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JAWATANKUASA PEGUAM PULAU PINANG PENANG BAR COMMITTEE

Criminal Law 12/20

18 Dec 2020

To Members of the Penang Bar,

Issues from Courtesy Call and Meeting with State Director of Prosecution

Members of the Penang Bar Committee and Criminal Law Subcommittee recently paid a Courtesy Call on the newly-appointed State Director of Prosecution (SDP), Tuan Khairul Anuar Bin Abdul Halim. The Courtesy Call was also attended by several Deputy Public Prosecutors (DPPs) who are currently serving in the State.

The summary of issues discussed during the said Courtesy Call and ensuing Meeting are as follows:

1. Representations

The Committee informed the SDP that defence counsel who submit Representations via e-mail to the SDP's Office do not receive any acknowledgments or replies, and as such, are unable to show their clients that the Representations have indeed been submitted.

The SDP acknowledged this issue and admitted that the SDP's official e-mail address receives many e-mails each day and they are unable to keep track of or identify the Representations received.

To overcome this setback and upon our suggestion, the SDP's Office has set-up the following dedicated e-mail address to be used with immediate effect by defence counsel to submit Representations to and which the SDP's Office will use to acknowledge receipt of the said Representations:

representasippnpp@agc.gov.my

They further informed us that the official replies on whether the Representations are allowed will be sent at a later date after they have gone through the files and checked the respective case status and updates with the relevant investigative authorities.

Members are to take note that this e-mail address is only to be used when submitting Representations and not for correspondence related to other matters not concerning Representations.

2. Section 51A Documents and Charge Sheets

The Committee informed the SDP of the difficulties faced by defence counsel in obtaining charge sheets and Section 51A documents such as coloured photographs which their clients are entitled to as of right.

The SDP agreed that this continues to be a problem for both the Prosecution and defence counsel due to certain logistical problems and constraints. However he assured us that he would look into it and bring it up with the relevant authorities.

3. Witness Statements

The Committee informed the SDP that Witness Statements are often given to the defence counsel just before the trial is about to commence, which is not in compliance of the 14-day rule.

The SDP replied that the Witness Statements are often prepared by Investigation Officers and as such, his Office is unable to provide an assurance that the Witness Statements can be handed over earlier to the defence counsel in the event there is a delay in receiving it from the Police.

It should also be emphasised that it is up to the individual defence counsel whether or not they wish to object to the Witness Statement on the basis that it was not given to them in accordance to the 14-day rule.

4. Correspondence

The SDP requested that all hard copies of correspondence and documents addressed to the SDP and DPPs are to be sent to the 11th Floor, Wisma Bangunan Persekutuan, Jalan Anson (instead of the 10th Floor which is the State Legal Advisor's Office) to ensure that the said correspondence or documents reach the intended recipient(s) and are not misplaced.

5. General

Several security, safety and public policy issues were also discussed at the Meeting and all parties agreed that those issues should be looked into together with the Courts and Police as it requires a concerted effort by all the relevant stakeholders to ensure that fair treatment is accorded to the arrested and accused persons while ensuring that justice is served at the same time.

V Parthipan
Chairperson
Criminal Law Subcommittee