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If sentence confirmed, this section is not relevant

Would the Crown accept a plea of guilty on a reasonably open factual basis and/or to certain counts in full satisfaction?

Would the provision of comparable cases be likely to encourage a plea of guilty to some/all of the counts?

Estimated Timeframes <small>(File lawyer to complete. Signing Crown Prosecutor to review.)</small>	Duration
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Sentence

Contested sentence

590AA Hearing

21AK Hearing

Trial

Presenting the Crown case <small>(File lawyer to complete. Signing Crown Prosecutor to review.)</small>	Yes	No	N/A
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If sentence confirmed, this section is not relevant

Confirmation defence have taken instructions

Affected child witnesses are involved

Notice to defence has been given about these witnesses

Is it reasonably likely a competency issue will be raised?

Is a special witness application necessary for any witness?

If yes, for which witnesses?

What material should be sought to support the application?

Is section 93B of the Evidence Act/110A of the Justices Act engaged?

If yes, what evidence?

If yes, has notice of this fact been given to defence?

Will continuity be in issue at the trial?

Are there witnesses for whom it is obvious **travel arrangements** need to be made??

If yes, which witnesses and from where will they need to travel?

Have the ODPP travel team been notified?

Should an application be made for a witness to give evidence via videolink or phone?

If yes, which witnesses?

Is an interpreter required for Crown witnesses?

If yes, which witnesses and what language?

Has a memo been drafted to engage an interpreter?	<input type="checkbox"/>	<input type="checkbox"/>	
Is an expert witness involved?	<input type="checkbox"/>	<input type="checkbox"/>	
Is financial approval for the expert(s) needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any other special issues?	<input type="checkbox"/>	<input type="checkbox"/>	

Evidentiary matters

(File lawyer to complete. Signing Crown Prosecutor to review.)

	Yes	No	N/A
<i>Sentence confirmed — this section not relevant</i>	<input type="checkbox"/>	<input type="checkbox"/>	
Are all documents relied upon in a tenderable form?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Are the documents on the file?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Are certificates under section 95 of the Evidence Act on the file, in the proper form and attached to the relevant documents?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is there a statement on the file from a representative person who can speak to the documents?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is medical evidence relied upon?	<input type="checkbox"/>	<input type="checkbox"/>	
If a doctor's opinion is to be used to prove an element of the offence(s) has it been expressed in accordance with the legislation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Should medical records be subpoenaed?	<input type="checkbox"/>	<input type="checkbox"/>	
If the treating medical practitioner is unavailable, can we demonstrate admissibility under section 93 of the Evidence Act?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is similar fact evidence relied upon?	<input type="checkbox"/>	<input type="checkbox"/>	

If yes, what do we need?

Certification (see Director's Guideline No. 4)

(File lawyer to complete. Signing Crown Prosecutor to review.)

We certify that the following has been considered at the time of signing the indictment:

1. There are reasonable prospects of success on each count on the indictment.
2. It is in the public interest to proceed with the charge(s).
3. All necessary evidence has been requisitioned where it is not on the file.
4. All necessary disclosure obligations have been met
5. Relevant decisions have been recorded and explained.
6. Draft particulars are on the file and have been read and agreed upon by the signing Crown Prosecutor.

File lawyer signature

Date

Crown Prosecutor signature

Date

NOTES:

(1) IF YOU ARE NO LONGER ACTING IN MATTER

Please note that practice direction 19 of the *Criminal Practice Rules 1999* sets out the requirements if a lawyer wants to withdraw from acting for an accused person.

(2) IF OTHER CHARGES ARE PENDING

If your client(s) has other charges pending which you are instructed may proceed by ex officio indictment, please advise this office as soon as possible giving details of the charges and the name and station of the arresting officer in respect of those charges.

(3) IF A PLEA OF GUILTY IS INTENDED

The *Penalties and Sentences Act 1992* provides that a court may, when imposing a sentence, have regard to the time at which the offender informed the relevant law enforcement agency of his or her intention to plead guilty. If your client(s) intends to plead guilty to the charge(s) in the indictment, please advise this office in writing as soon as possible.

(4) IF YOU WISH TO MAKE A SUBMISSION

If your client(s) wishes to make a submission regarding reduction or discontinuance of the charge(s) in the indictment, whether before presentation of the indictment or after presentation, please forward the submission in writing to the Manager Operations at this office as soon as possible. Written submissions are preferred.

(5) IF YOU WISH A COPY OF DEPOSITIONS OR EXHIBITS

If you wish to receive a copy of the depositions, these are available upon request from the Depositions Officer (phone +61 7 4799 7328).

All physical exhibits can be made available for inspection upon request from the Exhibits Officer (phone +61 7 4799 7328).

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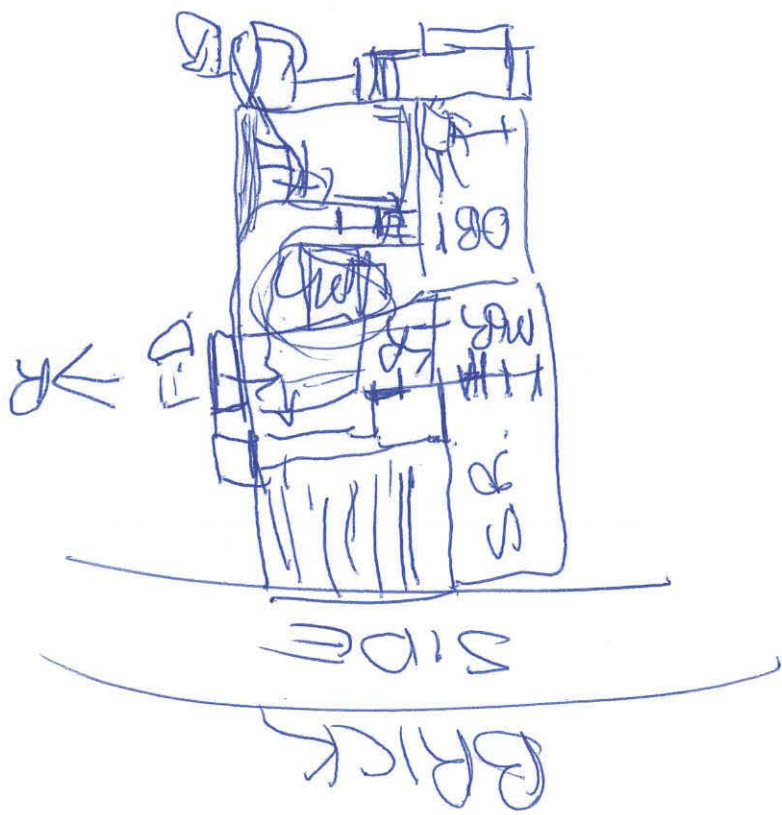
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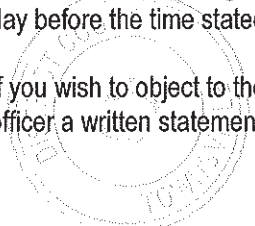
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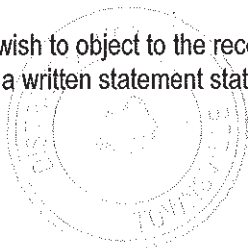
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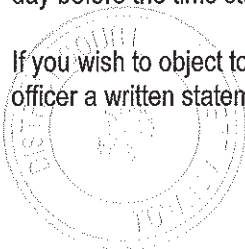
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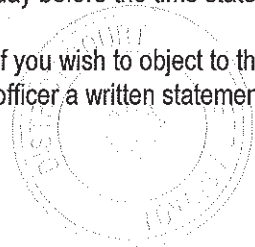
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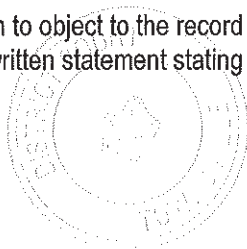
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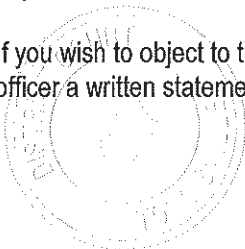
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If a subpoena requires the production of a medical record, hospital record or a record of a Department of Government, or a Statutory Authority of the Commonwealth or State, the served person may comply by giving the record to the proper officer of the court in a sealed envelope clearly marked "court exhibits" or something similar. The record is to be given to the proper officer at least one (1) clear day before the time stated for production in the subpoena (rule 30 *Criminal Practice Rules 1999*).

If you wish to object to the record or part of it being inspected or copied you must give the proper officer a written statement stating the grounds for the objection (rule 31 *Criminal Practice Rules 1999*).



Form 23 - NOTICE TO BE SERVED WITH FORM 21 SUBPOENA

THIS IS A VERY IMPORTANT DOCUMENT - PLEASE READ IT VERY CAREFULLY

Failure to comply with subpoena may result in arrest

Failure to comply with this subpoena without lawful excuse is contempt of court and may result in your arrest.

Not all subpoenas will specify a particular date and time to attend

The courts often list a number of cases in the same time period. As cases are completed or adjourned, others may progress up the list. The lists are constantly reviewed to maximise use of court time and to reduce the costs to the taxpayer. If you have not been given a definite date and time in the subpoena, the party serving the subpoena must, as soon as practicable, advise you when you are required to attend court or if your attendance is no longer required (rule 29 *Criminal Practice Rules 1999*).

Entitlement to travelling expenses

A person must comply with a subpoena only if an amount sufficient to meet the person's reasonable travelling expenses in complying with the subpoena, or a ticket or other travel document needed to comply with it, is tendered either when the subpoena is served or within a reasonable time before the attendance under the subpoena is required (rule 35 *Criminal Practice Rules 1999*).

Application to set aside subpoena

A person who has been served with a subpoena may apply to the court for an order to set aside the subpoena. If it is a subpoena to produce documents; an application may also be made to narrow its scope {eg. - by reducing the number of documents to be produced}.

If the application to set aside or narrow the subpoena is successful, the applicant may apply to the court for an order that all or part of the applicant's costs incurred in applying to have the subpoena set aside or narrowed be paid by -

- (1) The party who served the subpoena; or
- (2) If the court finds the conduct of the party's lawyer in serving the subpoena was oppressive, vexatious or an abuse of process - the party's lawyer (rule 33-35 *Criminal Practice Rules 1999*).

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