

# POLICE GENERAL ORDERS

## CHAPTER 45

### CHARGE SHEETS AND COURT PROCEDURE

3/01

#### Definitions

"Criminal Matters" in respect of legal advice include all investigations which may result in a prosecution, death enquiries or process under traffic legislation, but does not include civil and disciplinary matters. "Criminal Matters" includes submissions for the prosecution to apply for a review of sentence or to appeal against a verdict or sentence. "Plea Counsel" and "Counsel" refer to those acting for the prosecution. The "CIS" is the Communal Information System. This chapter should be read in conjunction with the relevant chapters of the current "CIS Training Manual". Chapter numbers are not quoted due to the frequent amendment of the manual. Care must be taken to ensure the most recent version of the manual is being referred to. The latest version of the manual can be ascertained from the Central Helpdesk on telephone 2860 3444.

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#### 45-01 Charge Sheets

Under no circumstances shall an accused person be charged or additionally charged with an offence on the grounds of information obtained solely from an antecedent statement or arrest form [Pol. 539 (Rev.)], regardless of whether the person has been cautioned.

2. An officer shall not:-

- (a) record a defendant's CRB number on a charge sheet;
- (b) record on a charge sheet any item which may reveal previous convictions or bad character such as a Methadone Treatment Card, or occupation as "prostitute";
- (c) record a nickname or alias, 'No Criminal Record' or NCR after a defendant's name on a charge sheet; or
- (d) use a charge sheet for the recording of prejudicial information about a defendant such as 'unemployed' or any other notes or comments with the exception of the details of remands and results of cases.

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#### 45-02 Consolidation of Charges, Additional and Amended Charges

When the prosecution applies for consolidation, the consolidated charge sheet will be submitted to the court at the time the application is made.

2. When the magistrate orders consolidation of charges, the OC Case will ensure that consolidated charge sheets are submitted to the court at the appropriate time.

**45-03 Statements in Answer to Charges**

An officer shall:-

- (a) prepare a separate Statements in Answer to Charges form (Pol. 60) for each person to be charged and in respect of each charge;
- (b) ensure that the name of the defendant, the particulars of the offence and statement of the section of the law contravened coincide with those on the charge sheet;
- (c) when charging a prisoner, read the charge to him in his own language or dialect and, if done through an interpreter, be present throughout the proceedings;
- (d) satisfy himself that the defendant understands the charge and then caution him using an interpreter if necessary, and satisfy himself that the caution is understood;
- (e) if the defendant elects to make a statement, invite him to write it himself in the space provided on the Pol. 60 continuing if necessary onto the reverse of the form and onto plain sheets of paper, suitably cross-referenced;
- (f) if the defendant does not wish to write his own statement, ensure it is written as dictated in the language in which he speaks; and
- (g) at the conclusion of the statement by the defendant, invite him to read it, or read it to him, and permit him to make any alteration he may wish. When the defendant is satisfied that the statement is correctly recorded, request the defendant to signify this by signing each sheet of paper on which the statement is recorded.

2. If a statement has been recorded in any language other than English, it shall be translated into English by the interpreter who recorded it.

3. A copy of the completed and signed statement shall be attached to the charge sheet in all cases other than hawker and minor offences. The original statement shall be handled as an exhibit, entered into CIS under the appropriate RN, and retained by the appropriate officer. Any certified translation of the original statement shall likewise be entered into the CIS under the appropriate RN. If the original statement is not produced in court as an exhibit the OC Case shall, at the conclusion of all proceedings, advise the ADVC Admin (or equivalent), concerning disposal of the statement in accordance with provisions of PGO/FPM Chapter 30.

4. Whenever a charge is preferred the OC Case shall provide to the person charged a completed Pol. 60 (see FPM Chapter 45-39 for the CIS Offence Database).

**45-04 Charging of Young Offenders under Training at Detention Centres with Further Offences**

Provided sufficient evidence is available, action to charge a young offender for further offences committed before admission to a Detention Centre shall be taken whilst the offender is still in custody.

**45-05 Summary Briefs**

When an interpreter has been used during investigation (other than for simply reading the charge) the OC Case shall ensure the name of the interpreter is clearly stated in the summary brief.

2. If a memo is sent to the Court Interpreter's Office or to the court requesting interpretation services in court, the OC Case shall ensure the name of any interpreter used during the investigation is clearly stated in the memo.

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**45-06 Handling of Case Papers at Police Stations and other Formations**

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Officers nominated by their Formation Commander to check charge sheets and summary briefs before they are despatched to court shall ensure:-

- (a) the charge is correctly laid and the law correctly stated in the bilingual charge sheets in both languages;
- (b) the evidence contained in the brief facts of the case is sufficient to support the charge(s); and
- (c) the documents do not contain information which should not be included, such as the CRO number of the defendant, or that he has previous convictions.

**Proforma for Outstanding Case(s) Enquiry (Pol 1109) – Production at Magistracy**

2. In order to avoid multiple trials and sentencing of an offender, a proforma (Pol 1109) is introduced to ensure that full information on other outstanding criminal proceedings is provided to the prosecutor, who will in turn determine whether the matter is to be brought to the attention of the court.

3. Pol 1109 should be filled in on the first, and **each and every** subsequent court hearing to ensure the most updated information is contained, regardless of whether there are any outstanding cases or not.

**For Fresh Case or Mention**

4. Charge sheets, summary briefs and Pol 1109 (Annex D) should be sent to arrive in court as follows:-

- (a) for defendants on bail - one day prior to their court appearance;
- (b) for defendants not on bail - before 0830 hours on the day of their court appearance.

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5. New charge sheets or related summary briefs which include charges or matters which are other than routine, together with Pol 1109 should be sent to arrive at court at least one full day before the appearance, in order to give time for the prosecutor to read through the documentation and make any enquiries or amendments as necessary. Matters that are other than routine include, but are not limited to, the following:-

- (a) several charges relating to the same defendant;
- (b) several connected defendants;
- (c) where the defendant is likely to plead guilty on his first appearance;
- (d) where there are fresh charges against a person granted court bail.

**For PNG Case**

6. Pol 1109 should be sent to the appropriate Magistrate's Court together with the relevant police prosecution file and case papers at least seven clear days (clear days do not include Sundays and Public Holidays) before the date fixed for trial.

**45-07 Handling of Case Papers at Magistrates Court**

An OC Court shall ensure that instructions issued by a court which require action by an OC Case are conveyed by memorandum attached to the relevant case papers, by minute in the case file or by telephone in urgent cases to the respective OC Case.

2. If a magistrate's decision does not appear to be wholly appropriate to the circumstances of the case, the case papers are sent immediately to the OC court who will append his comments and urgently return the file to the Formation handling the case for consideration to be given to applying for a review of the decision. In urgent cases, the OC Court will contact the OC Case directly so that the file can be taken by hand through the appropriate channels to the Department of Justice.

#### **45-08 Charges to be Taken into Consideration**

When the prosecution requires cases to be taken into consideration for which there is insufficient evidence to support the charge, such cases shall be put before the court only after an ADC Crime, DVC or ADVC Crime where he is of CIP rank (or their equivalent in other Formations) is satisfied that there is sufficient material or supporting evidence to safely permit such a course, bearing in mind the provisions of FPM Chapter 45-08.

2. Whether there is material evidence or not, the ADC Crime, DVC or ADVC Crime where he is of CIP rank (or their equivalent in other Formations) shall endorse the case papers to the effect that he has examined the facts of the case or cases to be taken into consideration and has given his approval for this to be done, and that he has also caused a check to be made to establish that it was not impossible for the defendant to have committed the offence or offences by reason of his having been in prison, at a detention centre, treatment centre or other similar institution at the time of its/their alleged commission.

#### **45-09 Charging of Returned Deportees and Expellees**

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A deportee or expelled person who returns to the HKSAR without the permission of the Director of Immigration commits an offence contrary to Section 43(1)(a) and Para. 13 of the Second Schedule of the Immigration Ordinance Cap. 115. When a returned deportee or expelled person is identified through fingerprint comparison CRB will inform the OC Case by endorsing the Pol. 190 Fingerprint Search Result & Case Result Form. The OC Case may contact the Prosecution Section of Immigration Department, on telephone 2712 3043, for assistance on the appropriate section under which a charge should be laid.

2. Original Deportation Orders are retained in CRB and certified true copies only may be obtained for the purposes of court hearing by addressing the SP CRB (Attn. OC NI CRB). Such a certified true copy can be admitted in evidence, according to Section 63(1) of the Immigration Ordinance Cap. 115.

3. Where a certified true copy of a Deportation Order has been tendered as an exhibit in a Court the OC Case should ensure that this is subsequently returned to Police (CRB). Where it is necessary for an OC Case to retain an Order for more than six months, CRB should be informed of this.

4. If a returned deportee is awarded a non-custodial sentence following conviction, the OC Case shall ensure that the deportee is sent to Castle Peak Bay Immigration Centre pending re-deportation. A detention warrant, signed by the Principal Assistant Secretary (Security) under Section 32(3) Cap. 115 will be provided by the Immigration Department (Deportation Section Tel.: 2194 1366).

35/03 **45-10 Vietnamese Migrant/Illegal Immigrant Reporting Procedures**

When a Vietnamese Migrant / Vietnamese Illegal Immigrant is arrested, the OC Case should immediately inform SP OPS PHQ by fax at 2527 8442 or 2865 9786 by completing a Pol 884.

**45-14 Adjournments in Magistrates Courts in the Absence of the Defendant**

When, upon application by the prosecution, an adjournment is granted in the absence of the defendant or his legal representative, the OC Case shall inform the defendant or his legal representative of the new hearing date. Where possible, such notices shall be in writing and shall be acknowledged by the defendant or his legal representative and shall be witnessed by the notifying officer.

**45-15 Attendance at Court of Police Officers as Witnesses**

Whenever a police officer is required to attend court as a witness, he shall be served a Form for Attendance at Court (Pol. 335). This shall be completed by a DO or by an officer delegated by the Formation Commander whose Formation is responsible for the case in which the court attendance is required.

2. Attendance at court to give evidence as a witness will take precedence over any other commitments, including leave. An officer who is aware of any circumstances which conflict with court attendance such as attendance at a higher court, absence from Hong Kong or leave already applied for, will bring such to the attention of the OC Case forthwith. The OC Case will seek a trial date which accommodates the circumstances or apply for an adjournment as appropriate.

16/01 3. An officer required to attend court shall report on his arrival at the court to the Court Prosecutor conducting the prosecution.

**45-16 Witness Summonses and Pre-Trial Contact**

In all appropriate cases, application for summons to witness and witness summonses particularly those prescribed by the Magistrates Ordinance should be prepared in Chinese and English.

2. Witness summonses must be served upon the witness personally or be left for him with some person at his last or usual place of abode. In the latter case, the original witness summons should be placed in a sealed government envelope when leaving it with a person for the witness. Service by post is not sufficient. If a witness summons is not served personally, the OC Case shall ensure a witness is contacted prior to the hearing to ensure that the witness has received the summons.

3. The bilingual 'Application for Summons to Witness' (Annex A) and 'Certificate of Service' (Annex B) should be used for application and serving of summons respectively. Bilingual Form 14 (Annex C) as prescribed in Magistrates (Forms) Rules, Cap. 227C must be prepared and submitted together with the application for consideration by the Magistrate.

#### **45-17 Attendance at Military Service Disciplinary Proceedings**

An officer who is requested to appear to give evidence before an officer or board inquiring into an offence alleged to have been committed by a military serviceman shall report the matter to his Formation Commander.

2. The facts shall be reported to the Major Formation Commander who shall direct whether the officer will attend.

#### **45-18 Attendance of the OC Case at Magistrates' Court**

When an arrested person first appears at a Magistracy in connection with the matter for which he was arrested, the OC Case shall attend to assist the prosecutor **only if**:-

- (a) the prosecutor has requested, through the ADVC Crime (or officer occupying the equivalent post), that the officer attends, and the ADVC Crime directs the officer to attend, or
- (b) in the opinion of the OC Case, there is some aspect of the case which makes his attendance prudent.

2. When any doubt exists, the OC Case shall attend. On arrival at court the OC Case shall identify himself to the prosecutor as soon as practicable.

3. When an arrested person appears at a Magistracy for the first time in connection with the matter for which he was arrested **and attendance of the OC Case is necessary** the OC Case will attend if practicable. If it is not practicable for the OC Case to attend then a nominated NCO or JPO may attend on behalf of the OC Case. A nominated officer may only attend on behalf of an OC Case with the prior consent of the ADVC Crime (or officer equivalent) or in his absence the DVC or ADC Crime (or equivalent). The officer nominated to attend on behalf of the OC Case shall be:-

- (a) English-speaking (unless the proceedings are to be conducted exclusively in Chinese);
- (b) familiar with the case;
- (c) capable of offering meaningful assistance.

4. When an officer is nominated to attend court on behalf of an OC Case the prosecutor must be informed before the hearing. The prosecutor must also be informed, as soon as practicable, of the name and telephone number of the nominated officer.

5. Similar considerations as stated in paragraphs (1) and (2) apply with regard to the attendance of the OC Case when plea is taken in a Magistracy, on any occasion when the case is brought up for mention, and when an application is made concerning bail or for the case to be transferred to the District Court.

07/08 6. The OC Case will attend a Magistracy to assist the prosecutor in a trial in the following circumstances :

- (a) The prosecution is represented by a Government Counsel;
- (b) The prosecution is represented by a Counsel on special fiat;
- (c) On request by the prosecutor due to the complexity and sensitivity of the case.

7. The OC Case shall also, at the time of speaking to the prosecutor, provide him with his name, telephone and fax numbers. Where it is not practicable for the OC Case to attend, a substitute officer (as at sub-paragraph 2) shall attend. The OC Case shall inform the prosecutor before the hearing and as soon as possible of the name and telephone number of the substitute officer.

8. Should a prosecutor request the attendance of the OC Case at trial, but the OC Case considers his attendance is not necessary, he shall refer the matter to his ADV C Crime (or equivalent) for resolution. In such circumstances any queries of the prosecutor must be addressed. After a decision has been reached by the ADV C Crime (or equivalent), he shall personally inform the prosecutor.

#### **45-19 Legal Advice**

Case files in which legal advice is to be sought on criminal matters will be vetted by an officer of Superintendent rank prior to submission to the DOJ.

2. Criminal case papers shall be referred to the DOJ:-
- (a) whenever consent of the Secretary for Justice is necessary before a prosecution is initiated;
  - (b) in any case where legal advice is considered necessary;
  - (c) in any case, except cases of minor or trivial nature, where clear evidence an offence exists but it is proposed that no prosecution is instituted;

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- (d) in any case other than a minor traffic offence committed by:-
  - (i) a member of the Disciplined Services;
  - (ii) a member of the Hong Kong Auxiliary Police Force;
  - (iii) a Government Directorate Officer;
  - (iv) a member of the DOJ including officers of the Court Prosecutors Grade (it is immaterial whether the individuals listed in (i) to (iv) were acting in the execution of their duty at the time of the alleged offence); and
  - (v) a public figure
- (e) for minor traffic offences committed by those specified in paragraph (d) above legal advice will be sought if the matter involves a member of the public and it is proposed that no prosecution is instituted;
- (f) before charging or applying for a summons against a government officer for an offence committed in the course of his duty, except where the charge is of a minor nature, there is no public interest involved or any concern about issue of trial or other implications.

3. Original statements or documentary exhibits will not be despatched by police to the DOJ. If it is essential for Government Counsel to have sight of an original document, the OC Case shall arrange for it to be taken by hand and then brought back by hand. Should Government Counsel need to have prolonged access to a document, a copy of it shall be made and submitted to DOJ.

4. In all cases in which it is anticipated that the venue of trial is likely to be District Court or Court of First Instance, the OC Case shall ensure that a copy of the current criminal record of the defendant is attached to the case file at the time of seeking legal advice.

5. All files sent for legal advice shall show on a minute sheet the name and contact telephone and fax number of the:-

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- (a) OC Case; and
- (b) ADVC Crime and DVC (DVIT cases) (or ADC Crime); or
- (c) DOO and DDC (SDS cases) (or ADC Crime); or
- (d) CIP Crime and ADC Crime (DCS cases); or
- (e) CIP RCU and SP Crime (Regional crime cases); or
- (f) CIP Crime Bureau and SP Crime Bureau (Crime Wing cases); or
- (g) ADVC Ops/Admin and DVC (Miscellaneous cases)

6. All written correspondence sent for legal advice shall feature the name of the defendant, details of offence and RN.

7. Should an OC Case experience difficulty, or anticipate difficulty in submitting a committal bundle within the 14 days' period, he shall give notification to the trial preparation counsel at the earliest opportunity.

8. When an adjournment is granted for legal advice, the relevant file shall be sent to the Department of Justice in sufficient time for counsel to adequately consider all aspects of the case, and all effort should be made to avoid the file being available to counsel only one or two days before the next appearance at court of the defendant.

14/01 9. Under exceptional circumstances, a request for second legal advice may be accepted. Such request will only be made by an officer of, or above the rank of Chief Superintendent. It will be directed to a Deputy Director of Public Prosecutions of DOJ and copied to ACP Crime (SP Crime HQ).

#### **45-22 Certification of Documents for use in Court**

All officers shall adhere to the Notice to the Public issued by the Registrar of the Court of First Instance relating to the translation and certification of documents to be accepted in evidence in the courts in Hong Kong. The procedure is stated in FPM chapter 45-22.

07/08 2. The letter or memorandum accompanying draft translations for urgent certification will be signed by an officer of the rank of Superintendent or above.

#### **45-23 Pre-trial Review**

The OC Case shall attend the pre-trial review of a case and advise the counsel of the availability of witnesses and exhibits. If the original OC Case has a more important duty commitment, the DVC or ADC Crime (or equivalent) shall arrange another officer of Inspectorate rank who is familiar with the case to attend.

#### **45-24 District Court Cases**

When an application for transfer to the District Court is granted, the OC Court at the relevant Magistracy shall be responsible for warning the OC Case of the plea date.

2. The OC Case shall attend the District Court to assist the counsel when:-

- (a) defendant makes his first appearance;
- (b) the case is brought up for mention;
- (c) an application is made concerning bail;
- (d) defendant enters a plea;
- (e) at trial.

3. It is also the responsibility of the OC Case to liaise with the prosecuting counsel to ascertain which witnesses and exhibits are required in any proceedings at court. In normal circumstances, OC Case is not required to arrange the attendance of witnesses and exhibits on plea day for District Court case unless specifically directed by the prosecuting counsel to do so.

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4. When it is not practicable for the OC Case to attend the District Court, a substitute officer of Inspectorate rank who is familiar with the case and is able to offer meaningful assistance shall attend. On each occasion the prior consent of the DVC or ADC Crime (or equivalent) must be obtained. The OC Case shall inform the counsel prior to the hearing and as soon as possible of the name and telephone number of the substitute officer.

5. It shall not be necessary for the OC Case or the substitute officer to attend the District Court on any particular occasion if prior consent of counsel is obtained and the OC Case or substitute officer at the time of obtaining such consent has given his name and contact details to the counsel. When a counsel dispenses with the attendance of the OC Case, or substitute officer, a suitable record shall be made by the officer receiving that information in his notebook or as a "note for file" in the investigation file as soon as practicable. Should any doubt exist as to whether the OC Case or substitute officer should attend court, it is the responsibility of the OC Case to ensure that he or the substitute officer attends.

#### **45-26 The District Court Practice Direction**

OC Cases shall adhere to the directions as stated in FPM Chapter 45-26.

#### **45-27 Case Property in District Court or Court of First Instance**

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Before the conclusion of the trial, the OC Case is to prepare a draft application for the disposal of case property indicating their intended means of disposal. The OC Case shall remind the prosecutor/counsel of his/her obligation in this respect. The OC Case shall then seek instructions from the prosecutor/counsel regarding any order which may be required in respect of case property.

2. When a Confiscation Order (GF 83) is made by the courts, the OC Case shall inform the ADVC Admin or the respective CIP, and also be responsible for obtaining the GF 83 from the clerk to the judge concerned.

3. An ADVC Admin or equivalent officer who does not receive a GF 83 from the courts after a period of one month shall cause enquiries to be made to ascertain its whereabouts.

4. When any property is to be returned to any party at the conclusion of such a case, this shall be done only in accordance with PGO/FPM Chapter 30.

#### **45-28 Court of First Instance Cases**

The OC Case shall attend the Court of First Instance when:-

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- (a) defendant makes his first appearance;
- (b) defendant enters a plea;
- (c) the case is brought up for mention;
- (d) an application concerning bail is made;
- (e) at pre-trial review;
- (f) at trial.

2. When plea is taken the OC Case need not arrange attendance of the witnesses and exhibits on that occasion unless directed by counsel to do so. In the event of a not guilty plea the OC Case shall ascertain the dates of hearing and make suitable arrangements for the attendance of witnesses and exhibits. Should he himself be a witness, he shall seek instructions from prosecuting counsel as to whether another officer of the same rank should attend to provide assistance until such time as he has completed his evidence.

3. Where the OC Case is unable to attend the Court of First Instance, because of a more pressing duty commitment, a substitute Inspectorate office who is familiar with the case and able to give meaningful assistance to counsel may attend, but on each occasion the prior consent of the ADC Crime (or equivalent) must be obtained. The OC Case shall inform the prosecutor prior to the hearing and as soon as possible of the name and telephone number of the substitute officer.

4. It shall not be necessary for the OC Case or substitute officer to attend the Court of First Instance on any particular occasion if prior consent of counsel is obtained and the OC Case or substitute officer at the time of obtaining such consent, has given his name and contact details to counsel. In such an event the officer obtaining that consent shall make a suitable record in his notebook or as a note for file on the investigation file as soon as practicable. Should any doubt exist as to whether the OC Case or other officer should attend court, it is the responsibility of the OC Case to ensure he or a substitute officer attends.

5. When a confiscation order is made by a Judge of the Court of First Instance, a GF 83 will normally be forwarded to police by the Registrar, Court of First Instance. The OC Case will inform the ADVC Admin (or the officer holding the equivalent post) that a confiscation order has been made. If in any particular case a GF 83 is not received within a month, enquiry will be made to the Registrar by ADVC Admin (or the officer holding the equivalent post).

#### **45-30 Attendance of the OC Case at Appeals**

Any exhibits in police custody shall be taken by the OC Case to the court at the time of the hearing of the appeal. If there are bulky exhibits the OC Case must seek prior instruction from the Government Counsel who will conduct the appeal.

2. An OC Case shall attend court for all appeals against **conviction and sentence**, and all appeals against **conviction only**. Where the officer originally in charge of the case, when he is of Inspectorate rank has been transferred, the ADC Crime (or equivalent) shall give consideration as to whether arrangements should be made for the officer originally in charge of the case to assist the Government Counsel in the appeal proceedings, taking into account considerations such as the complexity of the case and personal involvement of the officer. Should it be impracticable for such an officer to assist, the ADC Crime is to ensure that a substitute **Inspectorate officer** who is familiar with the case and is able to offer meaningful assistance attends to assist Government Counsel conducting the appeal.

3. When an appeal is against **sentence only**, the OC Case must attend court, unless he has contacted the Government Counsel who has informed him that neither he nor any other officer is required to attend, or alternatively, that a substitute officer (who will meet the criteria at PGO 45-19) may attend as substitute. When the OC Case has contacted the Government Counsel and has received such an instruction an immediate suitable record shall be made by the OC Case in his notebook or in the investigation file as a "note for file", and he must also provide the Government Counsel with the name and contact details of the substitute officer.

4. The identity and telephone number of counsel conducting an appeal may be ascertained from the Appeals Unit of the Prosecutions Division of the Department of Justice by contacting the Senior Law Clerk in charge of the Appeals Unit on telephone number 2867 2277 or its Registry at 2867 2278, and by stating the criminal appeal number.

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#### **45-31 Criminal Antecedents - Production at Magistracy, the District Court and the Court of First Instance**

The OC of a case being heard in either the Court of First Instance or the District Court shall produce five copies of Proof of Evidence (Statement) Antecedents (Pol. 540) setting out the antecedent history of each defendant, to be used as a proof of evidence.

2. Pol. 540s shall be completed strictly in accordance with the Notes for Guidance contained thereon.

3. Under no circumstances shall the Pol. 540 be used as an avenue for the taking of admissions in respect of the relevant offence.

#### **Criminal Records**

4. The OC Case shall ensure that CRB is given sufficient notice to produce the required number of four copies of criminal records and CRB shall forward the criminal records to the OC Case and not direct to court.

5/03 5. To ensure criminal records are accurately up-dated as soon as possible the Pol. 190 will be completed when the defendant, or each defendant in the case of multiple or joint defendants, has been convicted and sentenced, or is otherwise dealt with by the Court and released from any bail : -

01/05 (a) In Magistrates' Courts, the Court Prosecutor will enter the case result and full details of sentence on the Pol. 190 before handing it to the relevant OC Court for confirmation and countersignature. This includes full details of any binding-over order, including any conditions imposed by the Magistrates. Where this has not been done for any reason, the OC Case will complete the Pol. 190 relying on records made on the file by the Court Prosecutor.

(b) In District Court and in the Court of First Instance, the OC Case will be responsible to enter full details of the case result on the Pol. 190 immediately on conclusion of the case. The Prosecuting Counsel should be requested to countersign the case result at that time. Where this is not possible the OC Case's supervisory officer will be responsible for confirming the accuracy of the case result and countersigning the Pol. 190 to this effect.

5/03 6. In all cases, the completed Pol. 190 should be returned to CRB within 3 working days after the trial is concluded.

#### **45-32 Previous Convictions of Defendant**

35/03 Police officers shall not supply any court with the previous convictions of a defendant until after the defendant has been convicted or unless the rules of evidence permit such procedure and after direction has been obtained from the court. Criminal records should be made available at court on the first, and each and every subsequent, appearance of an accused at court, including such appearances on public holidays.

#### **45-33 Government Witnesses from Overseas - Expenses**

A police officer shall not make any arrangements to bring a person from overseas to Hong Kong either to assist in an investigation or give evidence in court proceedings until he has obtained:-

- (a) prior written confirmation from the Director of Public Prosecutions that the presence of the witness is essential; and
- (b) written approval from the ACP CRIME (in urgent cases, ACP CRIME's verbal approval may be obtained but this must be followed up by a written request).

2. Such prior approval shall also be obtained when a witness who is not normally resident in, but is present in Hong Kong, and would be required to prolong his stay in order to assist with an investigation and/or give evidence in court, thus incurring additional expenses.

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**45-36 Case Files at Conclusion of Case**

In every Magistrates' Court case in which costs are awarded against the Government, the OC Court will forward a memorandum outlining the circumstances leading to the award to the Regional SP Admin (or equivalent). The case file and a copy of that memorandum will be forwarded to the Commander of the originating Formation who will consider if a review of the court's ruling is necessary. If a review is not considered necessary, the Formation Commander will so inform the Regional SP Admin (or equivalent) who will arrange payment through STA(FC), otherwise the Formation Commander will take appropriate action for a review before the expiry of the appeal period.

**45-41 Illegal Immigrants Required to Act as Prosecution Witnesses**

It shall be the general policy that illegal immigrants required to act as prosecution witnesses will, wherever possible, be released on recognizance. Detention of the illegal immigrants under S. 32(4)(b) of Cap. 115 will only be used as a last resort. Recognizance as an alternative to detention will be dealt with in more detail in FPM 45-41.



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**Annex A**  
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案件編號： \_\_\_\_\_

令狀編號： \_\_\_\_\_

證人傳票申請表

香港 \_\_\_\_\_ 裁判法院

致：香港裁判官 \_\_\_\_\_

鑑於 \_\_\_\_\_ (地址為 \_\_\_\_\_ )  
\_\_\_\_\_ )

相當可能會為告發人 (或申訴人或被告人) 作出具關鍵性的證供，  
本人 \_\_\_\_\_ (地址為 \_\_\_\_\_ )  
\_\_\_\_\_ )

現提出申請，要求法庭向上述 \_\_\_\_\_  
發出傳票，規定他在 \_\_\_\_\_ 年 \_\_\_\_\_ 月 \_\_\_\_\_ 日 (星期 \_\_\_\_\_ )  
到上述裁判法院以證人身分接受訊問。

日期： \_\_\_\_\_ 年 \_\_\_\_\_ 月 \_\_\_\_\_ 日

\_\_\_\_\_  
申請人

**Annex B**

Case No.  
案件編號

Writ No.  
令狀編號

**CERTIFICATE OF SERVICE**  
**文書送達證明書**  
(To be completed at time of service)  
(須於送達時填寫)

Served upon the Witness by:-  
將文書送達證人者：

(a) Serving personally on (Name) \_\_\_\_\_  
送達其本人親收 (姓名)  
at (Address) \_\_\_\_\_  
送達 (地址)

(b) Leaving with a person for the Witness at the Witness's last or most usual place  
of abode  
在證人最新近或最經常居住的地點留下文書由別人代收

(Name) \_\_\_\_\_  
(姓名)

(Address) \_\_\_\_\_  
(地址)

(Relationship to Witness) \_\_\_\_\_  
(與證人的關係)

Signature of person who receives Summons \_\_\_\_\_  
收票人簽署：

The sum tendered to the person who received the Summons was \$\_\_\_\_\_.

That sum was accepted/refused \* 付收票人的款項為  
該款項經接受/被拒絕。

Signature of Serving Officer \_\_\_\_\_  
送達人員簽署：

Serving Officer's Name & Office (in English & block capital letters) \_\_\_\_\_  
送達人員的姓名及其辦事處 (用英文正楷)

Date Served \_\_\_\_\_  
送達日期

Time Served \_\_\_\_\_  
送達時間

\* Delete one (刪去其一)

POLICE GENERAL ORDERS - CHAPTER 45  
CHARGE SHEETS AND COURT PROCEDURE

**Annex C**  
(Page 1 of 2)

Magistrates Ordinance, Cap. 227 - Form 14  
(s. 21 & 22)

案件編號： \_\_\_\_\_

令狀編號： \_\_\_\_\_

**Summons to a witness**

HONG KONG IN THE MAGISTRATES' COURT AT \_\_\_\_\_

To: \_\_\_\_\_ of \_\_\_\_\_

Information having been laid (or complaint having been made) before a magistrate of Hong Kong, for that

and it having been made to appear to me that you are likely to give material evidence on behalf of the informant (or complainant, or defendant, or accused) in this behalf:

These are, therefore, to require you -

- (a) to be and appear on \_\_\_\_\_ day, the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, at the said court before such magistrate as may then be there; and
- (b) to be and appear before such magistrate at the said court at such time and on such date as may be directed by such magistrate until the conclusion of the proceedings at which your attendance is required,

to testify what you shall know concerning the matter of the said information (or complaint).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,

\_\_\_\_\_  
Magistrate

裁判官條例  
(香港法例第二二七章)  
(條例第 21 及 22 條)

案件編號： \_\_\_\_\_

令狀編號： \_\_\_\_\_

**表格 14**  
**證人傳票**

香港

裁判法院

致：

鑑於有人向一名香港特別行政區裁判官提出告發（或作出申訴），指稱

而本席根據情況顯示，覺得你相當可能會為告發人（或申訴人或被告人或被控人）在這方面作出具關鍵性的證供：

因此，現規定你—

- (a) 於 \_\_\_\_\_ 年 \_\_\_\_\_ 月 \_\_\_\_\_ 日（星期 \_\_\_\_\_） \_\_\_\_\_ 午 \_\_\_\_\_ 時  
分到上述法院，在屆時出席的裁判官席前；及
- (b) 在該裁判官所指示的日期及時間到上述法院該裁判官席前，直至  
需要你出席的法律程序完結為止，

就你對上述告發（或申訴）所知事項作證。

日期： \_\_\_\_\_ 年 \_\_\_\_\_ 月 \_\_\_\_\_ 日

\_\_\_\_\_  
裁判官

[公印]

**OUTSTANDING CASE(S) ENQUIRY**  
**查詢未完結的案件**

Name of arrested person / defendant: 被捕人／被告人姓名：	
HKID No. or Passport No. of arrested person / defendant: 被捕人／被告人的香港身分證或護照號碼：	
Police Report / File Reference No.: 警方報告／檔案編號：	
Date of arrest 拘捕日期：	
Date of hearing 聆訊日期：	

**Any outstanding case(s) 有否任何未完結的案件?      Yes / No      (circle as appropriate)**  
**有／否      (圈出適用者)**

**If so, please provide the following details 如有，請提供下列資料:**

Police Report / File Reference No.: 警方報告／檔案編號：	
Offence / charge 罪行／控罪：	
Date of offence 犯案日期：	
1) On police bail / on court bail / detained (circle as appropriate) for purpose: 予以警察保釋／法庭保釋／扣留 (圈出適用者) 的目的：	
Next reporting / hearing date: 下次報到／聆訊日期：	
Court Case No. (if any) 法庭案件編號 (如有)：	
OC Case & Tel. No. 案件主管及電話號碼：	

Police Report / File Reference No.: 警方報告／檔案編號：	
Offence / charge 罪行／控罪：	
Date of offence 犯案日期：	
2) On police bail / on court bail / detained (circle as appropriate) for purpose: 予以警察保釋／法庭保釋／扣留 (圈出適用者) 的目的：	
Next reporting / hearing date: 下次報到／聆訊日期：	
Court Case No. (if any) 法庭案件編號 (如有)：	
OC Case & Tel. No. 案件主管及電話號碼：	

Use plain paper if necessary. 如有需要，請另用白紙填寫。

Checked by: 審閱人員：	Verified by (OC Case): 覆核人員(案件主管)：
Date 日期：	Date 日期：

Guidance notes for completion overleaf 請參閱背頁的填寫表格須知

**GUIDANCE NOTES FOR COMPLETION 填寫表格須知**

- a) This form must be verified by the OC Case.  
本表格必須由案件主管覆核。
- b) Please use plain paper to record extra outstanding cases. The OC Case should verify the accuracy of the additional information.  
如有其他未完結的案件，請另用白紙記錄。附加資料須由案件主管覆核，以確保內容準確無誤。
- c) This form together with the charge sheets should be dispatched to court in accordance with PGO 45-06 (2) to (6) on “Proforma for Outstanding Case(s) Enquiry (Pol 1109) – Production at Magistracy”. Gist of provisions is as follows:  
根據《警察通例》第 45-06 (2)至(6)條「於裁判法院使用’查詢未完結的案件’表格(Pol 1109)」，本表格須與控罪書一併送交法庭。條文的要點如下：

**For Fresh Case or Mention**  
**新案件或提訊**

i) for defendants on bail 獲保釋的被告人	One day prior to their court appearance; 在被告人上庭日期前一天送抵法庭；
ii) for defendants not on bail 未獲保釋的被告人	Before 0830 hours on the day of their appearance, 在被告人上庭日期上午 8 時 30 分前送抵法庭；
iii) for cases other than routine (see para. 5, PGO 45-06) 非例行事項的案件[請參閱 《警察通例》第 45-06 條第(5) 段]	At least one full day before the appearance. 在上庭日期至少一整天前送抵法庭。

**For PNG Case**  
**不認罪案件**

Pol 1109 should be sent to the appropriate Magistrate’s Court together with the relevant police prosecution file and case papers at least seven clear days (clear days do not include Sundays and Public Holidays) before the date fixed for trial.

Pol 1109 必須在案件聆訊日期前最少 7 整天(星期日及公眾假期日不計在內)，連同相關的警方檢控檔案及案件文件送達有關的裁判法院。

- d) This form should be filled in on the first, and **EACH** and **EVERY** subsequent court hearing to ensure the most **updated information** is contained, regardless of whether there are any outstanding cases or not.  
不論有否任何未完結的案件，本表格須於每次法庭聆訊前填具，以確保載列最新的資料。
- e) The original of this form should be sent to court. The OC Case should ensure a photocopy of this form to be retained in case file.  
本表格的正本須送交法庭。案件主管須確保本表格的影印本存放於案件檔案內。
- f) When there is an outstanding case, all boxes of the column have to be completed. A brief remark in the relevant boxes is required if no information is provided.  
倘有未完結的案件，必須填具欄目的所有方格。若無資料提供，則須在相關的方格內附上簡要的備註。

