

**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 27 January 2017)

**DEFENCE STATEMENT**

GUIDANCE NOTES UNDER PRACTICE DIRECTION No. 3 of 2017  
MUST BE READ THOROUGHLY 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 DISCLOSURE AND CRIMINAL REFORM ACT 2015)**

**POLICE AND CIVILIAN WITNESS STATEMENTS  
USED MATERIAL**

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

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

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

YES

NO

**59A**

If so, how many expert witnesses will be called?

**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?

YES

NO

**63**

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

N/A

**64**

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

YES

NO

**65**

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

YES

NO

**Rules of Evidence and Rights of the Accused**

<p><b>66</b> 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 <span style="float:right">NO</span></p>	<p><b>67</b> 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 <span style="float:right">NO</span></p>
<p><b>68</b> 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 <span style="float:right">NO</span></p>	<p><b>69</b> 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 <span style="float:right">NO</span></p>
<p><b>70</b> Has Defence Counsel obtained full instructions from the Accused in respect of the evidence disclosed?</p> <p>YES <span style="float:right">NO</span></p>	<p><b>71</b> Has the Accused been made to understand his/her rights to challenge in the jury selection process?</p> <p>YES <span style="float:right">NO</span></p>
<p align="center"><b>THIS FORM MUST BE FILED AND SERVED NO LATER THAN WITHIN 28 DAYS OF THE DATE ON WHICH THE PROSECUTION SERVED FORM 1.</b></p>	
<p align="center">DATE PROSECUTION SERVED FORM 1: _____ DAY _____ OF _____ 20_____</p>	
<p><b>SIGNATURE OF DEFENCE COUNSEL:</b></p>	<p><b>SIGNATURE OF ACCUSED:</b></p>
<p><b>PRINT NAME:</b></p>	<p><b>PRINT NAME:</b></p>

REGISTRY DATE FILING STAMP SHOULD BE PLACED HERE: