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JAWATANKUASA PEGUAM PULAU PINANG PENANG BAR COMMITTEE

Criminal 9/25

16 Jul 2025

To Members of the Penang Bar,

An Update on the Courtesy Calls Paid on the Penang State Prosecution Director and the Officers in Charge of the Police Districts (OCPD) of Barat Daya and Seberang Perai Utara

The Criminal Practice & Court Liaison Subcommittee paid courtesy calls on the Penang State Prosecution Director, Dato' Mohd Nordin bin Ismail and the Officers in Charge of the Police Districts (OCPD) of Barat Daya and Seberang Perai Utara on 29 May 2025, 12 June 2025 and 30 June 2025, respectively. During the meetings, several key issues were raised and discussed which are as follows:

Penang State Prosecution Officer (PPN)

1) Letter of Representation

All representation letters from Members must be submitted by emailing to representasipppnpp@agc.gov.my. The Pengarah Pendakwaan Negeri (PPN) will then forward them to the respective Deputy Public Prosecutors (DPP) with the necessary instructions and acknowledgement emails will be sent to the members.

As such, there is no need for physical submission of the representations. Once the PPN has deliberated on the representations, members will be informed of the outcomes. For High Court matters, members are advised to forward their representations to the Attorney General's chambers and a copy to the PPN.

If no reply is received within a reasonable time, members may follow up by emailing to m.nordin@agc.gov.my.

2) Withdrawal of Police Report

Investigation Officers (IOs) were requested to be cautious when complainants or their spouses seek to withdraw police reports—especially in cases involving domestic violence, robbery, theft, or fights. Although the law permits withdrawals of police reports, IOs ought to carry out further checks to ensure the requests are genuine and not made under pressure.

As a safeguard measure, it was suggested that IOs should encourage complainants to take time to reconsider the matter. In certain cases, the DPP have been given directions to put the Complainant on the stand and leave it to the court to decide on his or her request for withdrawal.

This would safeguard the complainant's rights and recognize the effort already made by the police in their investigation.

3) Section 41 and/or Section 43 Road Traffic Act 1987

The Subcommittee raised concerns with the PPN regarding delays in the handling of traffic cases under Sections 41 and 43 of the Road Transport Act 1987. Some cases having been investigated are not charged promptly, leading to prolonged proceedings and thus hampering witnesses' recollection of the incidents. As such, the Committee suggests that a mechanism be set up with the PPN in the know of the progress of the existing Investigation Papers for offences under Section 41 and 43 of the Road Transport Act 1987.

Response: Members may email Dato' Nordin directly to report such issues.

4) "Izin & Rekuisi"

Serious delays in obtaining "Izin and Rekuisi" were reported, with some cases taking up to a year. This has resulted in accused being in remand for long periods before their cases are transferred to High Court and heard accordingly. This has brought about public dissatisfaction and a negative perception of the administration of justice.

Response: The PPN acknowledges the Members' concern and advises Members to bring to his attention such cases by emailing to him personally if necessary.

5) Comments on social media

The PPN also reminded lawyers to exercise caution when commenting on social media. Members should refrain from posting unnecessary or disparaging remarks about the PPN or any related parties to uphold professionalism.

OCPD of Barat Daya and Seberang Perai Utara

1) Remand Proceedings

The Subcommittee raised concerns regarding the handling of remand proceedings. Although Borang 28A requires suspects (OKS) to be informed of their rights to contact a lawyer and their families, this is often disregarded by the IOs. The OCPDs were requested to inform their IOs to heed to this requirement.

The Subcommittee also proposed the establishment of a one-stop centre for remand matters, where Members can seek updates on their clients' status with regards to whether being remanded further, charged, or released on police bail and information on visiting hours.

Response: Both OCPDs agreed with the proposal for a one-stop remand centre but noted that time is needed for its implementation. Besides, members are generally allowed to exercise their rights under Section 28A to meet with their clients, provided they have obtained the necessary permission from the IOs concerned. However, in serious cases and for valid reasons, access may be delayed to allow the completion of their investigations.

2) Reasonable Facilities

In line with Section 28A(7) of the CPC, the Subcommittee requested that reasonable facilities be made available in police stations for the communication and consultation with clients

Response: The OCPDs assured that efforts will be made to provide designated rooms (e.g., at IPDs). Meetings are allowed up to 6:00 p.m. and Members are advised to contact the IOs concerned to arrange for access to their clients. If their requests are denied without any valid reason, members are advised to contact the respective "Ketua Bahagian Siasatan" and inform the Penang Bar by writing.

3) Difficulties In Obtaining Updates On Clients' Status from IOs

As there are no one stop centres currently, members face difficulties in obtaining timely updates from IOs with regards to their clients' release, further remand or being charges.

Response: The OCPDs acknowledge this issue and feel that the One Stop Centre suggestion will greatly improve this situation. In the meanwhile, The OCPDs will personally look into improving communication and application standards. Members facing this problem can forward the matter to the Penang Bar.

4) Traffic Case- Subpoenas & Allowances

The Subcommittee also raised issues of IOs refusing to accept subpoenas or failing to attend court after accepting them, unreasonable delays in charging traffic offences under Sections 41 and 43 besides the excessive demands for allowances from IOs, ranging from RM100 to RM1000 to accept subpoenas.

Response: (i) The OCPDs acknowledged the issue and will take the necessary steps to ensure the IOs comply with proper procedures and get the directions from the PPN or DPP with regards to the traffic offences under Sections 41 and 43.

(ii) They will also work to standardise allowance rates at reasonable amounts. As the prevailing allowance rates stated in the rules are low, the Penang Bar will also raise the issue with the relevant authorities. However, it is also reminded that it is unreasonable for the IOs to request for unreasonable amounts.

(iii) The OCPD of the Barat Daya Police District assured that he would instruct the Ketua Bahagian Trafik in

his district to remind all IOs to attend court proceedings when served with a subpoena. Meanwhile, the OCPD of Seberang Perai Utara (SPU) has advised Members that in the event if an IO refuses to attend court proceedings, Members may apply for a warrant of arrest against the IO and bring the matter to his attention for appropriate action.

5) Difficulty Obtaining Documents for Accident Cases

The Sub-Committee raised the issue of Members continuing to face difficulties in obtaining documents for accident cases, particularly the “Keputusan Kes” which in actual fact should be made available in the system. Often, members are advised to meet the relevant officers to collect the “Keputusan Kes” document and there are officers who ask for payments up to RM300.00 for the “Keputusan Kes” document.

The Subcommittee also highlighted to the OCPDs regarding the conduct of some IOs in accident cases. Victims while lodging reports are allegedly being directed to specific panels of lawyers. Those who decline such referrals or already have legal representation may face non co-operation from the IOs.

In addition, there are often unreasonable delays in initiating criminal proceedings in fatal accident cases, unless the case has drawn public attention and in which case, it is expedited. These delays can severely impact the ability of dependents to pursue civil claims within the limitation period, particularly where charges under Sections 41 or 43 of the Road Transport Act 1987 are involved.

Response: The OCPD SPU noted that no direct instructions from DPPs were given in cases involving fatalities. It was agreed that a clearer system or regulation should be in place requiring all investigation papers (IP) to be referred to the PPN for directions and further action involving the RGP and AGC.

Response: The OCPDs have assured that they will convene a meeting with IOs and other relevant officers to address these issues and explore solutions.

Thank you.

Parthipan a/l K. Vairavan

Chairman

Criminal Practice & Court Liaison Subcommittee