

SUPREME COURT OF BERMUDA
PRE-TRIAL AND CASE MANAGEMENT HEARINGS
CRIMINAL PROCEDURE RULES 2013
CRIMINAL JURISDICTION AND PROCEDURE ACT 2015
DISCLOSURE AND CRIMINAL REFORM ACT 2015



PRACTICE DIRECTION FORM 3 *(issued by the Registrar 1 January 2017)*

DEFENCE STATEMENT

GUIDANCE NOTES UNDER PRACTICE DIRECTION No. 1 of 2017
MUST BE READ AND UNDERSTOOD PRIOR TO COMPLETION OF THIS FORM

THE QUEEN v

Indictment No. ____ of 20 ____

DATE SENT TO THE SUPREME COURT
FROM THE MAGISTRATES' COURT:

____ DAY ____ OF ____ 20 ____

DATE OF FIRST APPEARANCE
IN THE SUPREME COURT:

____ DAY ____ OF ____ 20 ____

DATE ARRAIGNED (If plea entered):

____ DAY ____ OF ____ 20 ____

PROSECUTION COUNSEL:

DEFENCE COUNSEL:

DEFENCE REPLY TO FORM 1 DISCLOSURE NOTICE

(PROSECUTION S.3(3) NOTICE CRIMINAL JURISDICTION PROCEDURE ACT 2015)

POLICE AND CIVILIAN WITNESS STATEMENTS

USED MATERIAL

<p>1 Was the Defence served with a copy of the Indictment?</p> <p>YES NO</p>	<p>1A Was the Defence served with a summary of the Prosecution case?</p> <p>YES NO</p>
<p>2 Was the Defence served with copies of police witness statements?</p> <p>YES NO</p>	<p>2A Was the Defence served with written copies of civilian witness statements?</p> <p>YES NO</p>
<p>3 Was the Defence served with audio or video recordings of civilian witness statements?</p> <p>YES NO</p>	<p>4 Does the Defence assert that the Prosecution has not served any particular police/civilian witness statement(s)/recording(s) in existence?</p> <p>YES NO</p>
<p>5 If YES to 4, did the Defence make a written request to the Prosecution for service?</p> <p>YES N/A NO</p>	<p>6 If YES to 5, on what date was the first written request made?</p> <p>DATE: N/A</p>
<p>7 If YES to 4 and 5, did the Prosecution state a likely timeframe for service?</p> <p>YES N/A NO</p>	<p>8 Does the Defence need to address the Court on any issues arising under 1-7?</p> <p>YES NO</p>

SERVICE OF PROSECUTION EXPERT EVIDENCE USED MATERIAL			
<p>9 If YES to 1A, does the written summary refer to expert evidence or call for expert evidence?</p> <p>YES N/A NO</p>	<p>10 Has the Prosecutor confirmed that expert evidence will be called?</p> <p>YES NO</p>		
<p>11 Did the Prosecution serve any expert reports?</p> <p>YES NO</p>	<p>12 Does the Defence assert that the Prosecution did not serve any expert reports in existence?</p> <p>YES NO</p>		
<p>13 If YES to 12, state any known info re the expert report(s) which the Defence asserts to be unserved:</p> <p style="text-align: right;">N/A</p>	<p>14 If YES to 12, has the Defence made a written request to the Prosecutor for service of the unserved expert report(s)?</p> <p>YES N/A NO</p>		
<p>15 If YES to 14, on what date was the first written request made?</p>	<p>16 If YES to 14, did the Prosecution reply stating a likely timeframe for service of the unserved report(s)?</p> <p>YES N/A NO</p>		
<p>17 If YES to 16, what timeframe for service was stated?</p> <p style="text-align: right;">N/A</p>	<p>18 Does the Defence need to address the Court on any issues arising under 9-17?</p> <p>YES NO</p>		
SERVICE OF CROWN EXHIBITS / AID MEMOIRES USED MATERIAL			
<p>19 Was the Defence served with copies of any maps, charts or other like visual aids for trial use?</p> <p>YES NO</p>	<p>20 Did the Prosecution make allowance for the Defence to view the Crown exhibits prior to trial?</p> <p>YES NO</p>		
<p>21 If YES to 20 did the Defence agree to view the Crown exhibits at the time and place proposed by the Prosecution?</p> <p>YES NO</p>	<p>22 Are there currently any unseen exhibits which the Defence intends to view prior to trial?</p> <p>YES NO</p>		
<p>23 Did the Prosecution provide the Defence with copies of any video or audio exhibit(s)?</p> <p>YES NO</p>	<p>24 Does the Defence assert that the Prosecution did not serve copies of any particular video or audio exhibits?</p> <p>YES NO</p>		
<p>25 Was the Defence served with copies of any photo albums containing a 'legend' of photos therein?</p> <p>YES NO</p>	<p>26 Does the Defence assert that the Prosecution did not serve copies of any particular photographs?</p> <p>YES NO</p>		
<p>27 If YES to 24 and/or 26, did the Defence make a written request to the Prosecution for service?</p> <p>YES N/A NO</p>	<p>28 If YES to 27, what is the date of the first written request?</p> <p style="text-align: right;">N/A</p>		
<p>29 If YES to 27, did the Prosecution reply stating a likely timeframe for service?</p> <p>YES N/A NO</p>	<p>30 Does the Defence need to address the Court on any issues arising under 19-29?</p> <p>YES NO</p>		

SERVICE OF STATEMENTS BY THE ACCUSED USED MATERIAL			
31 Did the Prosecutor serve the Defence with copies of all recordings of Accused statements ?	YES	N/A	NO
32 Did the Prosecutor serve the Defence with copies of transcripts for all recorded Accused statements?	YES	N/A	NO
33 Does the Defence assert that the Prosecution did not serve copies of any Accused statements?	YES		NO
34 If YES to 33 , did the Defence make a written request to the Prosecution for service?	YES	N/A	NO
35 If YES to 34 , what is the date of the first written request ?		N/A	
36 If YES to 34 , did the Prosecution reply stating a likely timeframe for service ?	YES	N/A	NO
37 If YES to 36 , what timeframe was stated?		N/A	
38 Does the Defence need to address the Court on any issues arising under 31-37?	YES		NO
DEFENCE REPLY TO FORM 1 DISCLOSURE NOTICE PROSECUTION S.4(2) NOTICE CRIMINAL JURISDICTION PROCEDURE ACT 2015			
POLICE EVIDENCE <u>UNUSED MATERIAL</u>			
39 Was the Defence served copies of all exculpatory and/or 'no-comment' type Accused statements ?	YES	N/A	NO
40 Was the Defence served copies of police notes ?	YES		NO
41 Was the Defence served copies of search reports ?	YES		NO
42 Was the Defence served copies of custody reports ?	YES		NO
43 Was the Defence served copies of warrants ?	YES		NO
44 Was the Defence served copies of previous police disciplinary records ?	YES		NO
45 If no to 39, 40, 41, 42, 43 , and/or 44 did the Defence make a written request for service ?	YES	N/A	NO
45A Does the Defence need to address the Court on any issues arising under 39-45?	YES		NO
EXPERT EVIDENCE <u>UNUSED MATERIAL</u>			
46 Was the Defence served copies of any expert notes or unused reports ?	YES	N/A	NO
47 If NO to 46 , did the Defence make a written request to the Prosecution for service?	YES	N/A	NO
48 If YES to 47 , did the Prosecution reply stating a likely timeframe for service ?	YES	N/A	NO
49 Does the Defence need to address the Court on any issues arising under 46-48?	YES		NO
CIVILIAN WITNESS EVIDENCE <u>UNUSED MATERIAL</u>			
50 Was the Defence served copies of antecedent records ?	YES		NO
51 Does the Defence need to address the Court on any issues arising under 50?	YES		NO

THE DEFENCE CASE

52

State the general nature of the Accused person's defence:

53

State any statutory defences on which the Accused person intends to rely:

54

State any common law defences on which the Accused person intends to rely:

55

State the matters of fact on which the Accused takes issue with the Prosecution:

56

Will the Accused be relying on any defences which assert a lack of mental competency or a defective state of mind? If so, provide details:

N/A

Alibi Defence

57

If the Defence intends to call any alibi evidence, please state the name, address and date of birth of the intended alibi witness(es):

N/A

58

State all material information identifying or finding the intended alibi witness where either the name, address or date of birth of that person is unknown:

N/A

Defence Expert Evidence

59

Does the Defence intend to call expert evidence?

59A

If so, how many expert witnesses will be called?

YES

NO

60

If YES to **59**, describe the nature of the Defence expert evidence:

N/A

61

If YES to **59**, state the name(s), business title(s) and address(es) of the Defence expert witness(es):

N/A

62

If YES to **59**, has the Defence obtained copies of any expert reports?

63

If YES to **62**, what is/are the date(s) of the report(s):

YES

NO

N/A

64

If YES to **62**, has the Defence provided the Prosecution with a copy of the expert report(s)?

65

Does the Defence need to address the Court on any issues arising under **59-64**?

YES

NO

YES

NO

Rules of Evidence and Rights of the Accused

<p>66 Has the Accused been made to understand his/her right to decide whether to give evidence on the witness stand and whether to call witnesses at trial?</p> <p>YES NO</p>	<p>67 Has the Accused been made aware of the Prosecutor's and any Co-Accused's right to cross-examine the Accused and any of the Accused's witnesses who give evidence at trial?</p> <p>YES NO</p>
<p>68 Has the Accused been made to understand the various ways a character shield may be lost at trial and the possible consequences of the loss of shield?</p> <p>YES NO</p>	<p>69 Has all the evidence disclosed been fully explained to the Accused or has the Accused been given access to all evidence disclosed by the Prosecutor?</p> <p>YES NO</p>
<p>70 Has Defence Counsel obtained full instructions from the Accused in respect of the evidence disclosed?</p> <p>YES NO</p>	<p>71 Has the Accused been made to understand his/her rights to challenge in the jury selection process?</p> <p>YES NO</p>
<p align="center">THIS FORM MUST BE FILED AND SERVED NO LATER THAN WITHIN 28 DAYS OF THE DATE ON WHICH THE PROSECUTION SERVED FORM 1.</p>	
<p align="center">DATE PROSECUTION SERVED FORM 1: _____ DAY _____ OF _____ 20_____</p>	
<p>SIGNATURE OF DEFENCE COUNSEL:</p>	<p>SIGNATURE OF ACCUSED:</p>
<p>PRINT NAME:</p>	<p>PRINT NAME:</p>

REGISTRY DATE FILING STAMP SHOULD BE PLACED HERE: