



OFFICIAL: Sensitive

GENERAL ORDER PROSECUTION

General Order title	Prosecution
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Date of operation	9 March 2021
Review date	August 2022
Review responsibility	Prosecution Services Branch
Replaces	Previous General Order, Prosecution
PCO reference	2006/4431-02
Gazette reference	SAPG 56/21
Enquiries to	Prosecution Support Unit [REDACTED]
Corporate Policy Sponsor	Assistant Commissioner Operations Support Service

General Orders provide an employee with instructions to ensure organisational standards are maintained consistent with SAPOL's vision. To this end, General Orders are issued to assist an employee to effectively and efficiently perform their duties. It is important that an employee constantly bears in mind that the extent of their compliance with General Orders may have legal consequences.

Most orders, as is indicated by the form in which they are expressed, are mandatory and must be followed. However, not all situations encountered by an employee can be managed without some form of guidance and so some of these orders are prepared as guidelines, which should be applied using reason. An appendix to a General Order will be regarded as part of the General Order to which it relates. At all times an employee is expected to act ethically and with integrity and to be in a position to explain their actions. Deviation from these orders without justification may attract disciplinary action.

To ensure best practice an employee should be conversant with the contents of General Orders.

The contents of General Orders must not be divulged to any person not officially connected with SAPOL. Requests for General Orders will be managed as follows:

- Civil subpoena and disclosure requests—contact the Information Release Unit.
- Criminal subpoena and disclosure requests—refer to General Order, **Disclosure compliance and subpoena management**.
- Freedom of information requests—contact the Freedom of Information Unit.
- Any other requests (including requests by employees)—refer to instructions provided within General Order, **Corporate policy framework, 5. GENERAL ORDER REQUESTS/RELEASE**.

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1. GENERAL ORDER STATEMENT

South Australia Police (SAPOL) is the primary prosecuting authority within the magistrates court. Prosecution services are provided to the magistrates court by police prosecutors and prosecuting solicitors attached to prosecution units who are themselves accountable to Prosecution Services Branch (PSB) in respect of the professional practices, functions and standards associated with SAPOL's prosecution service.

PSB supports the SAPOL vision of a visible, responsive police service for all South Australians, through the delivery of improved prosecution processes.

This General Order must be read in conjunction with Prosecution Practice Notes, PSB administration memos and PSB policies (refer to **8. REFERENCES** further in this General Order).

Scope

This General Order applies to all SAPOL employees.

2. ROLES AND RESPONSIBILITIES

The following roles and responsibilities apply.

Prosecution Services Branch

[Redacted text block]

- [Redacted list item]
- [Redacted list item]
- [Redacted list item]
- [Redacted list item]
- [Redacted list item]
- [Redacted list item]
- [Redacted list item]
- [Redacted list item]
- [Redacted list item]

Officer in Charge, Prosecution Services Branch

[Redacted text block]

District/LSA managers

District/LSA managers will develop a partnership with PSB and prosecution units to ensure the delivery of timely and efficient prosecution services to the magistrates court.

Responsibilities include:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- ensuring investigators submit arrest files, report files and briefs in accordance with General Order, **Arrest/report procedures and documentation** to the prosecution unit to facilitate adjudication/prosecution
- [REDACTED]
- [REDACTED]

Prosecution units

- [REDACTED]
- [REDACTED]
- [REDACTED]

Prosecution units are accountable for:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Prosecution unit managers

- [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

Prosecution unit reporting requirements to the District/LSA

- [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

Prosecution Services Branch reporting requirements

[REDACTED]

Prosecution allocation across Service/LSA boundaries

[Redacted]

- [Redacted]
- [Redacted]

Problem solving considerations

[Redacted]

[Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

Media interest

[Redacted]

3. APPREHENSION AND APPLICATION SUBMISSION WORKFLOWS

[Redacted]

[Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Investigating officer/apprehension submission standards

When an apprehension brief is initiated for provision to a prosecution unit the investigating officer is responsible for:

- [REDACTED]
- maintaining and making available to the prosecutor all of the evidence upon which the charges are based
- the ongoing provision of evidence and support to prosecution
- [REDACTED]

Vetting member responsibilities

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Use of case file enquiry log

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. INSTIGATING PROCEEDINGS (ARREST/REPORT)

Arresting/reporting member considerations

[REDACTED]

- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]

[REDACTED]

[REDACTED]

Considerations

[REDACTED]

Adjudication is a continuous and ongoing responsibility of the prosecuting agency and the evidential content of a file must be subject to ongoing review throughout each stage of the prosecution process. Further evidence or clarification may be required as a brief proceeds through the prosecution process.

The investigator is responsible for the provision of further material and is required to work in partnership with prosecution to ensure an appropriate outcome.

[REDACTED]

5. COMMENCING A PROSECUTION

The following applies to any decision which considers the commencement of a prosecution.

Decision to instigate proceedings by laying charges

The decision to institute proceedings against an accused is based upon guidelines published by the Director of Public Prosecutions.

The initial consideration in an exercise of the prosecutorial discretion is whether the evidence is sufficient to justify the institution or continuation of a prosecution. A prosecution should not be instituted or continued unless there is admissible, substantial and reliable evidence that a criminal offence known to the law has been committed by the accused. There is a continuing obligation to assess the evidence as the matter proceeds.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sufficiency of evidence—reasonable prospect of conviction

The existence of a reasonable prospect of a conviction is dependent upon the existence of admissible, sustainable and reliable evidence.

The decision to prosecute requires a careful and detailed evaluation of the capacity of the prosecution case to establish a reasonable prospect of a conviction when presented in court. In evaluating the sufficiency of evidence in respect to any matter, it is necessary to consider all aspects of the evidence to be presented. Refer to **Appendix A—Guidelines for determining whether a reasonable prospect of conviction exists** further in this General Order.

[REDACTED]

Public interest test

[Redacted text block]

6. PROSECUTION BRIEF MANAGEMENT

The following practices and procedures apply.

Accountability

[Redacted text block]

Adjudication

[Redacted text block]

- [Redacted]

Charging and prosecuting

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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[Redacted]

[Redacted]

Referrals

[Redacted]

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[Redacted]

[Redacted]

[Redacted]

[REDACTED]

Victims

[REDACTED]

Disclosure

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

Pre-trial assessment

[REDACTED]

The prosecution will be required to disclose evidence known to the prosecution case and relevant to the matter. Further prosecution requests to investigators may be required.

Discussions will be managed in accordance with directions contained in Prosecution Practice Notes 11—*Agreed or Disputed Facts* and Rule 26 of the Magistrates Court Rules 1992 (Criminal).

[REDACTED]

[REDACTED]

Pre-trial conference

[REDACTED]

[REDACTED]

Trial processes

[REDACTED]

[REDACTED]

Post-trial hearing processes

[REDACTED]

7. DISCONTINUING A PROSECUTION

Recommendation to discontinue a prosecution

[REDACTED]

- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

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Investigating officer

[Redacted]

[Redacted]

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[REDACTED]

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[REDACTED]

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[REDACTED]

8. IMMUNITY

[REDACTED]

Immunity requests

[REDACTED]

Officer in Charge, Prosecution Services Branch

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]

[REDACTED]

Confidentiality

[REDACTED]

Register

[REDACTED]

Advice of action taken

[REDACTED]

9. REFERENCES

[REDACTED]

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10. FURTHER ENQUIRIES

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11. DOCUMENT HISTORY SINCE 16/08/06

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APPROVED BY COMMISSIONER/DEPUTY

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Print Full Name

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ID Number

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Signature

09/03/2021
Date

Documentation certification and verification

General Order draft—prepared by: Sergeant Matthew McLoughlin, Prosecution Support Unit, Prosecution Services Branch.
General Order—verified by: Superintendent Selena Dinning, Officer in Charge, Prosecution Services Branch.

Appendix A—Guidelines for determining whether a reasonable prospect of conviction exists

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- [REDACTED]
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Appendix B—Public interest considerations relative to instituting a prosecution

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