



FORCE CIRCULAR MEMO

No: 89 - 8

Date: 1st November, 1989

Policy Division
Research and Development Department
Phone: 320 3225

The following instructions are published in accordance with Executive Instruction 114 and will remain in force until 31st December, 1990 unless earlier revoked or incorporated in Standing Orders or the Police Manual.

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89-8-1

PRELIMINARY HEARINGS
MELBOURNE MAGISTRATES' COURT

INTRODUCTION

1. A number of procedural changes are being phased in to streamline committal proceedings at the Melbourne Magistrates' Court and the Melbourne Magistrates' Court sitting at Hawthorn.
2. These will allow Committal Mention Hearings to be introduced at the court from 1 February, 1990.
3. A key feature of the changes is the imposition of time constraints for the preparation and service of hand-up briefs. However, these may be extended on application to the court if sufficient grounds exist.

COMMITTAL MENTION HEARINGS

Informant's Role

4. To give effect to the new procedures, an informant must:-
 - (a) set a Committal Mention date in accordance with the table shown. This date must be as near as practicable to the exact day falling 2, 3 or 4 months (as applicable), after the date of arrest or issue of summons;
 - (b) contact the Co-ordinator's Office at the Melbourne Magistrates' Court and supply the particulars requested. An answering machine has been installed at the Co-ordinator's Office so that these particulars may be left after hours (**PHONE: 663 3018**).

It is no longer necessary to contact the Co-ordinator prior to booking the committal date;

- (c) serve the hand-up brief, where practicable, at least 28 days before the court date; and
- (d) attend the Committal Mention Hearing on the date set.

TIME CONSTRAINTS

Commencement Date	Type of Case	Committal Date Set
1st October, 1989	Deft. not in custody (Bail/Summons)	4 months
1st November, 1989	Custodial	3 months
1st December, 1989	Rape Offences (Proceedings) Act	2 months
1st December, 1989	Indictable Offence triable summarily but elects trial	2 months from the date of election at court

Magistrates' Role

5. At the Committal Mention Hearing:-

- (a) **Where no notice for witnesses has been served** - the matter will proceed as a hand-up brief;
- (b) **Where a notice for witnesses has been received** - the matter will be adjourned for a committal hearing within a few weeks. It is important that the informant knows the availability of witnesses;
- (c) **Where an adjournment is sought** - the application will be heard on the spot, and if granted, the matter will be adjourned for a further mention hearing;
- (d) **When a summary hearing is agreed** - the matter will be dealt with immediately as a plea of guilty or adjourned as a contest.

HAND-UP BRIEF**Preparation of Brief**

6. A "**Committal Mention Hearing**" notice must be used to replace the existing V.P. Form 571 (Notice of Preliminary Examination) for all cases dealt with under the new procedures. A copy is attached (Appendix "A").

7. The hand-up brief must be served on the accused and consists of:-
- (a) **the Committal Mention Hearing notice;**
 - (b) **a list of witnesses;**
 - (c) **copies of all statements to be tendered;**
 - (d) **a copy of the information (charges);**
 - (e) **a copy of any document which the informant intends to produce as evidence;**
 - (f) **a list of exhibits; and**
 - (g) **a photograph of any exhibit that cannot be described in detail in the list of exhibits.**

Requests for Adjournments

8. Before seeking an adjournment, the informant must satisfy his or her officer in charge of the need to do so. The co-ordinator and the defendant must then be notified and an application made to the Court, either prior to or on the day of the Committal Mention Hearing. Adjournments will not be granted without good reason.

9. Where informants are waiting for the results of forensic tests and there is sufficient to commit the accused without that evidence, then consideration should be given to serving an incomplete brief on the accused.

Lodging Hand-Up Briefs

10. The prosecutor's, Magistrate's and original copies of the hand-up brief are to be lodged at the City Court Prosecutors' Office, where practicable at least three weeks before the hearing.

Attendance of Witnesses

11. **Witnesses are not required at Committal Mention Hearings. Where a notice for witnesses is received from the defence the informant should be in a position to advise the court on witness availability, but otherwise take no action at that stage.**

Responsibility of the Officer In Charge

12. The Officer in Charge of the informant's station or unit is responsible for ensuring that these instructions are complied with. This includes monitoring progress, seeing that prompt action is taken, and ensuring that applications for adjournments are only made on justifiable grounds.

Extension to Other Courts

13. While these procedures initially apply only to the Melbourne Magistrates' Court, they may be extended by local arrangement to committals at other courts, if appropriate.

(C.R.B. File No. 5-11-1231)

89-8-2

DELEGATION OF AUTHORITIES TO SENIOR SERGEANTS

1. Notwithstanding any existing guidelines, instructions or delegations, members of Senior Sergeant rank are authorised to grant approvals, issue necessary directions, undertake investigations, prepare reports, make notifications, and otherwise act with regard to:-

- * Overtime
- * Police accidents
- * Complaints against police
- * Arrest of juveniles
- * Transfer of prisoners
- * Bomb incidents/threats
- * Illnesses on police premises
- * Injuries of members
- * Police pursuits
- * Notification of serious incidents.

2. These instructions are not intended to usurp the authority of an Officer, but to assist Senior Sergeants in the supervision and management within Districts.

3. Serious matters should still be referred to the Duty Officer in appropriate circumstances.

4. Standing Orders and Police Manual will be amended in due course.

(C.R.B. File No. 4-11-389)

89-8-3

POLICE ESCORTS OF DECEASED PERSONS**INTRODUCTION**

1. The following procedures come into effect on 1 November, 1989 and apply to the reporting of deaths to the State Coroner and the escort of bodies in the Melbourne Metropolitan area.
2. Generally, the Victorian Civil Ambulance will no longer transport bodies and the services of a Government contracted Funeral Director will be required for that purpose. Subject to paragraph 3, police escort of any body transported by ambulance is not required.

Body Escorts - When required

3. In future, police escorts of bodies to the Coronial Services Centre will only be required where:-
 - (a) there are suspicious circumstances associated with the death;
 - (b) the investigating member believes it necessary; or
 - (c) the State Coroner's Office otherwise requires an escort.

NON ESCORT OF BODIES - PROCEDURE TO BE FOLLOWED**Reports Of Death**

4. The attending member must complete a "Report of Death" (V.P. Form 83) and:
 - (a) fax a copy of the original to the State Coroner's Office (FAX 629 1206); or
 - (b) ensure it is conveyed with the body by the Government contracted Funeral Director.

Responsibilities of Attending Member

5. In every case where it is not proposed to escort the body, the **attending member must**:
 - (a) contact the State Coroner's Office **from the scene**, by telephone if possible or otherwise via D24, to report the death and obtain a case number before the contracted Funeral Director is called. Any direction given by the State Coroner's Office must be complied with;

- (b) ensure that an identifying tag is attached to the deceased by the contracted Funeral Director (who will carry tags for this purpose). The State Coroner's Office case number should, where possible, be recorded on the tag with the name of the deceased;
- (c) subject to paragraph (d), **so far as practicable remove all property from the body at the scene.** The contracted Funeral Director will have property sheets with provision to record all property, whether removed from the body or accompanying it. The property sheet is to be signed by the attending member and the Funeral Director and a copy kept by the member.

The overall responsibility for all property remains with the police. Property which is removed from the body at the scene is to be handled in the normal manner. If taken back to a Police Station, it is to be recorded in the station Property Book;

- (d) ensure that clothing or other items that may be relevant to the pathologist's investigation accompany the body. Examples in the case of suicides would be:
 - * Gunshot wounds - Clothing left on body to enable examination for powder residues
 - * Hanging - Rope to accompany the body
 - * Drug overdose - Syringes and other relevant drugs to accompany body.

Identification and Certification

6. **Identification.** Where possible, identification of the deceased should be made at the scene by relatives or others, and the details recorded on a V.P. Form 84B. If this form is used it must accompany the body to the Coronial Services Centre.

7. **Certification.** Certification of death by a doctor is required in every case of death. This can be done by a doctor at the scene or by the contracted Funeral Director calling at a hospital between the scene and the Coronial Services Centre.

Assistance from State Coroner's Office

8. If an attending member has any doubts as to the necessity of an escort, removal of property, or any other matter, advice may be sought from the State Coroner's Office at any time (Phone 648 4444).

General

9. Chapter 10 of the Manual will be amended in due course.

(C.R.B. File No. 82-3-831)

89-8-4

USE OF BATONS**Purpose**

1. The following guidelines replace Standing Orders paragraph 3.22 and F.C.M 89-4-2, and revise existing instructions regarding the issue and use of batons.

Guidelines

2. Short batons may be issued to all members. However, long batons may only be issued to **uniformed** members trained in their use.

3. Long batons must not be issued to members rostered for duty at sporting events and demonstrations without the approval of the Officer in Charge of the event.

4. When carried on the person, the long baton is to be kept on the belt ring, and when carried in the vehicle, is to be stored in the vehicle carriage tube.

5. Issue and return of all batons is to be recorded in the Watch House Keeper's Book.

(C.R.B. File No. 87-1-911)

89-8-5

VICTIMS OF SEXUAL ASSAULTS

1. The following guidelines are issued for members dealing with the victims of sexual assaults, including rape, assault with intent to rape, attempted rape, incest, gross indecency and serious indecent assault.

Initial Action

2. The member first attending a report of serious sexual assault should:

- * Make the welfare of the victim the first consideration;
- * Consider immediate medical treatment for shock, hysteria, and physical injuries; and
- * Arrange for the attendance of the Community Policing Squad and Criminal Investigation Branch.

3. If no CPS member is available to assist the victim, an appropriate alternative member must be detailed to attend.

Duties of the Member Assisting the Victim

4. The CPS member or alternative member must:
- * Ascertain what offences have occurred;
 - * Contact the Office of Forensic Medicine (previously known as the Police Surgeon's Office), who will nominate a hospital to which the victim is to be conveyed and the estimated time of the Police Surgeon's arrival;
 - * Inform the hospital that the victim and a Police Surgeon will be attending. The hospital will provide a Sexual Assault Centre worker to help support the victim;
 - * Accompany the victim to the hospital and after the medical examination, collect any clothing and medical exhibits and label them. (Exhibits should be handled appropriately. Wet or bloodstained exhibits must not be wrapped in plastic. Medical exhibits if held, must be stored in a locked refrigerator which is not used for food storage);
 - * As soon as possible, obtain the victim's statement. (If the victim needs rest, obtain initial details and later obtain a statement);
 - * Convey exhibits to the State Forensic Science Laboratory with a copy of the victim's statement and the Sexual Offence - Preliminary Investigation Guide (V.P. Form 284);
 - * Obtain and forward a copy of the Crime Report and V.P. Form 284 to the Modus Operandi Room at the Information Bureau;
 - * Forward a statement of all relevant details (including continuity of exhibits) to the investigating member.
5. The victim is to be advised of the progress of the investigation, contacted to enquire if further referral to a supporting agency is required, and accompanied to any Court hearing by the original assisting member. If that member is unavailable then he or she shall arrange for a worker from the Victorian Court Information and Welfare Network to accompany the victim.

(C.R.B File No. 24-61-4180)

89-8-6

BOMB INCIDENTS/THREATS**Initial Action**

1. Attending members are to inform the nearest Communications Centre of:-
 - * Incidents involving the use or threatened use of explosives;
 - * The locating of any explosive, pyrotechnic or incendiary material;
 - * The location of any explosive device or suspected explosive device.
2. The Communications Centre should immediately advise the Duty Officer or District Supervisor who must assess the situation and decide whether the Explosives Incident Officer (E.I.O.) from the Protective Security Groups should be notified.

Explosives Incident Officer

3. The E.I.O. will assess the situation and where appropriate, attend the scene. The E.I.O. is responsible for activating authorities and resources as required, including:-
 - * Army E.O.D. Unit;
 - * Explosive detector dogs;
 - * Department of Labour (Dangerous Goods Branch).
4. If attending a scene, the E.I.O. will liaise with the member in charge of the incident, and take control of the inner perimeter.

General

5. These instructions replace those contained in the Manual **6.3(1) - (4)**.

(C.R.B. File No. 68-2-562)

89-8-7

DONATIONS OF EQUIPMENT TO THE VICTORIA POLICE

1. Donations of equipment to the Victoria Police Force may only be accepted if:-
 - * The equipment meets Force standards;
 - * The equipment becomes the property of the Victoria Police;
 - * The donor acknowledges, in writing, that the Force is under no obligation to use the equipment in the area requested and may re-allocate the equipment;
2. If the equipment is of a technical or complicated nature the appropriate specialist area within the Force must be consulted before the donation is accepted. Specialist areas include the Radio Electronics Division, Information Technology Division (ITD) and, where the equipment is to be installed in a police vehicle, the Police Workshops.

(C.R.B File No. 87-5-474)

89-8-8

BREACHES OF SUSPENDED SENTENCES

1. Where a court convicts an offender of an offence punishable by imprisonment, which was committed during the operational period of a suspended sentence, the court must remand or bail the offender to the court which imposed the suspended sentence unless:-
 - * It is itself the court which imposed the suspended sentence; or
 - * It is a Magistrates' Court and the suspended sentence was imposed by another Magistrates' Court.
2. Where an offence has been committed during the operative period of a suspended sentence, the informant for the breaching offence must include in the Brief (whether a Mention Brief or not):
 - * A certified extract for the offence for which the suspended sentence was imposed; and,
 - * Evidence to prove that the defendant named in the certified extract is the defendant before the Court. This evidence may be of admissions, a Notice to Admit signed by the defendant, or evidence from a person (in Mention Court Briefs, the evidence should be given in the summary).
3. FCM 89-1-24 is cancelled.

(C.R.B File No. 5-1-3124)

89-8-9

DECLARATION OF A MAJOR CRIME**Purpose**

1. These instructions are to formalise the procedures for the declaration of a "Major Crime".

Operation

2. The Chief Superintendent, State Crime Co-ordination may declare any incident or series of incidents to be a Major Crime. The Crime Department will then assume responsibility for the investigation and liaise with the District Commander(s) concerned.

3. To facilitate this process, District Commanders should notify the State Crime Co-ordination Office of any crime or series of crimes likely to arouse serious public concern or significant media interest. After hours notification may be via the duty Detective Inspector.

4. When the declaration of a Major Crime has been made the Detective Chief Superintendent must notify the relevant District Commander(s) and the Assistant Commissioners (Crime) and (Operations) in writing. The notification must include:-

- * an outline of the incident;
- * the time and date of the declaration; and
- * the name of the Detective Officer in charge of the investigation.

5. Command of a Major Crime investigation may be passed back to the local level by agreement between the Detective Chief Superintendent, and the District Commander(s).

(C.R.B. File No. 24-1-2870)

89-8-10

CRIMES COMPENSATION TRIBUNAL**Purpose**

1. These instructions are to improve response to Crimes Compensation Tribunal requests, and take effect from **1 November, 1989**. From that date the Secretariat will no longer be responsible for co-ordinating these responses. Instead, that responsibility will devolve to District level.

Assistance to Victims

2. Where injury or death has been caused by a criminal act, the investigating members should inform the victim, or the victim's relatives, of their eligibility for compensation.
3. Claim forms are available at court houses or from the Registrar, Crimes Compensation Tribunal.

Handling of Inquiries

4. Each District must appoint a member of the District Office staff to act as liaison officer to the Crimes Compensation Tribunal. All inquiries from the Tribunal will be directed to that member.
5. On receipt of a request from the Tribunal, the liaison officer must co-ordinate the response and ensure that a reply is given within 2 months. Details concerning the information required will be included with the request from the Tribunal.

(C.R.B. File No. 24-5-2503)

89-8-11

ORGAN DONORS - NOTIFICATION OF MEDICAL TEAMS**Information**

1. Many people have chosen to become Organ Donors, so that in the event of their death, their organs may be used for transplant or other medical purposes. This is usually indicated by affixing a red 'Organ Donor' label to a Driver's Licence and/or carrying a 'Donor Card'.
2. Members should be mindful of this possibility when dealing with any effects of critically injured or deceased persons. With respect to Driver's Licences, members attending accidents and the like are often the only persons in a position to ascertain and pass on this information.

Action

3. When it comes to the notice of a member that a critically injured or deceased person may have desired to be an Organ Donor, the member should immediately inform the Registrar or Casualty staff of the receiving hospital. It is crucial that medical teams receive this information as soon as possible if the Organ Donor's wishes are to be effectively fulfilled.

(C.R.B. File No. 82-4-41)

89-8-12

EXTRANEOUS APPOINTMENTS

1. Applications for approval to accept extraneous appointments must be forwarded through usual channels to the Assistant Commissioner (Personnel) where they will be considered on an individual basis. However, in general terms no extraneous appointments will be made where:-

- (a) there is a possibility of conflict of interest;
- (b) the appointment would impact on the member's police duties; or
- (c) remuneration is provided.

2. In cases where an appointment would assist Force operations or objectives, favourable consideration will be given to approval.

(C.R.B. File No. 5-4-2517)

89-8-13

INCIDENTS INVOLVING DEATH OR LIFE THREATENING SITUATIONS ON POLICE PREMISES**Purpose**

1. The following policy applies to ensure that incidents involving death or life threatening situations occurring on police premises are properly and impartially investigated.

Policy

2. Where a person dies or a life threatening situation occurs on police premises (including in police cells), the senior member present must immediately notify the Internal Investigations Department. This can be done during office hours by telephoning direct, or after hours by contacting the "on call" Internal Investigations Unit through the on-line supervisor at D.24.

3. The Internal Investigations Department will not be responsible for investigating the matter, unless the Assistant Commissioner (Internal Investigations) so directs, but will supervise the investigation to ensure:-

- (a) commonality of investigation; and
- (b) sufficiency, quality and completeness of the investigation so that accurate information is available to enable senior officers to satisfy public interest, take remedial action if necessary, and ensure that all available evidence is provided for any subsequent coronial or other inquiry.

4. When an inquest brief is to be prepared, the District Commander will ensure that the investigation is conducted by an independent Detective Sub-Officer.

General

5. Force Circular Memo 88-6-9 is cancelled.

(C.R.B. File No. 82-6-13)

89-8-14

AMENDMENT OF PREVIOUS FCMs

Police Collisions

1. The instructions contained in FCM 89-4-3 are varied as follows.
 - (a) Senior Sergeants may now undertake all of the functions and responsibilities previously restricted to Duty Officers;
 - (b) Police collisions must be attended by an independent member, preferably a Sergeant, from the District where the collision occurred and the file must still be referred to the Officer in Charge of that District. However, the Duty Officer or Senior Sergeant may be drawn from the Crime Department or Traffic and Operations Support Department if the driver of the police vehicle is attached to their Department and within their line control.
 - (c) District Commanders must ensure that files relating to police collisions are **completed and submitted within 28 days** of the date of the collision. If this is not possible a progress report is to be submitted, detailing the reasons for the delay.

Report of Death - Correspondence for Coroner

2. The instructions in 89-7-6 relating to transmission of Briefs to the Coroner's Court apply to metropolitan areas only. In Country areas the original brief is to be forwarded direct to the Coroner at the place of hearing, and the duplicate to the station in the area where the inquest is to be held.


DEPUTY COMMISSIONER

Committal Mention Hearing

Appendix "A"

Magistrates' (Summary Proceedings) Act. Section 45(1)

To the
Defendant

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Warning: This is an important document. If you need help to understand it you should see a solicitor, the Legal Aid Commission or a Clerk of the Magistrates' Court.

You have been charged with

These charges were made by
(Police Informant)

The Court must decide if you should stand trial for these charges. A **Committal Mention Hearing** will be held at Melbourne Magistrates Court on

/ /19

Copies of statements made by witnesses will be given to the Court as evidence in the case against you. Copies of these statements are in the papers that were given to you with this notice. A list of the witnesses who have made statements is written below.

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At the Committal Mention Hearing

1. You **must** attend Court on the date for your Committal Mention Hearing.
2. The witnesses **will not** be at Court that day.
3. You have the right to request that some or all of the witnesses attend a Preliminary hearing at a later date to be cross-examined by you or your lawyer. **You must make the request at least 14 days before the Committal Mention date.** If you want to call your own witnesses you must also let the Clerk of the Magistrates' Court know how many witnesses you will be calling.
4. If you do not make this request, the statements will be considered as evidence by the Magistrate. The Magistrate will also consider anything you have to say and then decide whether or not to send you for trial at the Supreme Court or County Court

If you want to cross-examine witnesses.

5. If you want any witness to attend a Preliminary Hearing (held after the Committal Mention Hearing) to be cross-examined you **must give written notice to the police Informant and to the Clerk of the Melbourne Magistrates' Court at least 14 days before the Committal Mention date.** if the written notice is received later than that you may not be allowed to cross-examine any witness.
6. On the Committal Mention date you will be told the date of the Preliminary Hearing at which you or your lawyer can cross-examine witnesses. It will be a few weeks after the Committal Mention Hearing. If you have given notice requiring that witnesses attend you must come to Court on the day of the Preliminary Examination.
7. The Magistrate can refuse your request to cross-examine a witness if the Magistrate is satisfied that your request is vexatious, frivolous or oppressive. You will be told at least 72 hours before the Committal Mention date if the Magistrate is considering making such an order.

The Preliminary Examination

8. A Preliminary Examination where witnesses are cross-examined will only be held if you have given written notice as set out in paragraph 5 of this statement.
9. You must attend the Preliminary Examination, and if you want to call any witnesses of your own you must arrange for them to attend Court on that date.
10. After the witnesses have been cross-examined and you have given evidence or called any witnesses of your own, the Magistrate will decide whether or not to send you for trial at the Supreme Court or the County Court.

Affidavit of Service

I

of

a member of the Police Force in the State of Victoria make oath and say that I served the defendant with the notice set out on the front of this document and the explanatory notice also printed on this notice by delivering a true copy to him/her

personally at:

on

 / /19

Signature

Sworn at:

on

 / /19

Before me:



Justice of the Peace
Clerk of the Magistrates' Court