

IN THE DISTRICT COURT
HELD AT LOCATION

CRN: *****

BETWEEN

NEW ZEALAND POLICE

(Plaintiff)

AND

FULL NAME

(Defendant)

MEMORANDUM TO JUDICIAL OFFICER
APPLICATION FOR DISCLOSURE

DATE – DATE WRITTEN

First Call Hearing is scheduled for Date of First Call Hearing at Time

THIS DOCUMENT is filed by Full Name

Whose address for service is – Address Line 1,
Suburb, City Postcode
Email Address – Email Address for Service

MAY IT PLEASE THE COURT,

1. I, **Given-Names FAMILY NAME**, a self-litigant, do hereby give notice that '**FULL NAME**' the ('Defendant') has **to date not received initial disclosure from Location Police Prosecution Services** regarding this matter.
2. The Defendant **requested a Court Hearing to discuss this matter along with initial and full disclosure on Date request sent to NZPIB¹**, neither initial or full disclosure has to date been supplied.
3. It is the understanding of the Defendant that in accordance with **the Criminal Disclosure Act 2008, s13(7)(b)²** that **such request shall be deemed to be a not guilty plea.**

Section 13(7) - Full disclosure

(7) To avoid doubt, a reference in subsection (1) to pleading not guilty includes—

- (a) [Repealed]*
- (b) requesting a hearing in accordance with of the Summary Proceedings Act 1957 (unless the request is accompanied by an admission of liability); or*

4. A 'Notice of Appearance' shall be filed in due course, prior to the First Call Hearing scheduled for **Date of first call hearing**.
5. It is the Defendant's understanding that in accordance with the **Criminal Disclosure Act 2008, section 12(1)³** at the commencement of criminal proceedings, or as soon as practicable after that time, and in any event not later than the applicable date, the Prosecutor must disclose the following information to the Defendant:
 - **Charging Document**
 - **Summary of Facts**
 - **Summary of the Defendant's right to apply for further information**
 - **Maximum Penalty for the Offence**
 - **Previous Traffic and Criminal History**

¹ NZPIB – **Full Name – Ticket No.** - Request for Hearing (**title of letter sent to NZPIB**)

² Criminal Disclosure Act 2008, section 13 at (7)(b)
<https://www.legislation.govt.nz/act/public/2008/0038/latest/DLM1378865.html>

³ Criminal Disclosure Act 2008, section 12 at (1)((aa)-(d))
<https://www.legislation.govt.nz/act/public/2008/0038/latest/DLM1378863.html>

Section 12 - Initial disclosure

- (1) ***At the commencement of criminal proceedings, or as soon as practicable after that time, and in any event not later than the applicable date, the prosecutor must disclose the following information to the defendant:***
- (aa) ***a copy of the charging document; and***
 - (a) ***a summary that is sufficient to fairly inform the defendant of the facts on which it is alleged that an offence has been committed and the facts alleged against the defendant; and***
 - (b) ***a summary of the defendant's right to apply for further information under subsection (2); and***
 - (c) ***the maximum penalty, and the minimum penalty (if one is provided for), for the offence; and***
 - (d) ***a list of the defendant's previous convictions that are known to the prosecutor; and***
 - (e) ***a list of any previous offences proved to have been committed by the defendant and of a kind to which section 284(1)(g) of the Oranga Tamariki Act 1989 applies, that are known to the prosecutor.***

(2) ***At any time after criminal proceedings are commenced or, in the case of a child or young person who appears in the Youth Court in relation to the commission or possible commission of an offence, at any time after that person's first appearance in the Youth Court, the prosecutor must, if requested by the defendant in writing, as soon as is reasonably practicable disclose the following information to the defendant:***

- (a) ***the names of any witnesses whom the prosecutor intends to call at the hearing or trial; and***
- (b) ***a list of the exhibits that are proposed to be produced on behalf of the prosecution at the hearing or trial; and***
- (c) ***a copy of all records of interviews with the defendant; and***
- (d) ***a copy of all records of interviews of prosecution witnesses by a law enforcement officer that contain relevant information; and***
- (e) ***a copy of job sheets and other notes of evidence completed or taken by a law enforcement officer that contain relevant information; and***
- (f) ***a copy of any records of evidence produced by a testing device that contain relevant information; and***
- (g) ***a copy of any diagrams and photographs made or taken by a law enforcement officer that contain relevant information and are intended to be introduced as evidence as part of the case for the prosecution; and***
- (h) ***a video copy of any video interview with the defendant; and***
- (i) ***a copy of relevant records concerning compliance with the New Zealand Bill of Rights Act 1990; and***
- (j) ***a copy of any statement made by, or record of an interview with, a co-defendant in any case where the defendants are to be proceeded against together for the same offence; and***
- (k) ***a list of any information described in paragraphs (a) to (j) that the prosecutor refuses under section 15, 16, 17, or 18 to disclose to the defendant, together with—***
 - (i) ***the reason for the refusal; and***
 - (ii) ***if the defendant so requests, the grounds in support of that reason, unless the giving of those grounds would itself prejudice the interests protected by section 16, 17, or 18 and (in the case of the interests protected by section 18) there is no overriding public interest.***

- (3) *This section does not apply to a defendant who is charged with an infringement offence as defined in section 2(1) of the Summary Proceedings Act 1957.*
- (4) *In this section, applicable date means—*
- (a) *the date that is 15 working days after the commencement of criminal proceedings:*
 - (b) *in the case of a child or young person who is required to appear in the Youth Court in relation to the commission or possible commission of an offence, the date on which that person first appears in that court:*
 - (c) *any later date that the court or Registrar allows, on application by the prosecutor, for the purposes of disclosure under this section.*

6. Under the **Criminal Disclosure Act 2008, section 13⁴** the Prosecutor **as soon as reasonably practicable after the Defendant has plead not guilty**, including and not limited to the following-

- ***Witness List***
- ***Brief(s) of Evidence***
- ***Certificates of Competency***
- ***Certificates of accuracy***
- ***Lists of any relevant information the prosecutor has refused to disclose***
- ***The reason for the refusal of release of relevant information***
- ***Statements made by prosecution witness/witnesses***
- ***Any previous convictions of a prosecution witness/witnesses***
- ***A list of all exhibits the prosecutor possesses proposed to be introduced as evidence.***
- ***Speed Camera Deployment Register (if applicable)***

Section 13 - Full disclosure

- (1) *The prosecutor must disclose to the defendant the information described in subsection (2) as soon as is reasonably practicable after a defendant has pleaded not guilty.*
- (2) *The information referred to in subsection (1) is—*
- (a) *any relevant information, including, without limitation, the information (standard information) described in subsection (3); and*
 - (b) *a list of any relevant information that the prosecutor refuses under section 15, 16, 17, or 18 to disclose to the defendant together with—*
 - (i) *the reason for the refusal; and*
 - (ii) *if the defendant so requests, the grounds in support of that reason, unless the giving of those grounds would itself prejudice the interests protected by section 16, 17, or 18 and (in the case of the interests protected by section 18) there is no overriding public interest.*

⁴ Criminal Disclosure Act 2008, section 13
<https://www.legislation.govt.nz/act/public/2008/0038/latest/DLM1378865.html>

(3) *The standard information referred to in subsection (2)(a) is—*

- (a) *a copy of any statement made by a prosecution witness; and*
- (b) *a copy of any brief of evidence that has been prepared in relation to a prosecution witness; and*
- (c) *the name and, if disclosure is authorised under section 17, the address of any person interviewed by the prosecutor who gave relevant information and whom the prosecutor does not intend to call as a witness; and—*
 - (i) *any written account of the interview, whether signed or unsigned, and any other record of the interview; and*
 - (ii) *any statement made to the prosecutor by the person; and*
- (d) *any convictions of a prosecution witness that are known to the prosecutor and that may affect the credibility of that witness; and*
- (e) *a list of all exhibits that the prosecutor proposes to have introduced as evidence as part of the case for the prosecution; and*
- (f) *a list of all relevant exhibits in the possession of the prosecutor that the prosecutor does not propose to have introduced as evidence; and*
- (g) *a copy of any information supplied to the prosecutor in connection with the case by any person or persons whom the prosecutor proposes to call to give evidence as an expert witness or witnesses; and*
- (h) *a copy of any relevant information supplied to the prosecutor by a person or persons whom the prosecutor considered calling to give evidence as an expert witness or witnesses, but elected not to do so.*

(4) *The obligation to disclose information to the defendant under this section as soon as is reasonably practicable is subject to any order made under section 30 or 32.*

(5) *If information referred to in subsection (2) comes into the possession or control of the prosecutor, or is prepared in recorded form, after the prosecutor has disclosed information in accordance with subsection (1) and before the hearing or trial is completed, the prosecutor must disclose the information to the defendant as soon as is reasonably practicable.*

(6) *The entitlement of a defendant to information under this section continues while the criminal proceedings are in progress (including any appeal against conviction) and during the period from the conviction until the expiry of the time for lodging an appeal against conviction.*

7. Furthermore the Defendant shall request of the Court than an order for disclosure of information under section 30 of the Criminal Disclosure Act 2008⁵ be made to the Prosecutor should full disclosure not be supplied as soon as reasonably practicable.

Section 30 - Court order for disclosure of information

⁵ Criminal Disclosure Act 2008 section 30

<https://www.legislation.govt.nz/act/public/2008/0038/latest/DLM1378887.html>

- (1) ***The defendant may apply to the court for an order that a particular item of information or type of information in the possession or control of the prosecutor be disclosed on the grounds that—***
 - (a) ***the defendant is entitled to the information under section 12, 13, or 14, as the case may be, and—***
 - (i) ***the prosecutor failed to disclose the information; or***
 - (ii) ***the prosecutor refused under section 14, 16, 17, or 18 to disclose the information, and—***
 - (A) ***none of the reasons described in section 16, 17, or 18 for which information could be withheld applies to the information; or***
 - (B) ***in the case of a refusal under section 17, the information ought to have been disclosed under section 17(3); or***
 - (C) ***in the case of a refusal under section 18, the information ought to have been disclosed under section 18(2); or***
 - (b) ***even though the information may be withheld under this Act, the interests protected by the withholding of that information are outweighed by other considerations that make it desirable, in the public interest, to disclose the information.***
- (2) ***If the court is satisfied, on an application made under this section, that the defendant is entitled to the disclosure of any particular item of information or type of information, or that any particular item of information or type of information should be disclosed to the defendant under subsection (1)(b), the court may order that the item or type of information be disclosed to the defendant.***
- (3) ***An order made under this section may be made subject to any conditions that the court considers appropriate.***

8. At all times the Defendant maintains his innocence under the **New Zealand Bill Of Rights Act 1990⁶, s25(c).**

Section 25 - Minimum standards of criminal procedure (NZ BORA)

Everyone who is charged with an offence has, in relation to the determination of the charge, the following minimum rights:

- (a) ***the right to a fair and public hearing by an independent and impartial court:***
- (b) ***the right to be tried without undue delay:***
- (c) ***the right to be presumed innocent until proved guilty according to law:***
- (d) ***the right not to be compelled to be a witness or to confess guilt:***
- (e) ***the right to be present at the trial and to present a defence:***
- (f) ***the right to examine the witnesses for the prosecution and to obtain the attendance and examination of witnesses for the defence under the same conditions as the prosecution:***
- (g) ***the right, if convicted of an offence in respect of which the penalty has been varied between the commission of the offence and sentencing, to the benefit of the lesser penalty:***

⁶ New Zealand Bill Of Rights Act 1990 section 25 at (c)
<https://www.legislation.govt.nz/act/public/1990/0109/latest/DLM225527.html>

- (h) ***the right, if convicted of the offence, to appeal according to law to a higher court against the conviction or against the sentence or against both:***
- (i) *the right, in the case of a child, to be dealt with in a manner that takes account of the child's age.*

9. Should the Police Prosecution Services wish to continue to waste this Court's valuable time, the Defendant shall continue to maintain his innocence.

10. The Defendant wishes to thank the Court for its consideration given to the above application and memorandum.

For the hearing dated **date of first call hearing, at the **Location** District Court, at **Time**.**

Signature

Signature of Defendant

Date: **Date Written and sent**

Given-Names: FAMILY NAME

Copy Supplied by email to:-

Registry of **Location** District Court (**location**.dc@justice.govt.nz)

Location Police Prosecution Services (pps.**location**@police.govt.nz)