**Template for taking instructions**

A lawyer has prepared this confidential document for the dominant purpose of providing legal advice to a client of Legal Aid NSW.

This form has been adapted from a form originally prepared by Richard Kozanecki and contributed to by many others.

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| Date |  |
| Solicitor |  |
| Name of client |  |

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| **Reason for next court appearance** |

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| For mention | Committal | Arraignment | Trial | Sentence |

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| Court location |  | | |
| Fitness to be tried | is an issue | is not an issue | may be an issue |

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| Charges (H numbers) | Plea(s) to be entered |
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| Co-accused |  |
| Other charges pending |  |
| Date of offence |  |
| Date of arrest |  |
| Time spent in custody | * *Is all the time spent in custody referable to the present charge(s) only? If not give details.* * *Is the client on protection in goal? If so, why and for how long?* |
| Bail | * *Refused or granted? What are the present bail conditions?* * *Is any variation of bail sought by the client?* * *Has the client given evidence from the witness box, during a bail application for these charges?* |
| Address |  |
| Mobile number(s) |  |
| Address of arrest |  |
| Address of next of kin |  |
| Contact details |  |

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| **Personal details** |

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| Age |  |
| Date of birth |  |
| Interpreter required |  |
| Aboriginal / Torres Strait Islander |  |
| Employment |  |
| Marital status / children |  |

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| **Physical health** |

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| * *Where the charge is murder, ascertain hospital of birth and obtain from client medical history as a child* * *Details of any present medical condition, treatment and prognosis. Name and address of treating doctor* * *Scars, injuries or disabilities?* * *History of serious illnesses and accidents (eg. car accidents, head injuries, name of hospital admitted to?* * *Was the client taking prescribed medication on the day of this allegation?* * *The client must sign an authority if medical records are to be requested from health agencies* |

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| **Mental health** |

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| * *Does the client have a history of psychiatric illness or counselling?* * *Present psychiatric condition, details of medication and treating doctor* * *Any attempts of suicide?* * *Was the client ever a forensic patient? If so, details of illnesses, institutions and charge(s) from which forensic status arose.* * *Has the client been assessed by any other psychiatrist of psychologist in relation to these allegations? Eg. prison psychologist or crown psychiatrist* * *The client must sign an authority if medical records are to be obtained* |

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| **Drugs and alcohol** |

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| * *Did an illegal drug or alcohol affect the client on the day of this allegation? If so, details of substances used, quantities and time of consumption* * *Obtain drug use history – substances used and date of first drug dependency obtain names of, and periods of treatment, at any drug rehab* * *Obtain alcohol history and quantities consumed on a daily basis at the time of this allegation. Obtain names of and periods of treatment at any alcohol rehab.* |

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| **Reports to be requested** |

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| * *Where the charge is murder, you must obtain a psychiatric report ASAP from a forensic psychiatrist ASAP* * *Have Community Corrections previously supervised the client? If so, obtain particulars of supervising officer* * *If a medical report is to be requested, obtain an answer to the following question: ‘Do you give me an authority to show these instructions to a psychiatrist or doctor, for the purpose of obtaining a report?’* |

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| **Criminal record** |

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| * *Has the client ever been convicted of any offence in Court?* * *When was the first conviction recorded?* * *When was the last conviction recorded?* * *Is there a time gap in the criminal record?* * *Does the client have past convictions, to the present offence(s)?* * *Was the client on bail for other matters on a good behaviour bond, suspended sentence or on parole at the time of the offence(s)?* * *Any further charges or convictions since these allegations?* * *The client must sign an authority to obtain criminal records from the Commissioner of Police* |

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| **Additional background** |

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| * *Names, ages and occupations of mother, father, siblings, spouse and children* * *City born, raised by whom? Family history of alcoholism or violence? If the client was forstered, or ward of State, obtain details. The client must sign an Authority to obtain ‘state ward’ if relevant).* * *Age at which child left school. Name of last school attended.* * *Did the client have any educational problems, or attend any ‘special classes’ at school?* * *Does the client have difficulty reading and writing English?* * *Financial position: assets, income, outgoings, rent and largest deb* * *Plans for the future: employment and accommodation* * *Social activities in spare time / voluntary work / sports played* |

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| **Detention after arrest** |

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| Time charged |  | AM | PM |
| * *Was the client cautioned?* * *Was the client permitted to attempt to communicate with a friend, relative guardian or independent person?* * *Was the client permitted to communicate with a legal practitioner?* | | | |

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| **Record of Interview** |

If no interview was conducted – record that client declined to participate in ERISP

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| * *Was the interview accurately recorded?* * *Are the contents of the interview true?* * *Was the interview given voluntarily?* * *Interviews commenced and ended* * *Was the client affected by drugs or alcohol during the interview?* * *Where is the copy of the audiotape given to the client after the interview?* * *Did the police take any written notes of conversations with the client, during the investigation?* * *Did the client sign the police notes of conversations?* * *Are there any complaints about the conduct of the police, at any stage of the investigation?* * *If the client is to plead guilty, are the client’s answers in the interview to be changed in the light of the plea of guilty? Do any answers given during the interview need clarification?* * *Has the client provided a written statement, or letter about the facts of this case to any person (eg. Co-accused, police, any previous lawyer, relatives or the alleged victim)?* * *Did the client undergo a medical examination or provide samples of bodily fluids to the police or to doctors?* |

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| **Alibi** |

Strike out this section if it is not relevant

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| * *Where the client raises alibi, a written notice of the alibi must be served on the Crown. Care should be taken before an alibi notice is served, as the Crown may use same as part of its case.* * *Obtain name, address, occupation and telephone number of alibi witnesses* * *Where alibi is to be raised advise the client that the police or their agent, may interview any alibi witnesses, prior to the trial* |

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| **Witnesses** |

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| * *Are there witnesses to the facts-in-issue who can assist the defence case? If so, obtain their name, address, occupation and telephone number. Is the witness willing to come to court to give evidence to assist the client?* |

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| **References and character witnesses** |

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| * *Obtain name, address, occupation and telephone number of referees. Are referees aware of these allegations? Would the referee be prepared to come to court?* * *Will the client’s present employer write a reference for Court purposes?* * *Are there witnesses who can give information about the client’s background and prospects of rehabilitation? If so, obtain their name, address, occupation and telephone number. Is the witness willing to come to court to give evidence to assist the client?* |

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| **Identification process** |

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| * *What process of identification of the client took place during the police investigation: photos, identification parade, fingerprint, DNA or other forensic evidence?* |

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| **Appearance of the client at the time of this allegation** |

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| Ethnic background |  |
| Heigh |  |
| Weight |  |
| Build |  |
| Complexion |  |
| Hair colour |  |
| Eye colour |  |
| Tattoos |  |
| Scars or other distinguishing features (eg. Accent or gait) |  |

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| **Sentencing Assessment Report** |

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| * *Have Community Corrections previously supervised the client and were previous reports, if any, favourable? If so, obtain particulars of the supervising officer. If in doubt, requires ta report from other sources.* * *You and the client have little if any control over the contents of a SAR. Any unfavourable material would have to be neutralized by calling the client to give evidence or by cross-examining the maker who may be an experienced witness.* * *The SAR should demonstrate contrition and the client’s prospects of rehabilitation. Clients should not be cautioned not to reveal information that may aggravate the seriousness of the offence.* |

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| **Background offence(s)** |

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| * *What is the objective seriousness of the offence(s)?* * *What is the maximum penalty for this offence?* * *What is the SNPP [if applicable\?* * *Age, occupation and sex of victim, injuries, premeditation, breach of trust, use of weapon, relationship of client to victim or aggravating circumstances.* |

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| **What is the level of culpability of the client?** |

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| * *Sole of join participant, instigator or participant of the offence* * *Was the offence premeditated? Degree of planning and organisation* |

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| **What was the motive for the offence(s)?** |

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| * *Drugs, gambling, peer group pressure, need for money, mental disorder?* * *What was the harm foreseen or intended by the offender?* |

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| **Contrition** |

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| * *Was there early admissions?* * *How much court and witnesses time will be saved?* * *Was there a delay before sentence and have there been stringent bail conditions?* * *Specify any assistance to authorities. Section 23 Crimes (Sentencing Procedure) Act. Will the police provide a letter of comfort?* |

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| **Changes in the client since the commission of the offence(s)?** |

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| * *What has the client done to rehabilitate him or herself?* * *Has the client received treatment, or is he willing to undergo treatment for substance abuse? If the client has undertaken treatment, or attended courses in goal, ask the client to obtain reports and certificates to verify this.* |

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| **Does the client have the support of their family?** |

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| * *Family members should attend court on sentence* |

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| **In-custody activities** |

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| * *Has the client attended Drug and Alcohol counselling?* * *Psychological counselling?* * *Psychiatric intervention?* * *Education?* * *Is the client working?* * *Details of these activities and benefits from attendances should be obtained. Client should be encouraged to attend D&A, counselling and engage in work depending on current needs* |

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| **Special circumstances** |

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| * *Special circumstances may be illness, age, lack of criminal history, prospects of rehabilitation, early plea, first time in custody, assistance to authorities, disability, need for psychiatric treatment or rehabilitation for drug and alcohol abuse* |

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| **Clothing** |

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| * *When the client is in custody, they should be advised to wear civilian clothes to the trial/sentence – ie. not ‘prison greens’.* |

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| **Facts** |

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| * *Obtain the client’s detailed instructions about:* * *The informant’s statement and the statement of the alleged victim* * *The facts-in-issue, as alleged in the police brief* |