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**Early Appropriate Guilty Plea (EAGP)  
Standard Operating Procedures  
Police Prosecutions Command**

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## **Summary**

This document was introduced to aid operational police and prosecutors following the 2018 changes to the Criminal Procedure Act 1986 (NSW) that introduced the Early Appropriate Guilty Plea reforms.

This policy applies to the creation and management of briefs and charges for all committal matters from:

- Local Court – where court proceedings commenced on or after 30 April 2018
- Children’s Court – where court proceedings for Serious Children’s Indictable Offences commenced on or after 30 April 2018

**Note** this policy does not apply to matters commenced after 30 April 2018 that are otherwise connected to matters that commenced prior to that date – e.g., the addition of a backup sequence where the substantive proceedings were commenced prior to 30 April 2018.

## Document Control Sheet

### Document Properties

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# 1 Purpose

The Early Appropriate Guilty Plea reforms in 2018 introduced five key changes to the way in which committal matters are dealt with by the NSW Police Force and the courts. Those changes aimed at reducing District Court backlogs by earlier service of evidence and information to better inform offenders on their plea options.

## 1.1 Scope

The purpose of this document is to highlight the current procedures for these matters for the assistance of operational police creating briefs of evidence for committal matters, and local court prosecutors appearing in the early mentions of these matters on behalf of the ODPP.

## 1.2 Roles & responsibilities

Assistant Commissioner – PPLEC	Document Sponsor
Commander – Police Prosecutions Command	Document Owner
Command office – Police Prosecutions Command	<ul style="list-style-type: none"><li>• Manage reviews and updates of this document</li><li>• Communicate changes to staff</li><li>• Provide Governance Command with updates</li></ul>
All staff	<ul style="list-style-type: none"><li>• Comply with this document when preparing an EAGP brief</li></ul>

# 2 Operational Procedure – Before the matter goes to court

## 2.1 Seeking pre-charge advice

It may be appropriate to consider delaying charging the defendant until you have completed an EAGP brief and obtained advice on the sufficiency of your evidence and the appropriateness of the charges you will prefer.

An example of when it may be appropriate to delay charging until after advice is obtained is when an arrest is not required to refuse bail or to impose bail conditions on the person because of:

- a risk that the person may commit a further serious offence; or,
- a risk that the person may interfere with a witness or tamper with or dispose of evidence; or,
- there is some other operational imperative requiring the arrest and charge of the person without delay.

## 2.2 Additional information to be included in the Police Facts Sheet

When preparing the facts sheet, consider the length of time you are likely to need to complete the EAGP brief. If it cannot be completed and served within the standard eight weeks, include a written request for an extended brief service timetable at the end of the facts sheet. This request must be justified with further information, such as:

- the components of the EAGP brief that will require more than 8 weeks to prepare; and,
- how much time you require to complete the EAGP brief; and,
- a short outline of why the additional period is required.

Do not request additional time without a valid reason. However, remember that briefs need to be reviewed by your supervisor prior to service (see cl 3.5 below).

## **3 The EAGP Brief**

### **3.1 Purpose of an EAGP brief**

The purpose of an EAGP brief is to:

- enable the ODPP to certify the charges laid by the NSWPF against the accused; and,
- inform the accused about the available evidence against them and the available evidence that is reasonably capable of being relevant to his or her defence.

It is not the purpose of the EAGP brief to provide all the evidence in admissible form. However, a full (admissible) brief will be required should the matter proceed to trial. The required content of an EAGP brief has been agreed between the NSWPF and the ODPP (see Appendix 2).

### **3.2 Preparing an EAGP brief**

EAGP briefs have their own unique coversheet. This must be completed for every brief and is found on the intranet:

[https://intranet.police.nsw.gov.au/law/early\\_guilty\\_pleas?a=749434](https://intranet.police.nsw.gov.au/law/early_guilty_pleas?a=749434)

This coversheet details all the requirements of an EAGP brief. It also requires supervisor certification and the inclusion of the Crime Manager's details. The full list and form is replicated in Appendix 1 below.

Also required within the EAGP Brief is a s 15A Disclosure Certificate (P516):

[https://intranet.police.nsw.gov.au/\\_data/assets/word\\_doc/0010/460297/P516\\_DPP\\_Disclosure\\_Certificate\\_v3.docm](https://intranet.police.nsw.gov.au/_data/assets/word_doc/0010/460297/P516_DPP_Disclosure_Certificate_v3.docm)

### **3.3 Alternative forms of evidence**

To expedite the EAGP process, some evidence does not need to be in an admissible form for the EAGP brief; a full list of evidence that is acceptable in a non-admissible format is contained in Appendix 2.

If a particular type of evidence is not included in that list, the OIC and the ODPP may agree on an alternative form of the evidence that may be included in the EAGP brief.

### **3.4 Items that do not need to be included in an EAGP brief**

Some items do not need to be obtained expressly for an EAGP brief:

- Statements from corroborating police officers; and,
- Forensic statements; and,
- Expert witness statements; and,
- Formal custody statements; and,

- Continuity statements.

However, if these items already exist, they must be included within the brief.

## **3.5 Review and service of an EAGP brief**

### **3.5.1 Officer in charge**

The EAGP brief should be submitted to your supervisor no later than seven days before the brief due date ordered by the Court. After the supervisor has completed their review and certification as per the cover sheet, the **brief should be served on the ODPP (not police prosecutors)** and the defendant or their legal representative.

Update COPS with brief service details.

If the EAGP brief is not compliant with these SOPs by the due date set by the Court, a partial brief should still be served on the ODPP and the accused or their legal representative.

Notify the prosecutors prior to the mention date of the brief status and date of service. Include any information from the ODPP regarding charge certification (see cl 5.1) or further requisitions (see cl 5.2), as well as bail instructions (see cl 4.5). Be prepared for a bail application if the brief is not EAGP compliant.

### **3.5.2 Supervisor**

Review the EAGP brief submitted by the OIC. Whilst a legal quality review is not required, basic checks should include:

- The investigation is complete as reflected in COPS; and,
- The matter has been properly investigated; and,
- All witnesses have been interviewed and statements taken where required; and,
- All available evidence is captured or account for on face value taken; and,
- There is a completed s 15A Disclosure Certificate within the brief
- There is a proper EAGP coversheet within the brief

If the above criteria have been met, endorse the supervisor section on the EAGP coversheet, update COPS to reflect the verification has been completed, and return the EAGP brief to the OIC for service upon the ODPP and defendant or their legal representative.

### **3.5.3 Brief service**

Once the supervisor endorsement has been completed, the OIC should serve the brief on the ODPP Office that has carriage of the matter. Do not serve an unendorsed EAGP brief on the ODPP. Do not serve an incomplete EAGP brief on the ODPP unless prior contact has been made with them and agreed to.

Serve a copy of the brief on the defendant or their legal representative.

Endorse service details on COPS and notify your local police prosecutors of the service details and any subsequent relevant correspondence from the ODPP (such as 'brief should be adjourned for charge certification').

## **4 Court Procedures – prior to EAGP brief service**

### **4.1 Court appearances generally**

Police Prosecutors will appear in all Local Court listings until confirmation is given to the court that the EAGP brief has been served on the ODPP and accused and the matter has been adjourned for charge certification.

At the first mention, police prosecutors are to seek a minimum **eight** weeks for brief service upon defence and ODPP.

However, in appropriate cases, the prosecutor may request a longer brief service timetable (e.g., in complex matters, or where there are good reasons why the EAGP brief cannot be completed within 8 weeks). The justification for seeking an extended timetable should be included at the end of the facts sheet by the officer in charge.

### **4.2 Table 1 / 2 offences – non-SI matters referred to ODPP for election**

Police prosecutors are responsible for referring appropriate Table offences to the ODPP for consideration of election. This should be done when charges are first checked, prior to the first mention date. If the ODPP has not replied prior to the first mention, the prosecutor should request a two-week adjournment to allow for consideration of election.

If the ODPP elects on a Table offence, the charge is to proceed in accordance with these SOPs.

### **4.3 First mention – Brief service orders**

Police prosecutors appear at the first mention of all committal matters. If the OIC has not included any instructions in the facts sheet about extended brief service orders, seek standard orders that the brief be served on the accused and the ODPP (prosecutor) in eight weeks, and adjourn the matter to the general list court day (**NOT the DPP list**).

If the OIC has requested extended brief service orders, seek those as instructed. However, note some courts may be reluctant to adjourn matters for extended periods – if that is the case, the prosecutor should note the request for extended service on the record, and advise the OIC of the magistrate's decision.

Advise the court of any co-accused details, including their next court appearance (if known).

Committal matters are to be adjourned to the general list at the same court as first mentioned. Do not adjourn the matter to a DPP court / list for brief service. If the matter is first mentioned in a regional court that does not sit regularly, the proceedings should be adjourned to the hub court for appropriate case management.

### **4.4 Second / subsequent mentions – Brief confirmation**

#### **4.4.1 Officer in charge**

Provide instructions about whether the EAGP brief has been served on the defence and the ODPP to the police prosecutor who will be appearing in the matter at least 2 business days before the date that the matter is listed for mention. Provide a copy of the completed Brief Covering Sheet to the police prosecutor. The Cover Sheet should include sufficient information on:

- brief items that have been served; and,
- brief items that are outstanding (if any); and,



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- an explanation of why the item is outstanding (if applicable); and,
- an indication of when the item is expected to be obtained (if applicable).

If the EAGP brief has not been served, include any additional information about why the brief could not be served in your email to the police prosecutor. Promptly respond to any questions raised by the police prosecutor before the matter is mentioned in Court and be prepared for any possible bail applications by providing the police prosecutor with any relevant information.

Additional adjournments should be explained with reference to the complexity of the matter. The current guidelines stipulate that an adjournment beyond the standard eight weeks will only occur in exceptional or complex cases. Some examples that could require additional time for the brief to be served may include:

- the prosecution is a large-scale matter involving an exceptional number of accused and/or witnesses/complainants whose statements are unable to be obtained within the time period; or,
- the prosecution relies on specialised forensic evidence which will not be available within the standard time period (e.g., an autopsy for death matters); or,
- the prosecution relies on an exceptionally large volume of surveillance material that requires transcribing and/or translating and summarising; or,
- the prosecution relies on digital evidence that requires a referral for expert opinion or extraction (i.e., SEES referral); or,
- the prosecution relies on key brief items which are unable to be obtained within the time period as they require statutory notices or subpoenas to produce to be issued and returned; or,
- the prosecution relies on statements from key witness/es that are unable to be obtained within the standard time period due to exceptional circumstances (e.g., victim in hospital).

The time sought for an extension of brief service must be based on accurate and informed advice as to the exact timeframe to produce that material.

### 4.4.2 Police prosecutor

Before Court, confirm that the EAGP brief has been served. Read through any instructions provided by the OIC.

If the brief has not been served and no instructions have been provided, attempt to obtain a realistic estimate of the additional time required from the Officer in Charge. Seek an adjournment as appropriate to the general list of the same court to allow for brief completion and service. Note that if a brief is non-compliant with these SOPs (e.g., due to lacking a s 15A Disclosure Certificate) it is deemed by the ODPP to be incomplete. The ODPP will not consider the brief complete for certification without all relevant and required documents being included as per cl 3 above.

If the EAGP brief has been served, use the ODPP Guidance to Police Prosecutors on adjournment applications in committal proceedings under EAGP (at Appendix 7) and any instructions sent to you by the relevant ODPP Managing Lawyer to determine whether the matter is a complex matter that may require longer than the standard 6-week adjournment for Charge Certification.

If the EAGP brief has been served:

- for non-complex matters, seek an adjournment of 6 weeks to the DPP list court day to allow the ODPP time to file the Charge Certificate;

- for complex matters, seek a longer adjournment in accordance with any instructions received from the ODPP. Adjourn the matter to the DPP list court day.

Note: In accordance with centralised committal arrangements in metropolitan areas, matters are to be adjourned after brief service to the nominated DPP Court/List. In regional NSW, where there are no centralised committal arrangements, the matters should only be adjourned to a court other than the original court if the accused is in custody pursuant to the AVL Practice Note, or there are compelling reasons in the interests of justice to do so (see Appendix 5 – Letter from the Chief Magistrate dated 14 March 2018).

## **4.5 Bail applications**

The OIC should provide the police or ODPP prosecutor (see below) with any brief material and full instructions prior to any bail application.

### **4.5.1 Local Court Bail**

Police prosecutors will appear on any bail application in the Local Court until the matter has been adjourned for Charge Certification.

### **4.5.2 Supreme Court Bail**

The ODPP will appear in any Supreme Court bail application, regardless of the status of the matter.

## **5 Court Procedures – after the EAGP brief has been served**

This section deals with the process of handing the matter over to the ODPP, at which point they will assume full carriage of the matter and appear in all future listings. At this point, all correspondence should be directed to the ODPP solicitor with carriage – police prosecutors cease to be involved in the prosecution after the charge certificate has been filed.

### **5.1 Charge certification**

The ODPP is required to file a charge certificate on the first mention date after confirmation of service of an EAGP brief. This certificate specifies the offences that are proceeding, backup offences, and discontinued offences. As such, police should not add any additional sequences to the charge after the charge certificate has been filed without approval from the ODPP.

### **5.2 ODPP requisitions**

The ODPP may ask the OIC to obtain and serve further evidence at any point during the life of the matter. This may be either because the ODPP determines there is insufficient evidence to certify the charges on the current evidence provided, or post-certification to encourage an appropriate guilty plea.

If requisitioned for further evidence, the OIC should confirm receipt of the requisition within 48 hours and contact the ODPP prosecutor to discuss a timeframe to comply.

### **5.3 Consultation between ODPP and OIC**

The ODPP will consult with the OIC if they are of the view that additional or different charges should be laid, or if there is insufficient evidence to support one or more of the charges. During this consultation that OIC can raise concerns or queries with the ODPP proposal.

## 5.4 Creating further court attendance notices upon request

The ODPP may request the OIC create additional Court Attendance Notices. If the OIC is uncontactable, the ODPP may contact another officer nominated on the brief covering sheet. If that officer is also unavailable the ODPP may forward the request the Crime Manager or equivalent.

Upon receiving a request, the officer should immediately confirm receipt, and create the additional CAN/s before close of business that day, or the following day if received after hours. Send the additional CAN/s and an updated Cover Sheet to the ODPP. The ODPP will serve the additional CAN/s on the accused or their legal representative in court unless alternative arrangements have been made with the OIC.

Note only an officer listed on the charge, or an officer with a Senior Supervisor profile, can create additional CANs on a charge.

## 5.5 Filing of charge certificate

The ODPP must file the charge certificate by the date set by the court. This date must be **no later than six months** after the first mention date unless the accused consents, or it is in the interests of justice to do so. If this timeline is not complied with, the magistrate must:

- discharge the accused person of any offence the subject of the committal proceedings; or,
- if the magistrate thinks it appropriate in all the circumstances of the case, adjourn the matter.

For this reason, compliance with ODPP timelines for requisitions is highly important. The OIC should cooperate with the ODPP in relation to requests for additional CANs. If the OIC cannot meet set timeframes, they must advise the ODPP and the police prosecutors as to the reasons for the delays, to allow for appropriate submissions on adjournment applications to be made.

Despite the discretion of the magistrate to not discharge the accused, the current guidelines stipulate that an adjournment beyond the six-month timeframe will only occur in exceptional or complex cases. Some examples of exceptional or complex matters that could require additional time for charge certification (i.e., beyond six weeks) may include those in which:

- the prosecution is a large-scale matter involving an exceptional number of accused and/or complainants/witnesses; or,
- the prosecution involves an exceptional number of charges; or,
- the prosecution involves an exceptionally large brief (greater than six lever arch volumes); or,
- the prosecution relies on an exceptionally large volume of surveillance/recorded material which requires reviewing; or,
- the prosecution relies on specialised expert evidence and/or involves exceptionally complex legal issues.

In such cases, given the brief will have been served on the ODPP by the time the matter is listed to fix a charge certification mention date, then instructions as to the precise extension period which should be sought to enable the charges to be certified should be provided by the relevant ODPP Managing Lawyer.

## 5.6 Criminal case conference

If the accused has legal representation, a Criminal Case Conference is convened after the Charge Certificate is filed, with the court setting the conference date. The primary aim of this conference is

to ascertain the accused's willingness to plead guilty to any offences. It may also serve to facilitate the exchange of additional materials for informed plea decisions and address other procedural matters.

Following the conference, the ODPP prosecutor must prepare and file a Case Conference Certificate, which includes any plea offers. The Case Conference Certificate and conference content are generally not admissible in court proceedings, except for specific instances, such as determining sentence discounts.

Publishing or allowing the publication of the Case Conference Certificate or its content is an offence.

The OIC should be accessible for consultation, either by phone or in person, with the ODPP prosecutor throughout the Criminal Case Conference. It's important to ensure that the ODPP prosecutor has current contact information, as well as contact details for another suitable officer.

If requested, the OIC should assist to the ODPP prosecutor in evaluating the prosecution's case strength and considering any alternative facts that the defence may propose during the Case Conference.

## **5.7 Committal proceedings**

### **5.7.1 Applications to call witnesses in committal proceedings**

Witnesses may be called to testify in committal proceedings in specific situations as defined by ss 82 and 84 of the Criminal Procedure Act 1986 (NSW).

For victims of offences involving violence, a witness may be called if the Magistrate is satisfied that there are special reasons why the victim should, in the interests of justice, be required to give evidence.

For other witnesses, they may be called if the Magistrate is satisfied that there are substantial reasons why, in the interests of justice, the witness should attend to give oral evidence, or if the other party consents to the witness being called to give evidence.

The responsibility for preparing and appearing in applications under ss 82 and 84 lies with the ODPP prosecutor.

The OIC should provide the ODPP prosecutor with the most current information regarding the witnesses' unavailable dates. If a Magistrate orders a witness to attend court to give evidence, the OIC is to issue subpoenas for these witnesses upon the request of the ODPP prosecutor. The ODPP prosecutor will provide the necessary subpoenas for this purpose.

### **5.7.2 Unfitness to be tried**

The question of an accused person's fitness to stand trial can be raised by the defence, the prosecutor, or the Magistrate at any point during the committal proceedings. If the Magistrate is convinced that the issue of fitness has been raised genuinely, they have the authority to commit the accused person for trial after the Charge Certificate has been filed.

Additionally, the Magistrate may stipulate that a psychiatric report or another relevant report concerning the accused person must be presented to the Court by either the accused or the prosecutor before the matter is committed for trial.

In the District Court, the procedures outlined in the Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (NSW) are followed. This typically involves a fitness hearing, followed by either a special hearing or a trial, depending on the circumstances.

### **5.7.3 Committal for sentence**

In situations where a Case Conference Certificate is not required, such as in the case of an unrepresented accused, the Magistrate will commit the accused after the Charge Certificate has been filed. The setting of a trial date will be contingent on the matter being listed in the District Court.

### **5.7.4 Committal for trial**

Magistrates are not required to assess the evidence to determine whether there is sufficient evidence to commit a person for trial. Instead, in cases where a plea of not guilty is maintained, the accused will be committed for trial once a Case Conference Certificate has been filed.

In situations where a Case Conference Certificate is not required, such as in the case of an unrepresented accused, the Magistrate will commit the accused after the Charge Certificate has been filed. The setting of a trial date will be contingent on the matter being listed in the District Court.

In trial matters, when evidence has been served in an alternative form, meaning in an inadmissible form, it is essential to secure that evidence in an admissible form and promptly serve it on both the ODPP and the defence. This should be done as soon as practical.

Additionally, you should ensure the provision of current and available dates for all witnesses to the ODPP prosecutor. This information should be provided after the matter has been committed for trial and before the trial date is scheduled in either the District Court or Supreme Court.

## Appendix 1 – Brief items list and summary of evidence

[Click here to download a blank EAGP coversheet from the intranet.](#) This is the standard coversheet template to be included with all EAGP briefs.

## Appendix 2 – Alternative forms of evidence

The original table included in the MOU between the NSWPF and the ODPP (see Appendix 6) is replicated here for ease of reference.

<b>Evidence to be included in the EAGP Brief</b>	<b>Acceptable Alternative Forms of Evidence (where not yet obtained in admissible form)</b>
Key police and key witness statements, including from the Officer in Charge	Not applicable – there is no alternative inadmissible form acceptable for important police or witness statements
Victim signed statement or transcript of recorded interview	In offences other than sexual assault or violence: notebook with jurat and signature accompanied by a typed version
Witness statements and/or transcript of interview	For non-key witnesses: handwritten signed statements in police notebook
DVEC recording and transcript	Not applicable – provide in full
Other Evidence containing admissions by the accused	Not applicable – provide in full
Photographs or documentary evidence	Statement producing it not required provided photographs contain captions explaining their origin
Identification Parade (including photograph parade)	Statement producing the recording is not required DVD recording of parade is required
Electronic Recorded Interview of a Suspected Person (ERISP) transcript	Not applicable – provide full transcript

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CCTV footage	Statement producing the footage is not required to be provided. A synopsis is to be provided which includes details about where the CCTV footage originates from. The video must be playable without additional software.
Other Audio-Visual Material (e.g., Body worn video, Search Warrant Video)	Relevant recordings, property seizure form and exhibit list (from Forensic Database) are to be provided.
Police scientific evidence (includes DNA, fingerprint, ballistics, drug, and chemical analysis)	Result from Forensic Database or Forensic Summary Report. Short form statement / certificate with expert opinion explaining the summary report. Presumptive drug testing results which identify drug and quantity.
Telephone Intercepts and Listening Devices Audio and Transcripts	Audio of all relevant recordings with a detailed synopsis of the contents. All calls should be summarised with explanation of any code/s used and identified. Key calls will need to be transcribed
Visual and other Surveillance Evidence	Surveillance Log and relevant footage / photos
Telephone records	Download from iASK – but must include a synopsis
Expert Medical	Photos, discharge summary, clinical notes or short opinion from doctor, and SAIK
Expert Evidence	Short form opinion
Digital Device Downloads	Digital evidence download report (e.g., Cellebrite)
Financial Evidence	Business records relied upon with a synopsis (e.g., Statement of Account)
Evidence obtained overseas including Mutual Assistance Evidence.	Evidence about Mutual Assistance formalities not required.



## Appendix 3 – Quick Reference Guide – EAGP Roles and Processes

For a quick guide to see which prosecuting agency is responsible for a matter at any given point of its lifecycle, and a brief explanation of what occurs at each step, see the table below.

Court appearance	Prosecuting agency	What happens in court?
<p><b>First mention</b></p> <p>Brief service orders</p>	<p>Police Prosecutors</p>	<p><b>Police Prosecutor</b></p> <ul style="list-style-type: none"> <li>- In standard matters seek an order that the brief be served on accused and ODPP in 8 weeks.</li> <li>- Adjourn the matter to the general list court day (NOT the DPP list).</li> <li>- Seek a longer adjournment for brief service if instructed to do so by the OIC.</li> </ul> <p><b>Officer in Charge</b></p> <ul style="list-style-type: none"> <li>- Provide any instructions to the prosecutor regarding extended brief service orders if appropriate.</li> <li>- Deliver the completed EAGP brief to your supervisor for review no later than seven days before the brief service date ordered by the Court.</li> </ul>
<p><b>Second+ mention</b></p> <p>Confirmation of brief service</p> <p><i>Note: this step will repeat until the brief of evidence has been served.</i></p>	<p>Police Prosecutors</p>	<p><b>Police Prosecutor</b></p> <ul style="list-style-type: none"> <li>- Advise the Court if the brief has been served. If served, seek an adjournment for the ODPP to file and serve a Charge Certificate within six weeks (or longer if instructed to by the ODPP). Adjourn to the DPP list.</li> <li>- If the brief has not been served, seek a further timetable for brief service based on instructions provided by the OIC. Retain the matter in the general list court day.</li> </ul> <p><b>Officer in Charge</b></p> <ul style="list-style-type: none"> <li>- Ensure the prosecutor is fully instructed if there are delays to the service of your brief.</li> </ul>
<p><b>Third+ mention</b></p> <p>Filing the charge certificate</p> <p><i>Note: police prosecutors appear in local court bail applications until this</i></p>	<p>ODPP</p>	<ul style="list-style-type: none"> <li>- If a Charge Certificate has been filed and the accused is legally represented, the Court will adjourn the matter for 8 weeks and order the parties to attend a Criminal Case Conference within 6 weeks.</li> <li>- The Court is to be advised of the date set for the Criminal Case Conference. If the parties are unable to provide the Court with a Case Conference date, the matter will be adjourned for a period not exceeding 7 days to enable the parties to set a date for the Criminal Case Conference.</li> <li>- Following the Case Conference, the parties must finalise and file the Case Conference Certificate before the next court date.</li> </ul>



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<p><i>mention date has occurred</i></p>		<ul style="list-style-type: none"> <li>- If the accused is unrepresented, the Court will adjourn the matter for two weeks to allow the accused to obtain legal advice or to allow informal case conferencing to occur.</li> </ul>
<p><b>Fourth+ mention</b></p> <p>Filing the case conference certificate</p> <p><i>Note: this step may be repeated if a further filing date is set</i></p>	<p align="center">ODPP</p>	<p><b>If accused is legally represented:</b></p> <ul style="list-style-type: none"> <li>- If a Case Conference Certificate is or has been filed, the matter may be committed to the District or Supreme Court for trial or sentence or adjourned to allow a party to make an application to call a witness or witnesses to give evidence in committal proceedings (see below).</li> <li>- If a Case Conference Certificate has not been filed, the Court may set a further timetable for the filing of the Case Conference Certificate and, if required, set a further date for a Case Conference.</li> </ul> <p><b>If accused is unrepresented:</b></p> <ul style="list-style-type: none"> <li>- The Court will require the accused to enter a plea.</li> <li>- The matter will then be committed for trial or sentence.</li> </ul>
<p><b>Optional:</b> Application to examine witnesses</p> <p><i>Note: this can occur at any time after the charge certificate has been filed</i></p>	<p align="center">ODPP</p>	<ul style="list-style-type: none"> <li>- If a party tells the Court that they will be making an application to call a witness to give evidence in the Local Court, the Court will order the applicant (ODPP or defence) to file and serve their submissions on the respondent within two weeks.</li> <li>- The respondent will have two weeks to consider the applicant's submissions.</li> <li>- The matter will be adjourned for a total of four weeks.</li> </ul>
<p><b>Optional:</b> Reply to application to examine witnesses</p>	<p align="center">ODPP</p>	<ul style="list-style-type: none"> <li>- If submissions to call a witness to give evidence in the Local Court have been filed and the application is contested, the Court will list the matter for hearing of the application.</li> <li>- If submissions to call a witness to give evidence in the Local Court have been filed and the application is not contested, the Court will list the matter for the hearing of the evidence.</li> <li>- If submissions to call a witness to give evidence in the Local Court are not filed in accordance with the timetable set by the Court, the Court will presume that the application has been abandoned. No further adjournment will be granted unless the interests of justice otherwise dictate.</li> </ul>
<p><b>Optional:</b> Determination of application to examine witnesses</p>	<p align="center">ODPP</p>	<ul style="list-style-type: none"> <li>- The Court will hear and determine the application to call witnesses to give evidence in the Local Court.</li> <li>- If the application is successful, the Court will order that the witnesses attend court to give evidence on first available court date.</li> <li>- If the application is unsuccessful, the matter will be adjourned for a Criminal Case Conference, if required.</li> <li>- If a Case Conference Certificate has already been filed, the matter will be committed to the District or Supreme Court for trial or sentence.</li> </ul>

<b>Optional:</b> Examination of witnesses hearing	ODPP	<ul style="list-style-type: none"><li>- If the application to call evidence was successful, the witnesses will give evidence.</li><li>- The matter will then be adjourned for a case conference/further case conference (if required) or the matter will be committed to the District or Supreme Court for trial or sentence.</li></ul>
<b>Unfitness to be tried</b>  <i>Note: this can be raised at any time</i>	ODPP	<ul style="list-style-type: none"><li>- If either party raises the question of the accused's unfitness to be tried after a Charge Certificate has been filed, a magistrate may either adjourn the matter for a psychiatric or other report to be obtained or commit the matter to the District Court or Supreme Court for trial.</li><li>- The issue of fitness will be determined in the higher court.</li></ul>

## **Appendix 4 – Agreement between NSW Police Force and ODPP (NSW) concerning the content and service of EAGP briefs and charge certificates**

The MOU between the NSWPF and ODPP governs our inter-agency interactions including requisitions, timeframes, and general guidance. [Click here to view on the NSWPF intranet.](#)

## **Appendix 5 – Local Court Practice Note Comm 2**

Local Court Practice Note Comm 2 commenced on 30 April 2018 and is the main source for the procedures outlined in this document. [Click here to view online.](#)

## 6 Endnote References

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<sup>i</sup> Policy format and name changed to comply with CET Memorandum D/2023/1307809.