



Prosecution file and trial preparation

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Preparing prosecution files

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Purpose

The three purposes of a prosecution file are to:

- ensure the accountability of the charging officer for action taken
- enable effective review of the decision to prosecute
- further the prosecution process in court or through alternative resolution measures, e.g. diversion.

Prosecution files are constructed with an understanding of the needs of the groups that use them (i.e. PPS prosecutors and Crown solicitors). The information in the files can also be used for a variety of functions, including:

- assessing bail
- providing sufficient evidence to support the current charge(s)
- providing a basis for effective disposition, particularly through sentencing.

The O/C case should consider these purposes and functions when preparing a prosecution file.

Principles

When preparing a prosecution file, remember your ultimate 'audience' is the Judge, or Judge and jury. Pay particular attention to:

- **Evidential content** - reflects an officer's ability as an investigator, their understanding of the criminal statute and the laws of evidence, and ability to brief
- **Presentation** - this includes the 'professionalism' factor and is demonstrated by the file's physical appearance (i.e. file neatly put together, free of typing and grammatical errors, Summary of Facts concise and covering the ingredients of the offence)
- **Construction** - the arrangement (file order) of the file documents to meet the required standards.

The extent to which the O/C case applies these principles and meets the file standard can have two effects:

- it reflects on the individual officer's performance, and
- the ability of the prosecution case to be progressed effectively.

Remember the file must contain all **relevant** evidential and disclosable information. 'Relevant' in this context means information that can support or rebut the case against the defendant. Where there is a working prosecution file, ensure that all relevant information is also on the prosecution file.

Matters related to evidential content are required to satisfy the evidential and public interest tests set out in the '[Solicitor-General's Prosecution Guidelines](#)' as adopted in the [PPS Statement of Policy and Practice](#) and such other subject specific prosecution policies that may be established from time to time.

File structure

Each document has a place in the file and serves a specific purpose. Note:

- A POL 250 Prosecution Cover Sheet (in Police Forms or self populated in NIA - refer [NIA Prosecution Forms](#) on the intranet) must be completed and printed on white paper for each prosecution file. Both the O/C case and the prosecutor are required to complete aspects of this coversheet. Documents must not be placed above the prosecution file cover sheet.
- All documents attached to a prosecution file should be relevant to the file - remember that many documents on a prosecution file are subject to disclosure.
- As a general rule, plastic sleeves should not be attached to a file (unless used to protect an exhibit).
- Physical exhibits should not be attached to a file, except:
 - copies of photographs
 - copies of documentary exhibits
 (The O/C case or O/C exhibits (as appropriate) should safely secure the original documentary evidence).
- The file should be secured with a file pin and not stapled together.
- Very few files warrant being organised in a ring binder.
- Coloured paper inserts must not be used.

Files being sent to the Crown

The Crown assumes responsibility for Crown prosecutions at different stages of the proceedings in accordance with the Criminal Procedure Act 2011, associated rules and regulations. Refer to the [Crown involvement](#) section of the Administration stage chapter for greater detail of when responsibility is assumed for a particular file. Refer also to the [Memorandum of Understanding \(MOU\)](#) between the Solicitor-General and the Commissioner of the Police outlining the processes and standards expected to be followed for Police initiated prosecutions involving the Crown.

When the Crown assumes responsibility for a prosecution, PPS must send the file to the Crown within:

- 5 working days of the date the Crown assumed responsibility, or
- a shorter timeframe and as a matter of priority if required in a particular case (e.g. if an appearance is required by the Crown the day after the Crown assumed responsibility).

The O/C must be aware that ongoing liaison with the Crown may be required from as early as the first appearance, depending on the offence type and category. As such, clear identification of the O/C and relevant supervisor is required in the Initial POL 258 P report.

Local arrangements for preparing files for the Crown should be discussed with the local PPS office.

NIA Prosecution form set

Wherever possible the NIA prosecution form set should be used to generate prosecution forms. This ensures that an electronic copy of the form is kept and able to be accessed when the hard copy file cannot.