to achieve this.

FORM13 – Witness Availability

3.2.16 When taking a witness statement the witness should be asked about any dates they would be unavailable to attend court and written on **FORM13**. The **SO** should be aware of any issues with witness availability and ensure these are made known to the **NPS** by the **IO**.

FORM18a – Exhibits List

3.2.17 The **IO** will prepare an exhibits list with their reference, description and location in accordance with the **PFS** and **Annex B**.

FORM18b – Returned Exhibits List

3.2.18 When exhibits are returned to any party the **IO** must confirm to the **NPS** on this form.

3.3 File Type and Content

3.3.1 The **SO** is responsible for ensuring that a file delivered to the **NPS** is fit for purpose, both in terms of content as per **Annex B, PFS**, quality assurance and that it is submitted in sufficient time for review by the allocated **FK** prior to the first court hearing.

3.3.2 In determining whether a case file is fit for purpose the **SO** should consider the nature of the offence. The file submitted must also be sufficient to enable the **FK** to advise appropriately.

3.3.3 The **FORMs** must be placed in numerical order on the file.

3.4 Case Files Involving Multiple Offences and/or Offenders

3.4.1 It is important from the outset that IO's/FK's , with the assistance of the CTM, identify and correctly consider the number of files to be submitted to deal with the number and type of accused persons and offences. The combinations which are likely to arise are:

- a. Single Offender, Multiple Linked Offences
- b. Single Offender, Multiple Non-Linked Offences
- c. Multiple Offenders, Linked Offences
- d. Multiple Offenders, Non-Linked Offences

General Principles

3.4.2 Charges for any offences may be included in the same file with the same Case Number (CN) if those charges:

- a. Are founded on the same facts, or
- b. Form, or are a part of a series of, offences of the same or a similar character.

As a result, case files containing charges which are not linked in either of the ways mentioned above will need to be split into separate files, each with a different CN.

Single Offender, Multiple Linked Offences

3.4.3 If the offences are based on the same facts, or form a series of offences of the same or similar character, they may be submitted as one file with a single CN.

Example: An accused is charged with four offences, (a) possessing a Class B drug with intent to supply, and (b) three assaults (ABH). The prosecution case on the drugs matter was that when law enforcement agency executed a search warrant at the accused's home address they

discovered a large quantity of cannabis divided into wraps, plus pipes, scales and other ancillary items. During the course of the search the accused assaulted three law enforcement agency officers.

Such a case may be submitted as one file with a single **CN**, as the offences are based on the same facts.

Single Offender Multiple Non-Linked Offences

3.4.4 If the offences have no link, either factually or being of the same or similar nature, they must be submitted as separate files, each with a different **CN**.

Example: An accused is charged with four offences, (a) possessing a Class B drug with intent to supply, and (b) three assaults (ABH). The prosecution case on the drugs matter was that, when law enforcement agency executed a search warrant at the accused's home address they discovered a large quantity of cannabis divided into wraps, plus pipes, scales and other ancillary items. The assaults are unconnected as they occurred some days earlier when the accused was involved in a disturbance and was arrested for obstruction and assaulting law enforcement agency officers.

The offences are not founded on the same facts, nor are the offences of a similar character. Separate files, each with a different **CN**, should be submitted to deal with the different offences.

File 1: Drug offences

File 2: Assaults (the 3 assaults may be submitted on one file as they are based on the same facts and form part of a series).

Subsequent Offences

3.4.5 It is appropriate to include on the same file charges that flow as a result of each other.

Example: An accused suspected of assault during the course of an investigation whilst on bail, offers money to the complainant to retract the

complaint. This may be charged as an attempt to pervert the course of justice.

The assault and pervert the course of justice could properly be submitted together on one file with a single **CN**. In such cases, however, the more usual scenario would be for the accused to have been first charged with assault, prior to the offer of money. A file would already have been submitted for the assault. When the pervert the course of justice is charged it should be submitted as a separate file with a different **CN**. The **NPS** might then decide it is appropriate to merge the cases.

Multiple Offenders, Linked Offences - Same Offence

3.4.6 Offenders charged with the same offence may be submitted on the same file, with the same **CN**.

Example: Three offenders arrested during the course of a burglary.

Each could be charged with a joint offence of burglary and one file would be submitted with a single **CN**. If a new offender was subsequently charged with the same offence, the file for that new offender should be submitted under a new **CN**. However, the **NPS** may then merge the related files.

Applying the example above, some days after the arrest of the 3 burglars, a fourth is located who was acting as lookout.

The fourth offender's file should be submitted as a separate file with a different **CN**.

Multiple Offenders, Linked Offences - Different Offences

3.4.7 As a general rule, it is not appropriate to include on the same file, with the same **CN**, more than one offender when there are no offences to link them together, even though there may be a factual link.

Example: D1 and D2 are both arrested living in the same squat. Both have been identified from shop CCTV as stealing from shops at different times

and dates. There is no evidence that they offend together.

The fact that they have been arrested together is not sufficient for them to be included on the same file with the same **CN**. Sometimes it may be appropriate to include two or more accused persons on one file, even though they are not charged with the same offence, if the offences separately alleged against them are, on the evidence, so closely related by time or other factors.

Example: At a rum shop, D1 assaults V1. V2 assists V1 and is assaulted by D2.

Even though D1 and D2 have not acted jointly together to enable them to be charged with a joint assault on V1, it is one incident closely related by time (and probably other factors, location, witnesses, etc) and it is appropriate to submit one file with one **CN**.

If the case is more complex, either in terms of the number of offences or offenders then more than one file should be submitted.

Example: At carnival, a number of persons become involved in incidents with tourists. A number are arrested at during carnival and others are arrested afterwards. A variety of offences of public disorder and minor assault are charged. On the definition above, this is a case in which the offences alleged are closely related by time or other factors, such as location and witnesses.

The complexity is such that separate files to deal with individual accused persons, or smaller groups for specific incidents, should be submitted, each with a different **CN**.

Multiple Offenders, Non-Linked Offences

3.4.8 In some cases offenders are charged with linked offences and the investigation reveals that individual offenders have committed other offences. In such a case the following separate files should be submitted:

- a. A file that deals with the linked offence
- b. A number of other files as necessary to deal with the individual offences.

Example: D1, D2, D3 are arrested stealing from a shop. Upon being searched they are found to be in possession of other property identified as being stolen from two other local stores. Searches at their homes reveal the following:

D1: Property stolen in a burglary.

D2: Property stolen in an unrelated burglary.

D3: Drugs.

In such a case, files should be submitted as follows:

D1, D2, D3: Joint shop thefts.

D1: Burglary/handling as appropriate.

D2: Burglary/handling as appropriate.

D3: Drugs offences.

Thus, one investigation results in the submission of four files, each with a separate CN.

Post-charge File Submission

3.4.9 Any decision to split or merge a case after it has been submitted to the **NPS** will be taken by the **NPS**. When submitting a file, an **IO/SO** who is aware of a possible link to another case should inform the **CTM**.

SECTION 4 – CREATING UPGRADED FILES

4.1 When to Perform this Procedure

4.1.1 An **upgraded file** will be prepared when a matter is contested. This will either be after a not guilty plea has been entered or the matter is fixed for Committal/Preliminary Inquiry

4.2 The Contents

4.2.1 Each **upgraded file** will have an Upgraded File Index (**FORM11**), detailing the sections to be included.

4.2.2 The **upgraded file** should have the following documents in each section:

a. Section 1

Charge Sheet:

i. The original charge sheet/summons must be obtained from the **IO's** and filed in this section

b. Section 2

i. Law Enforcement Agency Reports (**FORMA**), any supplementary reports (**FORMB**) and charge (**FORMC**) where applicable.

c. Section 3

Charging Decisions/Review of Charging Decisions – **FORM1**:

i. All charging decisions or reviews of a law enforcement agency charging decision by an **FK** are filed in this section – this will include **FORM1**'s completed after a referral, further referral or after charge.

- li Any emails or memo's sent to the **IO** or **SO** confirming any further investigation detailed in the action plan are filed in chronological order in this section.

d. Section 4

Court Attendance Notes - **FORM2**

- i. All Court Attendance Notes must be completed in accordance with **FORM2** and filed in chronological order;
- ii. Form **FORM7A** or **B**, the Trial/Preliminary Inquiry Preparation Form, will be filed in this section.

e. Section 5

Remand Hearing Form – **FORM3**:

f. Section 6

Attendance Notes – **FORM4**

- i. All Attendance Notes of conferences, meetings with witnesses and telephone calls, must be completed in accordance with **FORM4** and filed in chronological order.

g. Section 7

Indictment if a High Court Matter

- i. Each Indictment preferred should be filed in this section chronologically;
- ii. The Indictment used for trial should be endorsed "**Trial Indictment**" and filed in this section

h. Section 8
Antecedents

- i. A set of antecedents dated from at least the date of charge should be filed in this section.

i. Section 9
Jury Bundle Index

j. Section 10

Witness Requirements – this section will include:

- i. The contact details for all witnesses and their available dates (**FORM13**) for attending court;
- ii. All correspondence to and received from witnesses;
- iii. Witness antecedents;
- iv. Any applications for special measures;
- v. If there are any issues concerning attendance of witnesses and/or their welfare they should be detailed in this section.

k. Section 11

Any remaining forms will be filed by the **FK** in this section in chronological order:

- i. **FORM5**: Case Summary
- ii. **FORM8**: Plea and sentence form completed by the **Advocate**;

- iii. **FORM10:** Further Evidence Information Report;
- iv. **FORM12:** Compensation claim;
- v. **FORMS14-17:** Checklists for domestic violence, rape, violent offences or drug trafficking;
- vi. **FORM19:** File review checklist
- vii. Basis of Plea;
- viii. Skeleton Arguments

Appendix A

- i. All Evidence served shall be paginated and split by statements, exhibits (**FORM18a** and **b**) and any transcripts of interviews
- ii. Any additional Evidence served shall be number sequentially again split by statements, exhibits and interviews

Appendix B

Any other Correspondence filed in chronological order

Appendix C

- i. **FORM9C:** Non-sensitive disclosure index;
- ii. All correspondence, attendance notes, copy of non-sensitive material disclosed to the defence

Appendix C (ii)

- i. **FORM9A: NPS** Disclosure Log
- ii. **FORM9B:** Disciplinary findings/antecedents of law enforcement agency officers
- iii. **FORM9E:** Disclosure Officers report
- iv. **FORM9D:** Sensitive disclosure index – THIS SHOULD BE STORED IN A SECURE LOCATION AND A NOTE MADE ONLY IN THIS SECTION WHERE STORED

Appendix D

- i. Restraint Order Application;
- ii. Copy of the Restraint Order;
- iii. Prosecutors Statement;
- iv. Accused's Statement;
- v. Reply to Accused's Statement;
- vi. Skeleton Arguments

4.3 Appeals

- 4.3.1 If there is an appeal the **CTM** will locate the original case file and obtain a new case file jacket and mark the new file with the same **CN** as the original. The **CTM** will mark the new file as a sub-file by writing the words "sub-file" next to the **CN** and keep the original and the new case file together.

SECTION 5 – CLEAR DESK POLICY

5.1 The Policy

5.1.1 All files should be secured in suitable locked cabinets and/or other forms of security furniture when not in use, during a working day and overnight.

5.2 Principles

5.2.1 Desks must be clear of sensitive material when left unattended.

5.2.2 Sensitive means any material, which can be defined as or is protectively marked as **Confidential** or above:

- a. Sensitive material must be stored in filing equipment or file room;
- b. Desks must be cleared at the end of each working day;
- c. Desks must be cleared when left unattended for any length of time (e.g. attending court);
- d. Unnecessary clutter should be avoided.

5.2.3 Files and other material with the protective markings **Confidential**, should be held in secured containers and an appropriate index of their location must be maintained.

5.2.4 Filing equipment must be secured:

- a. Drawers and doors should be closed;
- b. All filing equipment should be locked.
- c. File rooms in working areas (e.g. open plan) must be locked at night.
- d. Access to the rooms should be controlled at all times;

- e. All file rooms must be locked at night.

5.2.5 Computer disks and tapes must be stored securely:

- a. Computer disks must be removed from the computer and locked in secure filing equipment or file room.

5.2.6 Office floor and working areas must be kept clear:

- a. Files or documents should not be left on the floor;
- b. Rooms must be clutter free and restricted waste should be held securely;
- c. Notice boards should be smart and up-to-date.

5.2.7 Keys to filing equipment and file rooms must be kept secure:

- a. Keys must be away in a safe place where any unauthorised attempt to use them would be detected;
- b. Keys should not be hidden in desk drawers or elsewhere;
- c. Duplicate sets of keys should be held separately.

SECTION 6 – STORING FILES

6.1 The Policy

6.1.1 Case files that are active should be stored as close as possible to the **FK**.

6.2 Principles

6.2.1 Files must not be stored in desk drawers where they are not available to other members of **NPS** staff to access

6.2.2 Files should be sorted alphabetically in order of the accused's surname.

6.2.3 When a file is removed from the shelves it should be replaced by a marker (tracker or absence card) on which the name of the person holding the file and the date removed are recorded.

6.2.4 Files must be returned to the shelves as soon as work on them is completed.

6.2.5 The **DRO** will undertake a thorough audit of the filing system every six months to ensure that:

- a. Files are put away in order;
- b. Closed files are not stored with current/live files;
- c. The tracker (absence) card system is used;
- d. The findings of the audit report should be reported to the **DPP**.

SECTION 7 – WARRANT FILES

7.1 When to Perform this Procedure

7.1.1 An **FK** should keep a file under review where:

- a. A warrant has been issued and the accused has not appeared for trial; or
- b. A period of six months has passed following the issue of the warrant.

7.2 The Procedure

7.2.1 The **FK** will review the file to determine whether to refer to the **DPP** to discontinue the proceedings.

7.2.2 If the warrant is not executed or the case has not been terminated, the **FK** should review the file every six months.

SECTION 8 – CLOSING FILES

8.1 When to Perform this Procedure

8.1.1 The **DRO** will perform this procedure after an accused is sentenced and any confiscation proceedings have been concluded

8.2 The Procedure

8.2.1 Locate the case file.

8.2.2 Destroy surplus copies of documents (e.g. jury copies of exhibits) which are attached to the file but they are not in the file.

8.2.3 Return original exhibits, and copy tapes to the **IO**.

8.2.4 If the case file is a Long Term Interest File (see **Long Term Interest File Criteria**), refer the case file to the **CTM**.

8.2.5 If the case file is not a Long Term Interest File, mark the file with a destruction date and retain for a pre-defined period

8.2.6 The DRO must inform the **CTM** and the case file deleted from the **CMS**.

SECTION 9 – RETENTION SCHEDULE

Criminal Case Files and Related Documents/Material

Categories of case files	Retain for
Cases finalised and classified as Long-Term Interest	25 years and then reviewed by Director of Public Prosecutions or Prosecutor designated by Director of Public Prosecutions
Cases finalised (not classified as Long Term Interest)	5 years or the length of the sentence if this is longer than 5 years
Cases resulting in a Life Sentence not captured by Long Term Interest criteria	25 years and then reviewed by Director of Public Prosecutions or Prosecutor designated by Director of Public Prosecutions (If the file is no longer of operational value – destroy)
Cases in which any preventative order was made by the court against a accused (for example injunction or registration)	<p>The period of any court order</p> <p>If the court order is for an indefinite period, mark the file for destruction:</p> <ul style="list-style-type: none"> ○ In the year that the accused reaches the age of 85; or ○ In the year that the sentence is complete, if the completion date of the sentence exceeds the age of 85

<p>Cases in which an order was made under the Proceeds of Crime Money Laundering (Prevention) Act or Proceeds of Crime Act 2013</p>	<p>Order under the sum of \$1 million</p> <ul style="list-style-type: none"> ○ 7 years following the date of the order or ○ the length of the order if this is longer than 7 years <p>Order over the sum of \$1 million</p> <ul style="list-style-type: none"> ○ 10 years following the date of the order or ○ the length of the order if this is longer than 10 years
<p>All cases involving complaints against the Police (where a complaint has been made against the Police or where a Police Officer is the accused)</p>	<p>3 years following date of advice / discontinuance; or</p> <p>3 years following any final court date; or the length of the sentence if this is longer than 3 years</p>
<p>Advice cases where no full file has been provided and advised NFA (no further action). Advice / discontinued cases where the full file has been provided and no proceedings have taken place or where the case was discontinued before trial</p>	<p>1 year following the date of advice / discontinuance</p> <p>5 years following the date of advice / discontinuance</p>

<p>Cases that were finalised at Magistrates' Court.</p>	<p>1 year following the final court date; or</p> <p>the length of the sentence or order if the court sentence or order is longer than 1 year - see <i>examples below</i>:</p> <p><i>Case finishes</i></p> <p><i>Sentence</i></p> <p><i>Due destroy date</i></p> <p>July 2013</p> <p>\$500 fine</p> <p>July 2014</p> <p>July 2013</p> <p>16 months' probation</p> <p>November 2014</p>
<p>Cases that were finalised at High Court</p>	<p>3 years following the final court date; or</p> <p>the length of the sentence or order* if the sentence or order is longer than 3 years - see <i>examples below</i>:</p> <p><i>Case finishes</i></p> <p><i>Sentence</i></p> <p><i>Due destroy date</i></p> <p>July 2013</p> <p>Discharge</p> <p>July 2016</p> <p>July 2013</p> <p>9 years imprisonment</p> <p>July 2022</p> <ul style="list-style-type: none"> EXCEPT CASES not classified as LTI but resulted in an Life Sentence

SECTION 10 – LONG TERM INTEREST CRITERIA

A case file that has been finalized at Magistrates' Court or High Court is categorized as a Long Term Interest (LTI) file when it satisfies any of the following criteria:

<p>Significant legal interest</p> <p>Significant legal precedent value</p> <p>Demonstrating new or revised legal or investigative procedure</p> <p>Demonstrating early operation of new legislation</p> <p>Unusual or rarely charged offences</p>	<p>Life Sentences</p> <p>Life imprisonment</p>
<p>Specific offences (charged or where advice given, including acquittals)</p> <p>Murder</p> <p>Manslaughter – (except Road Traffic Accident offences)</p> <p>Infanticide</p> <p>High Treason, Treason or Misprision of Treason</p> <p>Riot (large scale public disorders regardless of charges)</p> <p>Kidnapping</p> <p>Terrorism</p> <p>Piracy/Hijacking</p> <p>Offences against security of State</p> <p>Criminal libel</p> <p>Conspiracy (to commit an offence in this list)</p>	<p>Notable people and events (excluding minor summary matters)</p> <p>Famous, eminent or notorious people (international or national)</p> <p>'Disaster' cases</p>
	<p>Highly sensitive</p> <p>Matters against the interests of the State</p>

SECTION 11 – FORMS

Pre Charge Forms

FORMA	Law Enforcement Agency Report
FORMB	Law Enforcement Agency Report (Supplementary)
FORMC	Law Enforcement Agency Report (Charge)

Post Charge Forms

FORM1	NPS Advice or Review of Charging Decision
FORM2	Court Attendance Note
FORM3	Remand Hearing Form
FORM4	Attendance Note
FORM5	NPS Case Summary
FORM6	Proceeds of Crime Referral Form
FORM7A	Case Preparation Form (Trial)
FORM7B	Case Preparation Form (Committal/PI)
FORM8	Plea and Sentence Form
FORM9A	NPS Disclosure Log
FORM9B	Law Enforcement Agency Officers Antecedents/Disciplinary Record
FORM9C	Non-sensitive Unused Material Schedule
FORM9D	Sensitive Material Schedule
FORM9E	Disclosure Officers Report
FORM10	Further Evidence Information Report
FORM11	Upgraded File Index
FORM12	Compensation Form
FORM13	Witness Availability Form
FORM14	Domestic Violence Checklist
FORM15	Rape Checklist
FORM16	Violent Crimes Checklist
FORM17	Drug Trafficking Checklist
FORM18a	Exhibit List
FORM18b	Returned Exhibit List
FORM19	File Review Checklist

FORMA – LAW ENFORCEMENT AGENCY REPORT

CONFIDENTIAL NOT TO BE DISCLOSED

CN

ACCUSED

OFFENCE

DATE

Introduction

Nature of the Investigation i.e Drug Trafficking of x kg's of x drugs

Details of the Investigation

Outline of the evidence from witnesses, CCTV and any other source

Arrest

Including anything seized from the accused and any comments made when arrested

Searches

Include any incriminating articles found at the search and anything said by the accused during the search

Interview

*SDN of the interview under caution or **DPP** copy of electronic interview*

Points to Prove

Outline how the points to prove for the offence will be proved referring to the evidence obtained

Asset recovery case: Yes No

If Yes Complete **FORM6**

SUPERVISING OFFICER CERTIFICATION:

FILE TO NPS FOR ADVICE Yes No

SDN and RELEVANT MATERIAL IN THE REFERRAL FILE Yes No

CONFIDENTIAL

FORMB – LAW ENFORCEMENT AGENCY REPORT (Supplementary)

CONFIDENTIAL – NOT TO BE DISCLOSED

CN

ACCUSED

OFFENCE

DATE

Introduction

Investigation i.e Drug Trafficking of x kg's of x drugs

Date of Original FORMA/B

*Detail **FORM1** Action Plan if previously referred to NPS for Advice*

Details of the Further Investigation

Outline of the further evidence from witnesses, CCTV and any other source

Interview

*SDN of the interview under caution or **DPP** copy of electronic interview*

Points to Prove

Outline how the points to prove for the offence will be proved referring to the further evidence obtained

Asset recovery case: Yes No

If Yes Complete **FORM6**

SUPERVISING OFFICER CERTIFICATION:

FILE TO NPS FOR ADVICE Yes No

SDN and RELEVANT MATERIAL IN THE REFERRAL FILE Yes No

EVIDENCE STILL OUTSTANDING Yes No

LIST and DATE WILL BE SERVED on NPS

CONFIDENTIAL

FORMC – LAW ENFORCEMENT AGENCY REPORT (Charge)

CONFIDENTIAL – NOT TO BE DISCLOSED

CN

ACCUSED

CHARGE/S

DATE

Introduction

Nature of the Investigation i.e Drug Trafficking of x kg's of x drugs

Details of the Investigation

Outline of the evidence from witnesses, CCTV and any other source

Arrest

Including anything seized from the accused and any comments made when arrested

Searches

Include any incriminating articles found at the search and anything said by the accused

Interview

*SDN of the interview under caution or **DPP** copy of electronic interview*

Code for Prosecutors

Evidential Stage: *Outline how a reasonable prospect of conviction*

Public Interest Stage: *If Evidential Stage satisfied is it in the public interest to prosecute*

Asset recovery case: Yes No

If Yes Complete **FORM6**

SUPERVISING OFFICER CERTIFICATION:

Name of SO:

DATE FILE REVIEWED:

ANY EVIDENCE OUTSTANDING Yes No

DATE FOR SERVICE OF ADDITIONAL EVIDENCE

COMMENTS:

Prosecutor to indicate general nature of decision and advice <i>(Tick one box only)</i>			
A	Charge		
B	Charge different offences		
C	Further investigation		
D	NFA - Evidential		
E	NFA - Public Interest		
F	Other <i>(Please specify)</i>		
ACTION PLAN:		Action date by:	
1.			
2.			
3.			
4.			
Asset recovery case: <input type="checkbox"/> Yes <input type="checkbox"/> No			
If Yes Complete FORM6			
Further consultation needed pre-charge: <input type="checkbox"/> Yes <input type="checkbox"/> No			
Prosecutor name <i>(print)</i> :			
Contact details:			
Date:			
Investigation stage at which advice sought:			
Pre arrest			
Post Arrest			
Post Interview			
Post Charge			

FORM2 - COURT ATTENDANCE NOTE

Restricted

CN		
DATE		
COURT		
TYPE OF HEARING		
ADVOCATES	Prosecution: Accused:	
MAGISTRATE/JUDGE		
OUTCOME OF HEARING		
	Bail/RIC <i>(Inform Prison if fear of intimidation of key witness)</i>	Grounds for RIC
	Bail Conditions:	
COURT ORDERS		
NEXT HEARING DATE	CONFIRM NOTED IN CMS <input type="checkbox"/> Yes <input type="checkbox"/> No	

Restricted

FORM3 – REMAND HEARING FORM

RESTRICTED

CN	
Name of Accused	
Charges	
Criminal Procedure Code Section 43 applies	<p><i>No Bail if charged with (circle):</i></p> <ul style="list-style-type: none"> • Murder • Genocide • High Treason • Treason • Misprision of Treason
Grounds for Seeking a Remand in Custody	<p><i>Fail to surrender: Information in Support</i></p> <p><i>Commit offences on bail (current and previous): Information in Support</i></p> <p><i>Obstruct the course of justice and/or interfere with witnesses : Information in Support</i></p> <p><i>A remand in custody is necessary for the person's safety: Information in Support</i></p> <p><i>If a child or young person, for that person's own welfare or own interests: Information in Support</i></p>
If Granted Bail suggested Conditions	
SUPERVISING OFFICER CERTIFICATION	<p>Name of SO:</p> <p>DATE FILE REVIEWED:</p>

Restricted

FORM4 - ATTENDANCE NOTE

Restricted

CN	
DATE	
WHERE	
WHO ATTENDED	
NOTES	
ACTIONS	
	CONFIRM NOTED IN CMS: <input type="checkbox"/> Yes <input type="checkbox"/> No

Restricted

Form 5 – NPS CASE SUMMARY

Restricted

CN

ACCUSED/S

CHARGES

DATE

Introduction

Nature of the Investigation i.e Drug Trafficking of x kg's of x drugs

Details of the Investigation

Outline of the evidence from witnesses, CCTV and any other source

Arrest

Including anything seized from the accused and any comments made when arrested

Searches

Include any incriminating articles found at the search and anything said by the accused during the search

Interview

Summary of the interview under caution

Prosecution Case

Outline how the prosecution will present and prove the charges referring to the evidence obtained

Restricted

FORM 6 - PROCEEDS OF CRIME REFERRAL

Restricted

CN	
IO	Name: Contact Details:
ACCUSED	
CHARGES	
DID THE SUSPECT MAKE ANY FINANCIAL GAIN OR OBTAIN PROPERTY	Specify Property:
DOES THE ACCUSED OWN OR HAVE AN INTEREST IN ASSETS	House: Car: Boat: Jewelry: Other:
ARE MONEY LAUNDERING CHARGES BEING CONSIDERED	If so which section
ARE THE VICTIMS CLAIMING COMPENSATION	Names of Victims: Amount Claimed:
IS RESTRAINT NECESSARY	<input type="checkbox"/> Yes <input type="checkbox"/> No Of What Property: Pre-Charge: <input type="checkbox"/> Yes <input type="checkbox"/> No
HAS THERE BEEN A CASH SEIZURE	Amount: Application for Detention: <input type="checkbox"/> Yes <input type="checkbox"/> No
ARE PRODUCTION ORDERS REQUIRED	<input type="checkbox"/> Yes <input type="checkbox"/> No Detail:
ANY OTHER ORDERS REQUIRED	Account Monitoring Order: <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes why: Order for Disclosure of Income Tax Information: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes why: Disclosure of Information held by Government Deps: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes why:
NEXT HEARING DATE	Date/Time/Court: Purpose:

FORM7a – CASE PREPARATION FORM (Trial)

Restricted

Part 1:

Accused

Summons Bail
 Custody

Offence(s)

CN

Date of first hearing

1 A Case management information

1.1 Is the investigation complete ?

Yes No

If no, give brief details:

1.2 Do the NPS intend to serve more evidence ?

Yes No

If yes, give brief details:

1.3 The prosecution will rely on: Accused's admissions in interview

Tick / delete as appropriate

Accused's failure to mention facts in interview

[a summary] [a record] of the accused's interview

expert evidence

[CCTV] [digitally recorded] evidence

What equipment (tape / DVD player, etc.) will be needed in the trial courtroom ?

1.4 Are there any security concerns for members of NPS staff Yes No

What measures will be put in place

2 Application for directions

2.1 Do the NPS want the court to vary any time limit set for service of evidence ?

Yes No

If yes, give details:

Do the NPS want the court to make any other direction ?

Yes

If yes, give details:

No

Part 2:

3 Accused's contact details

Accused	Address	Phone Mobile
	Email	

4 Accused's representative (if applicable)

Attorney		Phone Fax Ref
	Address	
	Email	

5 Partial or different guilty plea

If more than one offence is alleged, does the accused want to plead guilty to any of them? Yes No N/A

If yes, which offence(s)?

Does the accused want to plead guilty, but not on the facts alleged? Yes No
If yes, attach written basis of plea.

Does the accused want to plead guilty, but to a different offence? Yes No
If yes, what offence?

6 Case management information

6.1 Which of the following (if applicable) is **AGREED**? Tick / delete as appropriate

The accused [carried out] [took part in] the conduct alleged (i.e. identification) Yes No N/A

The accused was present at the scene of the offence alleged Yes No N/A

The accused was arrested lawfully Yes No N/A

[Nature of injury] [extent of loss or damage]
If not agreed, explain what is in dispute: Yes No N/A

[Fingerprint] [DNA] evidence
If not agreed, explain what is in dispute: Yes No N/A

[Medical] [identification of drug] [other scientific] evidence
If not agreed, explain what is in dispute: Yes No N/A

Exhibits and samples were collected and delivered as stated (i.e. continuity)
If not agreed, explain what is in dispute: Yes No N/A

Accused's interview [summary] [record] is accurate
If not agreed, explain what is in dispute:

Yes No
N/A

The list of the accused's antecedents is accurate
If not agreed, explain what is in dispute:

Yes No
N/A

6.2 Other **AGREED** facts or issues are:
Give details

6.3 Can **AGREED** facts be recorded in a written admission ?
If yes, a written admission [is set out here] [is attached] [will be served later].
If no, explain why:

Yes No

6.4 What are the **DISPUTED** issues of fact or law for trial, in addition to any identified in paragraph 6.1 ?

7 Application for directions

7.1 Does the accused want the court to vary a case preparation time limit ?
If yes, give details:

Yes No

7.2 Will there be any applications for:

- jury protection Yes No
- press restrictions Yes No

Does the accused want the court to make any other direction ?
If yes, give details:

8 Prosecution witnesses(continue on extra page if required)

Name of witness	Tick if under 18	Attendance proposed	Can the evidence be read to the court ?	If no, what disputed issue in the case makes it necessary for the witness to give evidence in person ?
1) Date Warned: Date Warned to attend:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2) Date Warned: Date Warned to attend:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3) Date Warned: Date Warned to attend:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4) Date Warned: Date Warned to attend:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5) Date Warned: Date Warned to attend:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6) Date Warned: Date Warned to attend:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
7) Date Warned: Date Warned to attend:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No	

8.2 Are there any witness security concerns Yes No
If yes explain measures implemented

8.3 Is it intended to tender a deposition from the PI Yes No
If Yes give details

8.4 Will there be an application for witness anonymity Yes No
If Yes give details

8.5 Does the Prosecutor want special measures for a witness ? Yes No
If yes, give details:

8.6 Is a witness summons required

Yes No

8.7 Does the witness require an interpreter

Yes No

9 Witnesses for the Accused

9.1 Do you have the names of the witnesses

Yes No

List:

9.2 Do they have any antecedents

Yes No

Will the accused give evidence?

Yes No

Restricted

Form 7b – CASE PREPARATION FORM (Committal/PI)

Restricted

Part 1:

Accused/s

Summons

Bail

Custody

Offence(s)

CN

Date of Committal/PI

1 Case management information

1.1 Is the investigation complete ?

Yes No

If no, give brief details:

1.2 Does the NPS intend to serve more evidence after the PI/Committal

Yes No

PLEASE NOTE: This may not be adduced if evidence was available at the time of the PI ?

If yes, give brief details and when evidence will be available:

1.3 The prosecution will rely on: accused's admissions in interview

Tick / delete as appropriate accused's failure to mention facts in interview

[a summary] [a record] of the accused's interview

expert evidence

[CCTV] [digitally recorded] evidence

1.4 What equipment (tape / DVD player, etc.) will be needed in the courtroom ?

Paper Committal (If applicable)

- 1.5 Is the Indictment prepared Yes No
- 1.6 Has the file keeper read the file to determine there is a reasonable prospect of conviction (applying the Full Code test) and the bundles of evidence contain sufficient evidence to cover every element of the offence/s charged Yes No
- 1.7 Have the statements been typed Yes No
- 1.8 Have all the following been served on the accused paginated:
- Bundle of tendered statements; Yes No
 - Accused's video interview Yes No
 - Any video interview of a witness Yes No
 - Bundle of tendered exhibits; Yes No
 - Bundle of unused statements that will assist the accused's case and undermine the prosecution case; Yes No
 - Bundle of unused exhibits that will assist the accused's case and undermine the prosecution case; Yes No

PLEASE NOTE: The bundle should not include statements that damage the prosecution case, statements by those whose evidence is considered unreliable, and by those who are potentially hostile to the prosecution. This is very important because the NPS may be obliged to call witnesses at trial it would prefer not to, because their statements were tendered at committal. (If, ultimately, the witness is not called, their statement would be unused material)

- 1.9 Has a case summary (Form 5) been prepared detailing how the prosecution will present their case Yes No

Preliminary Inquiry (If applicable)

- 1.10 Has the File Keeper read the file to determine there is a prima facie case applying **Practice Direction (Summary Trial) 1962 1 WLR 227** Yes No
- 1.11 Have the statements been typed Yes No
- 1.12 Has the accused been served with witness statements Yes No
- 1.13 Has the accused had the following material made available to them:
 - Original statements made by witnesses to be called to the PI; Yes No
 - Exhibits that will be produced at the PI; Yes No
 - Any exhibits or statements the prosecution do not intend to rely upon that could assist the accused's case or undermine the prosecution case Yes No
- 1.14 Have all witnesses been warned to attend the PI – see Part 3 below Yes No
- 1.15 Will there be any applications for special measures/witness anonymity Yes No
- 1.16 Are Prosecution witnesses so fragile, elderly or likely not to attend trial that the Prosecution would welcome the opportunity to have their evidence secured at the preliminary inquiry to be used later at trial? Yes No

List these witnesses:

- 1.17 Are there witnesses you wish to hear from who may not attend trial and whose evidence you want to ensure is secured on the record? Yes No

List these witnesses:

- 1.18 Has a case summary (Form 5) been prepared detailing how the prosecution will present their case Yes No

Part 2:

2 Accused's contact details

Address	Phone Mobile
Email	

3 Accused's representative (if applicable)

Attorney

	Phone Fax
Address	
Email	

4 Partial or different guilty plea

If more than one offence is alleged, does the accused want to plead guilty to any of them ?

Yes No N/A

If yes, which offence(s) ?

Does the accused want to plead guilty, but not on the facts alleged ?

Yes No

If yes, attach written basis of plea.

Does the accused want to plead guilty, but to a different offence ?

Yes No

If yes, what offence ?

5 Case preparation and likely issues

5.1 Which of the following (if applicable) is **AGREED** ? Tick / delete as appropriate

The accused [carried out] [took part in] the conduct alleged (i.e. identification)

Yes No N/A

The accused was present at the scene of the offence alleged

Yes No N/A

The accused was arrested lawfully

Yes No N/A

[Nature of injury] [extent of loss or damage]

Yes No N/A

If not agreed, explain what is in dispute:

[Fingerprint] [DNA] evidence

Yes No N/A

If not agreed, explain what is in dispute:

[Medical] [identification of drug] [other scientific] evidence

Yes No N/A

If not agreed, explain what is in dispute:

Exhibits and samples were collected and delivered as stated (i.e. continuity)

Yes No N/A

If not agreed, explain what is in dispute:

Accused's interview [summary] [record] is accurate

Yes No N/A

If not agreed, explain what is in dispute:

The list of the accused's previous convictions is accurate

Yes No N/A

If not agreed, explain what is in dispute:

5.2 Other **AGREED** facts or issues are:

6 Prosecution witnesses (continue on extra page if required)

6.1

Name of witness	Tick if under 18	Complete for PI Only Attendance proposed for PI	Complete for Paper Committal Only Will the evidence be part of the bundle for a paper committal
1)	<input type="checkbox"/>	<input type="checkbox"/> Date Warned:	<input type="checkbox"/> Yes <input type="checkbox"/> No
2)	<input type="checkbox"/>	<input type="checkbox"/> Date Warned:	<input type="checkbox"/> Yes <input type="checkbox"/> No
3)	<input type="checkbox"/>	<input type="checkbox"/> Date Warned:	<input type="checkbox"/> Yes <input type="checkbox"/> No
4)	<input type="checkbox"/>	<input type="checkbox"/> Date Warned:	<input type="checkbox"/> Yes <input type="checkbox"/> No
5)	<input type="checkbox"/>	<input type="checkbox"/> Date Warned:	<input type="checkbox"/> Yes <input type="checkbox"/> No

6.2 Do the NPS want special measures/anonymity for a witness? Yes No
If yes, give details:

6.3 Does any witness need an interpreter ? Yes No
If yes, in what language ?

7 Witnesses for the Accused

7.1 Do you have the names of the witnesses Yes No List:

7.2 Do they have any antecedents Yes No

7.3 Will the accused give evidence Yes No

FORM8 – PLEA and SENTENCE FORM

Restricted

CN	
DATE	
ACCUSED	
CHARGES	
LIST AGGRAVATING FEATURES OF CHARGES	
LIST MITIGATING FEATURES OF CHARGES	
LIST GUIDELINE AUTHORITIES AND ATTACH	
IS THERE A DISPUTE WITH THE ACCUSED'S BASIS OF PLEA REQUIRING A NEWTON HEARING	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes set out factors that are in dispute:
IS A CONFISCATION ORDER BEING APPLIED FOR	<input type="checkbox"/> Yes <input type="checkbox"/> No Apply for timetable to be fixed before proceeding to sentence: Date Request for Information order: Accused's Response: Service of Prosecutors Statement: Reply from Accused Prosecution Response to Accused's reply Date fixed for Confiscation Hearing
ANY OTHER ORDERS REQUIRED	Compensation (see FORM12): Forfeiture (details of property): Costs (amount): Any other ancillary orders:

Restricted

FORM9E – Disclosure Officer Report

Confidential

ACCUSED	CN: Name: Charges:
DISCLOSURE OFFICER	
DATE FORMS COMPLETED	FORM9B: FORM9C: FORM9D:
MATERIAL THAT SATISFIES THE DISCLOSURE TEST:	

Confidential

FORM10 – FURTHER EVIDENCE INFORMATION REPORT

Confidential

ACCUSED	CN: Name: Charges:
IO SO	Name: Rank: Name: Rank:
DATE	
LIST FURTHER EVIDENCE	
SUPERVISING OFFICER CERTIFICATION:	Further evidence attached <input type="checkbox"/> Yes <input type="checkbox"/> No Date further evidence reviewed: Are written statements legible <input type="checkbox"/> Yes <input type="checkbox"/> No Is Further Evidence still to be submitted to the NPS: <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes detail the nature of the Evidence: What date will it be served by:

Confidential

FORM11- UPGRADED FILE INDEX

Section	CN: Enclosures
1	Charge sheet/Summons
2	Law Enforcement Agency Reports: FORMA, FORMB, FORMC
3	Charging Decisions/Review of Charging Decisions: FORM1
4	Court Attendance Notes: FORM2 and FORM7 (Trial/PI Preparation)
5	Remand Hearing Form: FORM3
6	Attendance Notes: FORM4
7	Indictment
8	Antecedents
9	Jury Bundle Index
10	Witnesses: FORM13 (Availability)
11	Other Forms: (FORM5) Case summary; (FORM10) Further Evidence Information Report; (FORM12) Compensation; (FORM8) Plea and Sentence; Basis of Plea; and Skeleton Arguments, File Review Checklist (FORM19)
Supplementary Prosecution Files	
Appendix A	Evidence (split by statements, exhibits FORM18a and b , interviews)
Appendix B	Correspondence (chronological, split by accused, court, case team, other)
Appendix C (i)	Disclosure (Restricted) (FORM9C)
Appendix C (ii)	Disclosure (Confidential) (FORM9A, FORM9B, FORM9D and FORM9E)
Appendix D	Restraint and Confiscation (plus FORM6) Proceeds of Crime Referral Form

FORM 12 – COMPENSATION CLAIM

Restricted

CN

NAME OF CLAIMANT

COMPENSATION CLAIMED AND SUPPORTING EVIDENCE (receipt of purchase or independent valuation attached)

Restricted

FORM 14 – DOMESTIC VIOLENCE CHECKLIST

Confidential

CN

Have you collected all available evidence

**Victim statement
(including reference to
previous domestic
violence incidents if
relevant)**

Yes No

If No request a statement to:

Explain the reasons for not supporting;

If victim called the police if contents of call correct

Say whether the complainant has been pressurized not to provide a statement by any person.

**Attending Officers
Statement**

Include:

Visible injuries to victim Yes No

Details:

Visible injuries to suspect Yes No

Details:

Signs of struggle Yes No

Details:

Disposition of victim Yes No

Details:

Disposition of offender Yes No

Details:

Identification of others present Yes No

Details:

Other Statements

Neighbours Yes No

Details:

Children at the scene Yes No

Details:

**Photographs of the scene
and injuries**

Of the scene Yes No

Of Injuries to the victim Yes No

Of injuries to the suspect Yes No

Admissions by suspect

Unsolicited comments pre-arrest Yes No

Details:

Unsolicited comments by the suspect after caution Yes No

Details:

Admissions by the suspect in interview Yes No

Details:

**Medical evidence (confirm
victim consents)**

Yes No

Details:

CCTV	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is there any relevant information from Police Records?	
Any civil orders in force	<input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Any previous allegations and how were these disposed of	<input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Bail history and any breach of civil orders	<input type="checkbox"/> Yes <input type="checkbox"/> No Details: Add to Form3 for remand hearing
Information regarding the victim and/or incident	
Has the victim been contacted by the suspect/family/friends/	<input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Relationship status and history (to include domestic arrangements)	
Police view of future relationship and likelihood of recurrence/any threats	
Counter allegations/defence	<input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Ability/willingness of victim to attend court and give evidence	<input type="checkbox"/> Yes <input type="checkbox"/> No
Special measures needed	<input type="checkbox"/> Yes <input type="checkbox"/> No Details:
If victim retracts will a witness summons be needed	<input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Can bail conditions adequately protect the victim	<input type="checkbox"/> Yes <input type="checkbox"/> No Details: Complete Form3 detailing appropriate Bail Conditions
Information in relation to children	
Whereabouts of children during incident	
Police views on safety of children	

Restricted

FORM 15 – RAPE CHECKLIST

Confidential

CN

Have you collected all available evidence

Victim statement

Yes No

Include:

Relationship with suspect

What was being worn

Any alcohol

How intercourse took place

Identify any scars or tattoos on suspect

Damage to clothing

Injuries

Reaction after offence

Any actions taken (shower etc)

Who else has been informed

When police were contacted

Reason for any delay in contacting police

Confirmation of age (birth certificate if a child)

Attending Officers Statement

Include:

Visible injuries to victim Yes No

Details:

Visible injuries to suspect Yes No

Details:

Signs of struggle Yes No

Details:

Disposition of victim Yes No

Details:

Disposition of suspect (if present) Yes No

Details:

Identification of others present Yes No

Details:

Evidence from the scene seized

Bedding Yes No

Details:

Clothing Yes No

Details:

Any other evidence that may have forensic evidence Yes No

Details:

Other Statements

Recent complaint Yes No

Details:

Eye-witness Yes No

	<p>Details: Any other witness who has knowledge of the suspect or victim <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Details:</p>
Photographs (video) of the scene and injuries	<p>Of the scene <input type="checkbox"/> Yes <input type="checkbox"/> No Of injuries to the victim <input type="checkbox"/> Yes <input type="checkbox"/> No Of injuries to the suspect <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
Admissions by suspect	<p>Unsolicited comments pre-arrest <input type="checkbox"/> Yes <input type="checkbox"/> No Details:</p> <p>Unsolicited comments by the suspect after caution <input type="checkbox"/> Yes <input type="checkbox"/> No Details:</p> <p>Admissions by the suspect in video interview <input type="checkbox"/> Yes <input type="checkbox"/> No Details:</p>
Forensic samples taken from the suspect (even if confirms intercourse was consensual)	<p>Fingerprints <input type="checkbox"/> Yes <input type="checkbox"/> No Details:</p> <p>DNA <input type="checkbox"/> Yes <input type="checkbox"/> No Details:</p>
Forensic evidence	<p>Submitted from the scene <input type="checkbox"/> Yes <input type="checkbox"/> No Details:</p> <p>From the victim <input type="checkbox"/> Yes <input type="checkbox"/> No Details:</p> <p>From the suspect <input type="checkbox"/> Yes <input type="checkbox"/> No Details:</p>
Medical evidence of victim	<p>Has the victim signed a consent form <input type="checkbox"/> Yes <input type="checkbox"/> No Details:</p> <p>Medical examination completed <input type="checkbox"/> Yes <input type="checkbox"/> No Details:</p>
CCTV	<input type="checkbox"/> Yes <input type="checkbox"/> No
Cell phones seized	<input type="checkbox"/> Yes <input type="checkbox"/> No Details of any texts/BBM/call contact:
Ability/willingness of victim/witness to attend court and give evidence	<input type="checkbox"/> Yes <input type="checkbox"/> No
Special measures needed	<input type="checkbox"/> Yes <input type="checkbox"/> No Details:
If victim/witness retracts will a witness summons be needed	<input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Can bail conditions adequately protect the victim/witnesses	<input type="checkbox"/> Yes <input type="checkbox"/> No Details: Complete Form3 detailing appropriate Bail Conditions

FORM16 – VIOLENT CRIME (other than Domestic Violence) CHECKLIST

Confidential

CN

Have you collected all available evidence

Victim statement

Yes No
 Include:
 Relationship with suspect
 Any alcohol
 Damage to clothing
 Injuries
 Reaction after offence
 Any actions taken (shower etc)
 Who else has been informed
 When police were contacted
 Reason for any delay in contacting police

Attending Officers Statement

Include:
 Visible injuries to victim Yes No
 Details:

 Visible injuries to suspect Yes No
 Details:

 Signs of struggle Yes No
 Details:

 Any evidence of motive (robbery, drugs etc)
 Yes No
 Details:

 Disposition of victim Yes No
 Details:

 Dying declaration Yes No
 Details:

 Disposition of suspect (if present) Yes No
 Details:

 Identification of others present Yes No
 Details:

Evidence from the scene seized

Weapon Yes No
 Details:

 Clothing Yes No
 Details:

	Any other evidence that may have forensic evidence <input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Other Statements	Eye-witness <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Any other witness who has knowledge of the suspect or victim <input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Photographs (or video) of the scene and injuries	Of the weapon <input type="checkbox"/> Yes <input type="checkbox"/> No Of the scene <input type="checkbox"/> Yes <input type="checkbox"/> No Of injuries to the victim <input type="checkbox"/> Yes <input type="checkbox"/> No Of injuries to the suspect <input type="checkbox"/> Yes <input type="checkbox"/> No
Admissions by suspect	Unsolicited comments pre-arrest <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Unsolicited comments by the suspect after caution <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Admissions by the suspect in video interview <input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Forensic samples taken from the suspect	Fingerprints <input type="checkbox"/> Yes <input type="checkbox"/> No Details: DNA <input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Forensic evidence	Submitted from the scene <input type="checkbox"/> Yes <input type="checkbox"/> No Details: From the victim <input type="checkbox"/> Yes <input type="checkbox"/> No Details: From the suspect <input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Medical evidence of victim	Has the victim signed a consent form <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Medical examination completed <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Post-mortem completed <input type="checkbox"/> Yes <input type="checkbox"/> No Details:
CCTV	<input type="checkbox"/> Yes <input type="checkbox"/> No
Cell phones seized	<input type="checkbox"/> Yes <input type="checkbox"/> No Details of any texts/BBM/call contact:

If a homicide death certificate	<input type="checkbox"/> Yes <input type="checkbox"/> No
Ability/willingness of victim/witnesses to attend court and give evidence	<input type="checkbox"/> Yes <input type="checkbox"/> No
Special measures needed	<input type="checkbox"/> Yes <input type="checkbox"/> No Details:
If victim/witness retracts will a witness summons be needed	<input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Can bail conditions adequately protect the victim/witnesses	<input type="checkbox"/> Yes <input type="checkbox"/> No Details: Complete Form3 detailing appropriate Bail Conditions

Confidential

FORM 17 – DRUG TRAFFICKING CHECKLIST

Confidential

CN

Have you collected all available evidence

Attending Officers Statement	Include: Location of drugs <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Location of paraphernalia <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Location of money <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Location of weapons <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Identification of others present <input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Evidence from the scene seized	Drugs <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Weapons <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Money <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Any other evidence that may have forensic evidence <input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Have the drugs been analyzed	<input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Has a referral been made to the FIU	<input type="checkbox"/> Yes <input type="checkbox"/> No Complete Form 6
Other Statements	Eye-witness <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Any other witness who has relevant knowledge of the suspect <input type="checkbox"/> Yes <input type="checkbox"/> No Details:

Photographs (or video) of the scene	Of the drugs in situ <input type="checkbox"/> Yes <input type="checkbox"/> No Of the paraphernalia in situ <input type="checkbox"/> Yes <input type="checkbox"/> No Of the weapon/s in situ <input type="checkbox"/> Yes <input type="checkbox"/> No
Admissions by suspect	Unsolicited comments pre-arrest <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Unsolicited comments by the suspect after caution <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Admissions by the suspect in video interview <input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Forensic samples taken from the suspect	Fingerprints <input type="checkbox"/> Yes <input type="checkbox"/> No Details: DNA <input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Forensic evidence	Submitted from the scene <input type="checkbox"/> Yes <input type="checkbox"/> No Details: From the suspect <input type="checkbox"/> Yes <input type="checkbox"/> No Details:
CCTV	<input type="checkbox"/> Yes <input type="checkbox"/> No
Cell phones seized	<input type="checkbox"/> Yes <input type="checkbox"/> No Details of any texts/BBM/call contact:
Computers seized	Has a letter of preservation been sent re emails <input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Ability/willingness of witnesses to attend court and give evidence	<input type="checkbox"/> Yes <input type="checkbox"/> No
Special measures needed	<input type="checkbox"/> Yes <input type="checkbox"/> No Details:
If witness retracts will a witness summons be needed	<input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Can bail conditions adequately protect the witnesses	<input type="checkbox"/> Yes <input type="checkbox"/> No Details: Complete Form3 detailing appropriate Bail Conditions

Restricted

FORM 19 – FILE REVIEW CHECKLIST

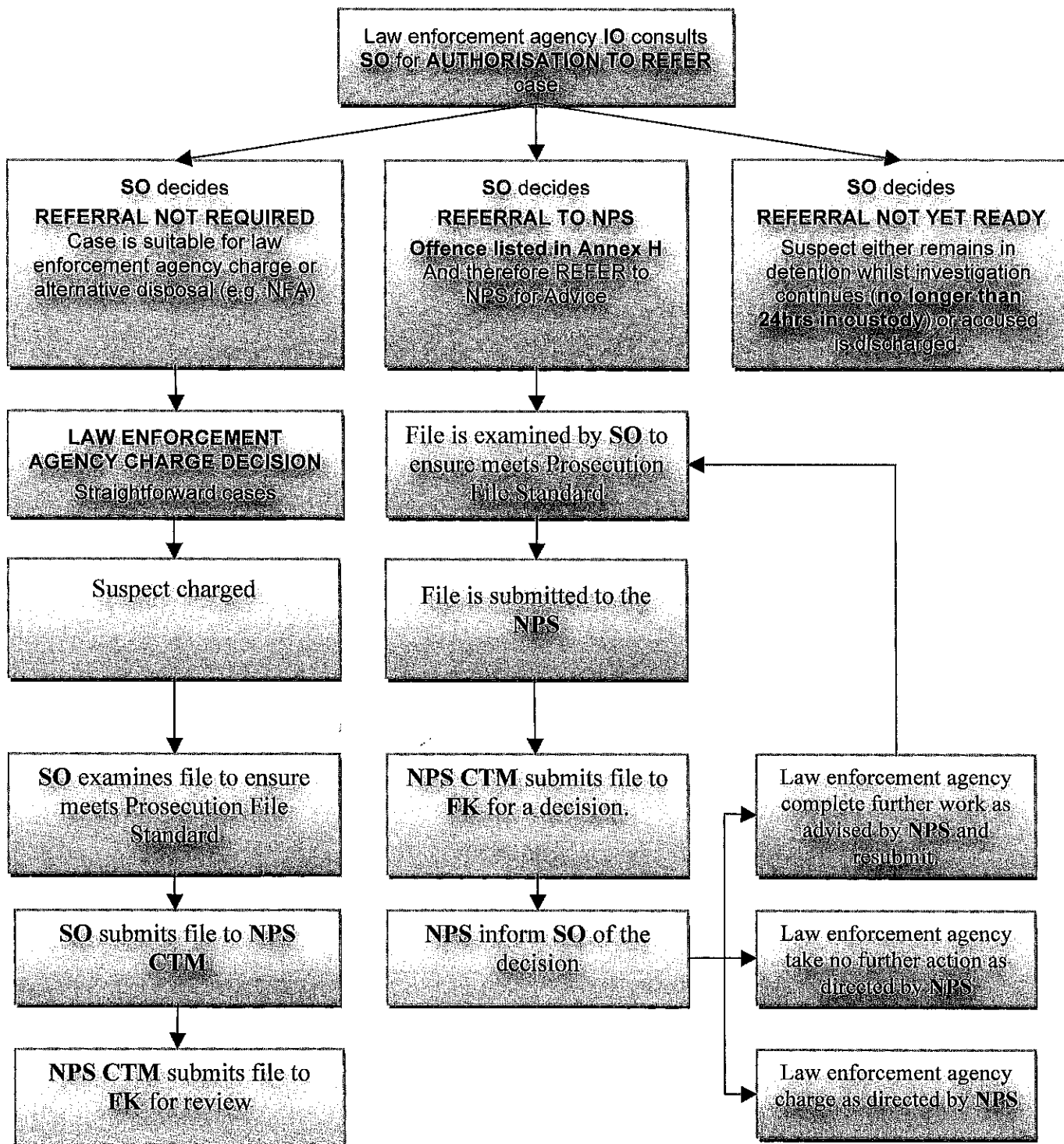
Restricted

CN	
Name of FK	
Date of Review	
Date of Next Review	
Indictment	Filed <input type="checkbox"/> Yes <input type="checkbox"/> No Served on Accused <input type="checkbox"/> Yes <input type="checkbox"/> No
Evidence Served	For Summary trial <input type="checkbox"/> Yes <input type="checkbox"/> No Date Served: For Committal <input type="checkbox"/> Yes <input type="checkbox"/> No Date Served: For High Court trial <input type="checkbox"/> Yes <input type="checkbox"/> No Date Served: Any evidence outstanding <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Date anticipated to be served on NPS
Unused Material	FORM 9C served on accused <input type="checkbox"/> Yes <input type="checkbox"/> No Date: Exculpatory material served on accused <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Date served:
Any exculpatory material excluded in public interest	Application made to Court <input type="checkbox"/> Yes <input type="checkbox"/> No Details: Date: Application to be made <input type="checkbox"/> Yes <input type="checkbox"/> No Application forms completed <input type="checkbox"/> Yes <input type="checkbox"/> No
Any legal argument	Skeleton Arguments Submitted <input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Witnesses	Warned <input type="checkbox"/> Yes <input type="checkbox"/> No Date: Witness summons required <input type="checkbox"/> Yes <input type="checkbox"/> No

	Details: Video link needed <input type="checkbox"/> Yes <input type="checkbox"/> No Application made <input type="checkbox"/> Yes <input type="checkbox"/> No
Video equipment needed for trial	<input type="checkbox"/> Yes <input type="checkbox"/> No
Interpreter required	<input type="checkbox"/> Yes <input type="checkbox"/> No Details:
Any alternative pleas anticipated by the accused	<input type="checkbox"/> Yes <input type="checkbox"/> No
Full Code Test satisfied for all charges	<input type="checkbox"/> Yes <input type="checkbox"/> No
Any other matters	<input type="checkbox"/> Yes <input type="checkbox"/> No Details:

Restricted

Annex A - Pre-Charge Referral Process to NPS



Annex B - Prosecution File Standards

NPS ADVICE CASES OR POST CHARGE

UPGRADED FILE

1A. Where the law enforcement agency are seeking NPS Advice about charge they must submit:

MUST INCLUDE:

FORMA – Summary with SDN

Key witness statement(s)

DPP copy of a video interview or statement of accused

Antecedents of suspect and key prosecution witnesses

Include any material which would tend either to materially weaken the prosecution case or materially strengthen the case for the accused

Disclosure schedules (FORM9B, C D and E) are NOT required at this stage

If applicable, include:

Domestic Violence checklist FORM 14

Rape checklist FORM15

If a Violent Crime checklist (other than domestic violence) FORM16

If a Drug Trafficking checklist FORM17

FORM18 a and b re Exhibits

Other key evidence:

CCTV, Medical, Forensic reports

Photographs, Documentary exhibits etc.

1B. Where the law enforcement agency are submitting a file having charged the accused they must submit:

MUST INCLUDE:

FORMC

Charge Sheet

Evidence including:

Witness statements; photographs of exhibits; DPP copy of a video interview, SDN or statement of accused

FORM12 – Compensation Form

FORM13 - Witness non-availability

FORM18a and b – re Exhibits

Witness statement(s) of the victim or main witness

Antecedents for accused and prosecution witnesses

Include any material which would tend either to materially weaken the prosecution case or materially strengthen the case for the accused

Disclosure schedules are NOT required at this stage

If applicable, include:

Domestic Violence checklist FORM 14

Rape checklist FORM15

If a Violent Crime checklist (other than domestic violence) FORM16

If a Drug Trafficking checklist FORM17

FORM1 – NPS Advice form (if the NPS have given advice prior to charge)

Police Bail Sheet (Conditional/Vary/Security/Surety)

FORM3 - Remand Hearing Form

Other Key evidence: see 1A

2. Where NG plea and adjourned for summary trial or for preliminary inquiry/committal for trial, the law enforcement agency must submit:

MUST INCLUDE:

Everything in column 1B AND the following items:

All statements including corroborative, continuity, etc.

FORM9B - Law enforcement agency antecedents/disciplinary record

FORM9C - Schedule of relevant non-sensitive unused material

FORM9D - Schedule of relevant sensitive material

FORM9E - Disclosure Officer's report

And applicable items listed in the upgraded File Index FORM11 where relevant

Annex C – Disclosure of Unused Material for Upgraded Files

Day
1

Disclosure Officer (DO) must record at the time it is obtained/seized, or as soon as is practicable after that

>1m

DO prepares FORMS 9B, C, and D after NG plea or matter listed for Committal/PI.

>3
weeks

DO prepares FORM 9E and serves on NPS with FORMS 9B, C and D

>3
weeks

EK endorses FORM 9A upon receipt and after review of FORMS 9B, C and D

>2
weeks

EK serves FORM 9C on accused and confirms disclosure decision to DO and on FORM 9A

If any sensitive material that satisfies disclosure test application in the public interest to the court before any trial

If EK fails to complete disclosure CTM will notify the DPP

DPP will hold meeting with EK in order to discuss failure to perform.

DPP will set new deadline for work to be completed.

Annex D – Pre-Hearing Process Map (Bail/Summoned)

Day 1

The SO submits the file to the CTM at the NPS

2

The DPP will allocate files to a FK for review.

3

CTM will notify FK of allocation by email.

4-6

FK will collect file from CTM

4-10

FK will complete FORM1 (paper and email version) and return file and FORM1 to CTM

If suspect on bail pre charge and FK requires further investigation the action plan will be completed and returned to the IO/SO
 If suspect on pre-charge bail and FK advises charge the IO/SO will be informed
 If charged and bailed FK will prepare FORM5 and prepare (with AS) disclosure bundle of prosecution evidence for accused

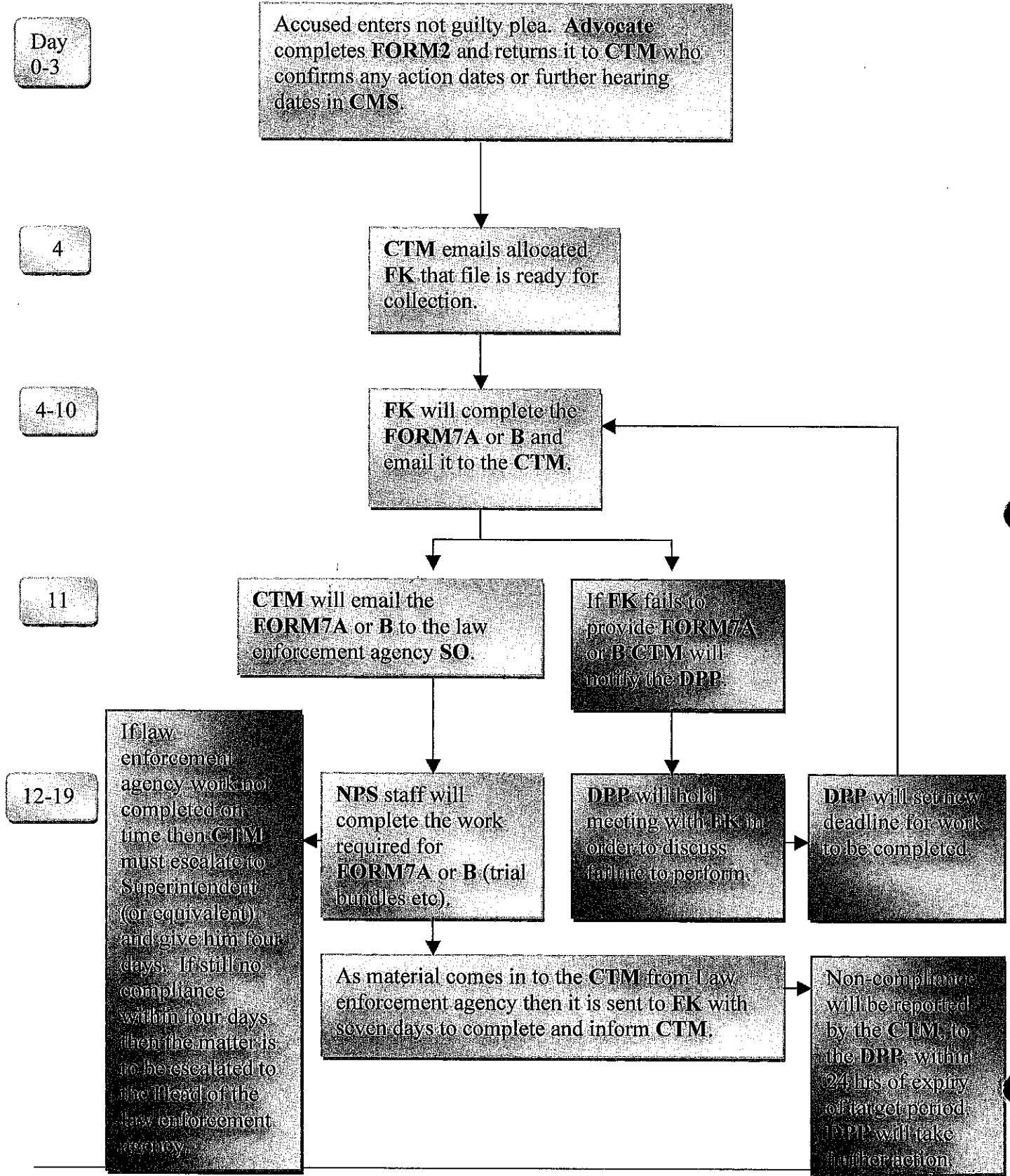
If FK fails to provide FORM1 CTM will notify the DPP

DPP will hold meeting with FK in order to discuss failure to perform

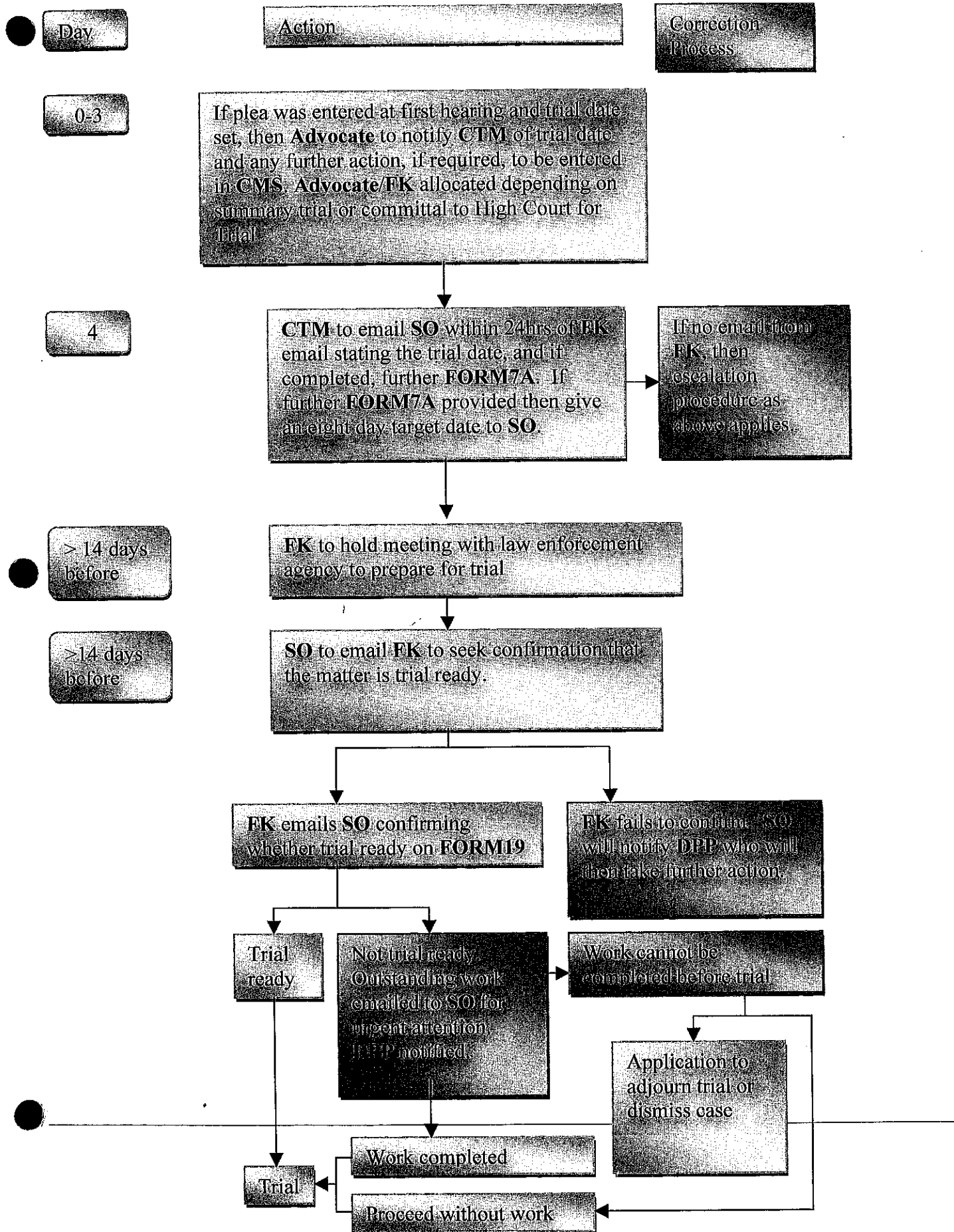
DPP will set new deadline for work to be completed



Annex E – Post-Hearing Process Maps



Annex F – Not Guilty Process Map



Annex G - Remand Process

Law enforcement

NPS action

Process correction

The accused is charged

The SO delivers (or an officer delivering a file endorsed by the SO) file to the NPS CTM before or at 8:30 am on the day that the accused is to appear at Court.

Where the NPS CTM notes that the accused has been charged more than one day prior to the papers arriving at the NPS, it will be reported to the Head of the law enforcement agency for further action.

NPS CTM will log the case onto CMS and will forward papers immediately to allocated FK to review using FORM1

FK will complete the review. This will be done before 2pm that day and sent to the NPS CTM.

If the SO does not receive notification before 2pm then the matter should be immediately escalated to the DPP for action.

FK will prepare FORM5 and prepare (with AS) disclosure bundle of prosecution evidence for accused

NPS Advocate will appear at Court and prosecute the case.

Annex H – NPS Referral

A law enforcement agency is required to liaise directly with the **NPS** on indictable and serious summary matters which include the following:

- a. ***Murder***
 - b. ***Manslaughter***
 - c. ***Drug Trafficking***
 - d. ***Financial Crimes, Money Laundering, etc***
 - e. ***Fraud***
 - f. ***Corruption Offences***
 - g. ***Sexual Offences***
 - h. ***Inchoate Offences***
 - i. ***Kidnapping***
 - j. ***Armed Robbery***
 - k. ***Anti-terrorism Offences***
 - l. ***Any law enforcement agency officer accused of an offence***
 - m. ***Human Trafficking Offences***
 - n. ***Burglary Offences***
 - o. ***Firearm Offences***
-

Annex I – Breach of Bail File

<u>Arrest for Breach of Bail Post-Charge Bail</u>	
Arrest for breach of <u>court</u> bail conditions (after 1st or subsequent hearings).	Arrest on Failing to Appear warrant.
Take accused to the court for application for remand In custody or bail with or without condition(s).	Comply with warrant instructions e.g. take accused to the court for application for remand In custody or bail with or without condition(s).
File Contents: Access original file plus: New FORM3 Statement/s details circumstances of breach	File Contents: Access to original file plus: New FORM3 Warrant - endorsed Statement/s details circumstances of arrest e.g. number of attempts to arrest, evades capture etc.