

# Chapter 10 – Escorts and Extraditions

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OPM Issue 66  
Public Edition

## 10.1 Introduction

For the purpose of this chapter, escorts fall into one of the following categories:

- medical escorts;
- escorts of persons in custody;
- escorts of valuables;
- miscellaneous escorts;
- extraditions; and
- interstate transfer of prisoners.

The policy and procedures to be adopted in the escort of excess dimension vehicle escorts are not outlined in this chapter.

## 10.2 References to legislation

Frequent reference to legislation is made which impacts on the contents of this chapter. This chapter should be read in conjunction with those statutes, which can be accessed from the legislation page located on the Service Intranet.

## 10.3 Medical escorts

### 10.3.1 Medical escorts generally

#### POLICY

Medical escorts should only be provided in exceptional circumstances. Where possible, officers should control traffic at key intersections in lieu of the escort of a vehicle.

In circumstances where members attend the scene of an incident where a person requires emergency medical treatment and that treatment is not readily available, preference should be given to ensuring that adequate and appropriate medical personnel and equipment are brought to the scene of the emergency rather than transporting the person in a police vehicle or other non-medical vehicle.

### 10.3.2 Requests for medical escorts

#### POLICY

Members who make or receive a request for a medical escort should pass that request to an authorising officer.

A request for a medical escort should be made by a medical practitioner or the duty supervisor at an Ambulance Control Room and that medical authority should clearly indicate that travel by police escort will significantly increase the chances of preserving human life.

Requests for medical escorts should be passed to the authorising officer directly or via the radio operator controlling the radio channel on which a member is working (where no radio contact, see s. 10.3.8: 'Vehicles not in radio contact' of this chapter).

All requests should include the:

- (i) reason for the escort;
- (ii) proposed route and destination;
- (iii) anticipated speed at which the escort will travel;
- (iv) expected number of escorting vehicles;
- (v) vehicle recommended to contain the senior escorting officer; and
- (vi) source of the request.

### 10.3.3 Consideration of request for and approval of medical escorts

#### POLICY

If authorising officers are satisfied that:

- (i) life threatening circumstances exist;

- (ii) an escort will significantly assist in preserving human life;
- (iii) the risks are outweighed by the probable benefits; and
- (iv) the urgency of the situation is such that no time is available to place officers at intersections to control traffic;

they may approve a medical escort.

Authorising officers can revoke approval for a medical escort.

#### PROCEDURE

Where escorts are authorised, authorising officers should provide direction regarding the conduct of the escort. This should specify:

- (i) the deployment of police resources. Motorcycles should be used in preference to motor cars. Service vehicles used in escorts should be marked and fitted with emergency lights and sirens;
- (ii) that one of those vehicles contains the senior escorting officer if more than one vehicle is deployed;
- (iii) the route to be followed;
- (iv) a priority Code 2 to that escort with a restriction that the escort travel within the prescribed speed limits; and
- (v) any other conditions believed necessary to maintain the safety of the escort and the public generally.

Authorising officers can revoke or modify the direction at any time prior to or during the escort.

#### ORDER

Authorising officers are to assign a priority Code 2 to the medical escort with a restriction that the escort travel within the prescribed speed limits.

### 10.3.4 Responsibilities of the senior escorting officer

#### ORDER

Senior escorting officers are to confirm the priority code for the medical escort and confirm any speed restriction that may be placed on the medical escort with the authorising officer.

#### POLICY

Senior escorting officers are responsible for the safe conduct of medical escorts.

### 10.3.5 Responsibilities of officers participating in medical escorts

#### ORDER

Officers participating in a medical escort are to exercise all due care in performing this duty to protect the safety of those being escorted, themselves, other members of the Service, and the public generally.

Officers driving escort vehicles are to comply with directions given by authorising officers.

### 10.3.6 Conduct of medical escorts

#### PROCEDURE

Only vehicles and officers deployed by authorising officers should become involved in medical escorts.

Senior escorting officers should ensure that the emergency lights and sirens of escorting vehicles are activated when appropriate during an escort.

Senior escorting officers should ensure that all vehicles taking part in an escort do so in accordance with the directions made by authorising officers.

Senior escorting officers should advise the radio operator of the progress of the escort at regular intervals appropriate to the particular escort or when requested to do so by the radio operator. That advice should include the speed of the escort, location, current traffic conditions and any other relevant information.

Where the escort is of another vehicle, e.g. ambulance, senior escorting officers should ascertain if the other vehicle has radio access to any police channels and if not, should provide where practicable, a hand held radio to an occupant of the other vehicle so that communications with that person can occur during the escort.

Where radio contact exists between the vehicle containing the senior escorting officer and the escorted vehicle, the senior escorting officer should communicate with that vehicle on any matters relating to the safe and efficient movement of the escort.

If more than one vehicle is used, the vehicle containing the senior escorting officer should travel immediately in front of the vehicle being escorted. Other vehicles should precede the vehicle containing the senior escorting officer to ensure unimpeded passage, particularly at intersections. Where a third vehicle is utilised, the two vehicles preceding the escort should move ahead to alternate intersections.

No vehicle should take up position to the rear of the escorted vehicle.

Additional officers may be assigned to control traffic at intersections along the route where necessary.

### **10.3.7 Circumstances of change to medical escorts**

#### PROCEDURE

In the event that circumstances change so that any condition of approval is no longer appropriate, senior escorting officers should take immediate action to eliminate any danger by reducing speed, changing route or taking other appropriate action. Senior escorting officers should immediately advise authorising officers of the change in circumstances via the radio operator.

### **10.3.8 Vehicles not in radio contact**

#### ORDER

When officers who are out of radio contact elect to commence a medical escort and at a later stage come into radio contact with a radio operator, they are to immediately advise the radio operator of the situation. The radio operator is to then take immediate action to give effect to the provisions of this chapter.

### **10.3.9 Change of radio operators**

#### PROCEDURE

Where a medical escort travels from an area under the control of a radio operator to an area under the control of a different radio operator, the radio operator having control of the area from which the escort is leaving should give sufficient notice of the escort to the radio operator in the area to which the escort will travel to ensure the efficient transition of control.

## **10.4 Escort of persons in custody**

The term 'escort of persons in custody' may be generally regarded as referring to:

- (i) the transfer of a prisoner(s) to or from a police watchhouse, a correctional centre or detention centre; or
- (ii) to a person(s) who is being extradited.

However for this Chapter, the transport of a person immediately after arrest to a watchhouse, police station or establishment, or whilst being detained for any reason also constitutes an escort.

This section contains generic provisions relating to the escort of a person in custody, regardless of the reason for the escort.

Additionally, certain provisions of this section apply only to a prisoner's escort as outlined above and others only to the escort of a person(s) recently arrested or detained for questioning.

It is important that police officers and watchhouse officers involved in conducting escorts understand and appropriately apply the provisions of this section.

### **10.4.1 Escort of persons in custody generally**

Generally, such escorts involve:

- (i) persons detained under statutory provisions;
- (ii) persons under arrest;
- (iii) persons sentenced to imprisonment;
- (iv) persons not sentenced but remanded in custody;
- (v) children transferred to and from detention centres;
- (vi) persons transferred from one jurisdiction to another (extraditions); or
- (vii) prisoners transferred from one State or Territory to another.

#### POLICY

Escorting police officers and watchhouse officers should take all necessary action to:

- (i) ensure the safety and well-being of persons in custody, members of the Service, and members of the public;
- (ii) maintain security of the person in custody until lawfully transferred to the custody of another person or released from custody;
- (iii) prevent loss, damage to, or destruction of any property regardless of ownership;

- (iv) preserve evidence of the commission of an offence; and
- (v) endeavour to maintain the dignity of the person in custody.

#### 10.4.2 Legal requirements relating to escorting police officers and watchhouse officers

Under the provisions of s. 393: 'Duty of police officer after arrest etc. of person' of the *Police Powers and Responsibilities Act*, if a police officer:

- (i) arrests a person:
  - (a) without a warrant for an offence;
  - (b) under a warrant for an offence, whether under the *Police Powers and Responsibilities Act*, or another Act; or
  - (c) under ss. 367: 'Arrest of a person granted bail' or 368: 'Arrest of person given notice to appear or summons' of the *Police Powers and Responsibilities Act*; or
- (ii) receives into custody a person who is arrested or detained by someone other than a police officer;

the police officer must, as soon as reasonably practicable, take the person before a court to be dealt with according to law, unless the person:

- (i) is released under Chapter 14, Part 4, ss. 375-381: 'Discontinuing arrest' of the *Police Powers and Responsibilities Act*;
- (ii) is being detained under Chapter 15, ss. 396-441: 'Powers and responsibilities relating to investigations and questioning for indictable offences' of the *Police Powers and Responsibilities Act* for an indictable offence;
- (iii) is being detained under s. 80: 'Provisions with respect to breath tests and laboratory tests' of the *Transport Operations (Road Use Management) Act*;
- (iv) is arrested under a warrant that requires the police officer to take the person before another body or to another place;
- (v) is delivered into the custody of a watchhouse manager or the officer in charge of a police establishment; or
- (vi) is arrested under s. 365(2): 'Arrest without warrant' and is later released under s. 376: 'When arrest may be discontinued – general rule' without having been charged with the offence for which the person was arrested.

Furthermore, s. 393 of the *Police Powers and Responsibilities Act* does not prevent a police officer:

- (i) if the person is a prisoner under the *Corrective Services Act*, taking the person to a prison or to a watchhouse until the person can be conveniently taken to a prison; or
- (ii) if the person escaped from lawful custody while a prisoner of a court, taking the person to a police station or watchhouse until the person can be conveniently returned to the custody of the proper officer of the relevant court.

It is an offence, having arrested another upon a charge of an offence, to wilfully and without lawful excuse, delay in taking the person before a justice (see s. 137: 'Delay to take person arrested before Magistrate' of the Criminal Code). See also s. 7: 'Compliance with Act by police officers' of the *Police Powers and Responsibilities Act*.

Police officers and watchhouse officers have an obligation at civil law to provide care for a person in custody. If that obligation is breached and, as a consequence, injury or loss results, the escorting police officers or watchhouse officers may be liable. There is also a legal requirement for police officers and watchhouse officers to provide the necessaries of life to a person under their care (see s. 285: 'Duty to provide necessaries' of the Criminal Code). The necessaries of life include medical attention, food, clothing etc. See also Chapter 16: 'Custody' of this Manual in relation to the health and well-being of persons in custody.

Section 615: 'Power to use force against individuals' of the *Police Powers and Responsibilities Act* states:

- (1) It is lawful for a police officer exercising or attempting to exercise a power under this or any other Act against an individual and anyone helping the police officer, to use reasonably necessary force to exercise the power.
- (2) Also, it is lawful for a police officer to use reasonably necessary force to prevent a person from escaping from lawful custody.
- (3) The force a police officer may use under this section does not include force likely to cause grievous bodily harm to a person or the person's death.

See also s. 616: 'Power to use force against individuals in critical situations' of the *Police Powers and Responsibilities Act*.

See also s. 652: 'Power to use force against individual at watchhouse' and s. 653: 'Power to use force – transfer etc. of person in custody to or from court cell or other place', of the *Police Powers and Responsibilities Act* which sets out the powers available for watchhouse officers to use force and what force is appropriate to use in the relevant circumstances.

The use of more force than is justified under the circumstances is unlawful (see s. 283: 'Excessive force' of the Criminal Code).

### 10.4.3 Persons in custody

#### POLICY

Whilst members are not trained or equipped to perform complex medical assessments of persons in custody, all police officers and watchhouse officers who have custody of another person should take all reasonable care to provide for the necessities of life of that person.

Children will predominantly be brought before a court by way of a notice to appear under the *Police Powers and Responsibilities Act* or a summons issued under the *Justices Act*. However, the escort of children arrested for an offence is subject to the provisions of this chapter and those outlined in Chapter 5: 'Children' of this Manual.

Subject to health care requirements, arresting officers should convey a person taken into custody to the nearest watchhouse facility or police establishment. Where arresting officers intend to apply to the prescribed police officer to refuse bail for an arrested person, arresting officers should convey that prisoner, wherever practicable, to the nearest watchhouse staffed on a twenty-four hour basis.

### 10.4.4 Health care for persons in custody

See Chapter 16: 'Custody' of this Manual.

If there is reason to believe the person in custody may be mentally ill, police officers and watchhouse officers should refer to Chapter 6: 'Special Needs' and s. 10.4.28: 'Escort of mentally ill persons' of this chapter.

### 10.4.5 Search of persons in custody

See s. 443: 'Police officer may search person in custody', and relevant provisions of Chapter 20, Part 3, ss. 624-638: 'Other safeguards' of the *Police Powers and Responsibilities Act* relating to searches of persons. See also s. 644: 'Watchhouse officer may ask entrant to remove outer garment etc.', s. 649: 'Watchhouse officer may search person in custody at watchhouse' and s. 654: 'Search of persons' relating to searches of persons by watchhouse officers. See also s. 16.10: 'Search and examination of persons in custody' of this Manual.

### 10.4.6 Transport of arrested persons

#### PROCEDURE

Arresting officers should:

- (i) convey an arrested person to the nearest watchhouse facility or police establishment using the most expedient means available. If arresting officers intend to apply to a watchhouse manager or officer in charge of a place to refuse bail for an arrested person, then officers should convey that person, wherever practicable, to the nearest watchhouse staffed on a twenty-four hour basis;
- (ii) take all possible precautions to prevent the escape of any person in custody and carefully watch for conditions, factors or situations which may provide a means of escape (e.g. evasion amongst a crowd, escape from toilets); and
- (iii) lodge the person in custody with the watchhouse manager at the watchhouse. See Chapter 16: 'Custody' of this Manual.

### 10.4.7 Handcuffing of prisoners on aircraft

#### POLICY

When escorting prisoners on aircraft including Queensland Government Air (QGAir), the escorting police officer or watchhouse officer should conduct a threat assessment of all prisoners under the escorting police officer's or watchhouse officer's control prior to placing the prisoner on board the aircraft. See also s. 10.4.17: 'Queensland Government Air (QGAir)' of this chapter.



Escorting police officers or watchhouse officers should refer to the following table in determining the risk level of prisoners and apply the appropriate method of restraining prisoners for that risk category.

Category	Criteria	Method of restraint
High risk prisoners	<p>Prisoners who are an obvious risk. Examples of prisoners who present as an obvious risk are those that:</p> <ul style="list-style-type: none"> <li>• have a history of violence;</li> <li>• have a history of serious offences;</li> <li>• are exhibiting symptoms of mental illness;</li> <li>• are an escape risk; or</li> <li>• are non-compliant</li> </ul>	Handcuffs and Body belts at the discretion of the pilot in charge of the aircraft in consultation with escorting officers
Unknown risk prisoners	Those prisoners who are not high risk	Handcuffed at the direction of the pilot in charge where considered reasonably necessary. Refer to Regulation 309: 'Power of pilot in command' of the Civil Aviation Regulations (Cwlth).

Additionally the provisions of ss. 14.19: 'Handcuffs' and 5.7.14: 'Handcuffing of children' of this Manual should be applied.

### 10.4.8 Responsibility for arranging escorts within Queensland

#### POLICY

The officer responsible for arranging an escort is:

- (i) for escorts from a watchhouse – the watchhouse manager where the prisoner is located;
- (ii) in the case of an escort of a person immediately after arrest or who is detained for questioning – the officer making the arrest or detaining the person;
- (iii) in the case of an escort of a prisoner/child from a corrective services facility/youth detention centre to a Queensland court – the watchhouse manager for the area in which the person is to appear in court. This may include any required return escort, e.g. where a prisoner is originally escorted to a court and is subsequently remanded back in custody.

However, where the corrective services facility/youth detention centre is located outside of Brisbane and the prisoner/child is to be escorted to a court located in the greater Brisbane area (Petrie, Sandgate, Holland Park, Wynnum and Cleveland Magistrate Courts) including 240 Roma Street Magistrates Court, Brisbane Magistrates Court, 363 George Street, Brisbane District and Supreme courts, the Watchhouse Manager, Brisbane Watchhouse is to arrange the escort to the Brisbane Watchhouse and any required return escort. In such cases, the watchhouse manager for the respective greater Brisbane area is responsible for arranging the escort to and from the Brisbane Watchhouse.

Where the prisoner is in a Brisbane corrective services facility/ youth detention centre and is required to appear at 240 Roma Street Magistrates Court, Brisbane Magistrates Court, 363 George Street, Brisbane District and Supreme courts, the Corrective Services Escort and Security Branch, Queensland Corrective Services, Department of Community Safety or the Department of Justice and Attorney-General are responsible for arranging and undertaking the escort.

(See also s. 2.5.6: 'Removal of prisoners from corrective services facilities' of this Manual); or

- (iv) otherwise – the officer in charge of the police station in the division in which an escort is to commence.

Officers arranging escorts are to:

- (i) obtain any necessary approval for the escort. This may also require the completion of a form: QP 0353 'Travel Request'. See also Travel Services policies and procedures available on the 'Persons In Custody, Escorts and Extraditions' web page of the Service Intranet;
- (ii) organise any required travel arrangements for the entire escort, e.g. air fares, train fares, bus fares, boat fares, QGAir, police vehicle etc.
- (iii) where the assistance of other stations or establishments are required for the escort, Station/establishment Instructions are to be used for arranging the assistance of those stations or establishments;

(iv) where an escort is to commence in the Brisbane metropolitan area and police assistance with the escort is required in the Brisbane metropolitan area, seek the assistance of the Brisbane Watchhouse, see s. 10.4.12: 'Assistance with escorts to or from Brisbane' of this chapter;

(v) provide escorting police officers where required and where assistance may be required from another police station or police establishment, liaise with the officer in charge of that other police station or establishment to most efficiently use staff and resources from both areas;

(vi) when the escort is of a prisoner from a corrective services facility/ youth detention centre, confirm that the person in charge of the corrective services facility/ youth detention centre where the prisoner/child is detained is in possession of a copy of the relevant notice to appear, summons, warrant or other authority in accordance with s. 2.5.6: 'Removal of prisoners from corrective services facilities' of this Manual; and

(vii) when the escort is of a prisoner from a Corrective Services facility/ youth detention centre, consider requesting an External Escort Intelligence Advice form from Queensland Corrective Services.

See also ss. 10.4.9: 'Escorting police officers and watchhouse officers', 10.4.10: 'Escort of multiple persons in custody' and 10.4.11: 'Mode of transport of persons in custody' of this Manual.

### **10.4.9 Escorting police officers and watchhouse officers**

#### **POLICY**

Where practicable, a person in custody should be escorted by the nominated arresting officer, or the officer in charge of the investigation.

If the escorting police officer or watchhouse officer is of the opposite sex to the person being extradited, a second escorting police officer or watchhouse officer of the same sex as the person being extradited should accompany the arresting officer.

#### **PROCEDURE**

Officers arranging an escort should:

- (i) use the nominated arresting officer, or the officer in charge of the investigation whenever possible;
- (ii) use police officers and/or watchhouse officers for escorts whenever possible;
- (iii) appraise the physical and mental abilities and disposition of the person in custody when arranging escorting police officers or watchhouse officers. Where the person in custody is violent, disturbed or likely to attempt escape, the escorting police officers or watchhouse officers should be physically able to restrain the person given the mode of transport and the use of restraining devices if warranted; and
- (iv) select an appropriate number of escorting police officers or watchhouse officers and, where practicable, have at least one escorting police officer or watchhouse officer of the same sex as the person in custody.

### **10.4.10 Escort of multiple persons in custody**

#### **POLICY**

Escorts should be arranged wherever possible to ensure the separation of the following persons in custody:

- (i) male from female persons;
- (ii) youths from adults; and
- (iii) persons posing a danger to others from other persons in custody.

Escort vehicles should not be overcrowded.

#### **PROCEDURE**

Police officers and watchhouse officers responsible for initiating escorts should arrange:

- (i) separate transport for male and female persons in custody except in exceptional circumstances, e.g. members of the same family, husband and wife, father and daughter;
- (ii) separate transport for children and adults. Children should not be escorted with adults unless there are compelling reasons for doing so which are wholly in the child's interests, e.g. an aboriginal child transported with an aboriginal adult for safety reasons;
- (iii) separate transport for persons in custody who are:
  - (a) suffering or suspected of suffering from a communicable disease at a time when it is contagious. Communicable diseases include acquired immune deficiency syndrome (AIDS), venereal diseases, mumps, trachoma and hepatitis;
  - (b) violent, dangerous or mentally ill (ensure suitable restraining devices are available);
  - (c) assisting police in criminal investigations involving other persons also to be escorted;

- (d) at risk from other persons in custody for whatever reason; and
- (e) a physical danger to others or are likely to attempt escape; and
- (iv) sufficient vehicles to transport persons in custody so there is no overcrowding.

#### **10.4.11 Mode of transport of persons in custody**

##### **POLICY**

The mode of transport that should be used for the escort of persons in custody should, where available, be commensurate with the type and number of persons to be escorted, respective cost of travel, distance to be travelled and any special or medical needs of those persons.

##### **PROCEDURE**

Police officers or watchhouse officers arranging an escort should use:

- (i) air travel when considered necessary for long distance escort (the maximum number of persons in custody permitted to be escorted on a commercial flight is two);
- (ii) rail/bus/boat travel in appropriate circumstances, e.g. police transport unavailable or not cost effective;
- (iii) Service vehicles for transporting persons within reasonable distances; or
- (iv) Service vehicles when the person is:
  - (a) suffering or suspected of suffering from a communicable disease at a time when it is contagious;
  - (b) violent, dangerous or mentally ill (ensure suitable restraining devices are available); or
  - (c) likely to attempt escape or pose a danger to others.

#### **10.4.12 Assistance with escorts to or from Brisbane**

##### **POLICY**

For the responsibility of officers arranging escorts, see s. 10.4.8: 'Responsibility for arranging escorts within Queensland' of this chapter.

Assistance in the escort of prisoners from a point within the Brisbane metropolitan area to any part of the State is the responsibility of the Officer in Charge, Brisbane Watchhouse. Assistance from the Brisbane Watchhouse includes:

- (i) transporting prisoners from a Brisbane Corrective Services facility/detention centre to Queensland Government Air (QGAir), or commercial airport and their return to the Corrective Services facility/detention centre if required;
- (ii) transporting prisoners from a Brisbane Corrective Services facility/detention centre to the Brisbane Watchhouse as part of an arranged escort;
- (iii) assisting police officers from country areas with escorts to or from Brisbane; and
- (iv) providing police escort officers when available.

##### **PROCEDURE**

Requests for assistance with prisoner escorts should be made as early as possible by sending an e-mail message to the Brisbane Watchhouse at, Watchhouse Brisbane.Leave[MNR]. If transport is required within 24 hours, send an email message and contact the Watchhouse Duty Manger by telephone. This will ensure that prisoners arrive in time for their scheduled court appearances.

##### **POLICY**

Officers making a request for assistance with an escort from a point within the Brisbane metropolitan area to any part of the State are to ensure the request contains the details of the arranged escort, including:

- (i) the full name of prisoner, date of birth and whether male or female;
- (ii) the court at which the prisoner is to appear and the relevant offence or offences with which the person is charged;
- (iii) the date of the court appearance and whether the matter has been set down for remand or hearing;
- (iv) where a return escort is required, the details of any arranged escort;
- (v) confirmation that the person in charge of the Corrective Services facility/detention centre where the prisoner is detained is in possession of a copy of the relevant notice to appear, summons, warrant or other authority in accordance with s. 2.5.7: 'Removal of prisoners from corrective services facilities' of this Manual; and
- (vi) any other matter(s) deemed relevant, e.g. whether considered dangerous, is a potential escapee/person unlawfully at large, is in receipt of medication, has a communicable disease.

When assistance is required by police officers from country areas arriving in Brisbane with an escort, those police officers are to ensure an e-mail message is sent to the Brisbane Watchhouse at Watchhouse Brisbane. Leave [MNR] containing the details of the arranged escort, including:

- (i) full name of prisoner, date of birth and whether male or female;
- (ii) offence or offences involved;
- (iii) mode of transport and name of transport company;
- (iv) destination and time of arrival;
- (v) court or place of detention to which the prisoner is to be taken;
- (vi) name of the escorting police officer(s); and
- (vii) whether the escorting police officer is to accompany the prisoner to the destination or is to transfer custody of the prisoner to a police officer of the Brisbane Watchhouse when met at a place other than the destination.

In the case of a child to be escorted to a detention centre, the police officer arranging the escort is to notify the detention centre of the date and time at which the escort is to commence, the means of transport, and the estimated time of arrival at the centre.

The Officer in Charge of the Brisbane Watchhouse is to provide such assistance as is reasonably necessary.

For further procedures relating to the arrangement of transport see s. 10.4.16: 'Transporting persons in custody' of this chapter.

#### **10.4.13 Packaging prisoner property for escort**

##### **POLICY**

Where a prisoner is escorted by police or Watchhouse staff, the QPS prisoner property sheet is to be printed from the relevant Custody report (full) in QPRIME. After being individually itemised and recorded in the Custody report (full), property accompanying a prisoner for escort is to be packed, wherever practicable, in clear plastic and securely heat sealed. Where practicable, property is to be packaged within plastic in such a manner so that all property is visible and identifiable from within the container without requiring the container to be opened. Where practicable, property is to be packaged into different compartments within the one container.

Where a prisoner to be escorted has a large quantity of property that makes it impracticable to package as detailed above, the property is to be packaged in the most secure manner available.

The following property is to be packaged in clear plastic, heat sealed and labelled separately from all other prisoner property:

- (i) medication and any other property that may be required for use in transit;
- (ii) money, jewellery and other valuables; and
- (iii) dangerous articles such as pocket knives, razor blades and lighters.

When money, jewellery and other valuables are secured in plastic and heat sealed, the seals are to be marked using some identifying feature, such as being signed by the police officer or watchhouse officer or a heat seal method.

After the property is packaged, the number and type of packages constituting the prisoner's property is to be included on the QPS prisoner property sheet. The packages are to be similarly labelled with the prisoner's name, property type, and number of packages.

#### **10.4.14 Assistance from others when escorting persons in custody**

##### **PROCEDURE**

Where available, airport security can provide assistance including escort to and from the aircraft within an airport terminal for which they have responsibility. Such assistance can be obtained for violent or dangerous persons or potential escapees.

Where appropriate, police officers and watchhouse officers should consider using the assistance of the Special Emergency Response Team (SERT) or the Public Safety Response Team (PSRT) (see ss. 2.19.13: 'Special Emergency Response Team and 2.19.12: 'Public Safety Response Team' of this Manual).

Police officers or watchhouse officers arranging an escort should notify the officers in charge of stations where meal reliefs or assistance will be required. Officers in charge of a station receiving such advice should ensure that escorting police and watchhouse officers are relieved or otherwise assisted upon their arrival at the centre.

For interstate assistance, see ss. 10.8: 'Extraditions from within Australia' and 10.12: 'Transfer of interstate prisoners' of this chapter.

## 10.4.15 Transfer of and taking charge of persons in custody

### Relinquishing custody of persons in custody

#### ORDER

Police officers or watchhouse officers relinquishing custody of a person(s) in custody (a 'prisoner') are to advise the person to whom custody of the prisoner(s) is transferred of any pertinent matter known to them relating to the prisoner(s), including any physical or mental condition, suicidal tendencies, violent/dangerous behaviour, propensity for escape or need for protection. This advice is to be given verbally, and also included on the appropriate sections of a QPS Person Report (Custody) and/or QPS prisoner property sheet.

An original and a copy of completed transfer documents (see s. 16.18.1: 'Transfer of prisoner' of this Manual for the list) is to be provided to the police officer, watchhouse officer or correctional officer receiving custody of a prisoner:

- (i) where custody of a prisoner is relinquished by a watchhouse manager to a senior escorting officer for transport of the prisoner to another watchhouse or a correctional centre – by the watchhouse manager;
- (ii) where a prisoner is lodged at a watchhouse by authority of a warrant of commitment (including a warrant of commitment issued forthwith, a warrant of commitment where punishment is by imprisonment and a warrant of commitment for trial or sentence), warrant of imprisonment or remand warrant, and the lodging officer is aware at the time of lodging that the prisoner is to be transferred to another watchhouse or a correctional centre – by the police officer or watchhouse officer lodging the prisoner; or
- (iii) where a prisoner is lodged at a correctional centre by authority of a warrant of commitment (including a warrant of commitment issued forthwith, a warrant of commitment where punishment is by imprisonment and a warrant of commitment for trial or sentence), warrant of imprisonment or remand warrant – by the police officer or watchhouse officer lodging the prisoner.

The police officer or watchhouse officer responsible for arranging an escort of a prisoner is to ensure, where considered necessary, extra security is provided for the escort. Examples of extra security include:

- (i) provision of a second vehicle and police officers or watchhouse officers;
- (ii) obtaining the services of a police dog squad unit (see s. 2.19.4: 'Dog Squad' of this Manual); or
- (iii) obtaining the services of the Special Emergency Response Team or the Public Safety Response Team (see ss. 2.19.13: 'Special Emergency Response Team' and 2.19.12: 'Public Safety Response Team' of this Manual);

to accompany the escort vehicle.

### Senior escorting officer

#### ORDER

When receiving custody of a prisoner, senior escorting officers are to (except in the case of a medical or emergency evacuation):

- (i) examine the authority for a prisoner's custody and ensure that it is in order. Authorities include a warrant work list, a written version of the computer warrant, a copy of the paper warrant or the paper warrant. Where that authority is not available, senior escorting officers should not take custody of a prisoner unless the absence of such authority is satisfactorily explained. If necessary, senior escorting officers are to seek the direction of the police officer or watchhouse officer responsible for arranging the escort;
- (ii) take custody of official transfer documents (see s. 16.18.1: 'Transfer of prisoner' of this Manual for the list) relating to the prisoner;
- (iii) take custody of the prisoner;
- (iv) ensure the prisoner is searched for weapons and other property (see s. 10.4.5: 'Search of persons in custody' of this chapter);
- (v) take note of any advice given by the watchhouse manager, police officer or watchhouse officer transferring custody regarding the prisoner (e.g. violent, dangerous, diseased, in need of protection, requires medication);
- (vi) use handcuffs where warranted (see Chapter 13: 'Miscellaneous' and Chapter 5: 'Children' of this Manual);
- (vii) check the prisoner's property against the property detailed on the QPS prisoner property sheet and if correct, sign for receipt of the property on both the original and copy of the form. Property is to be checked in the following way:
  - (a) money, jewellery and other valuables are to be strictly accounted for and each item checked against the QPS prisoner property sheet;
  - (b) medication, dangerous articles and all other property will only require the number and type of packages reconciled against those listed on the QPS prisoner property sheet ensuring each package is securely sealed; and

(c) when bags or packages are opened during the escort, the opening of any packages is to be noted on the QPS prisoner property sheet and all items within those packages are to be strictly accounted for and each item checked against the QPS prisoner property sheet.

Where the prisoner's property is not reconciled with the QPS prisoner property sheet, advise the watchhouse manager, police officer or watchhouse officer transferring custody. The QPS prisoner property sheet should not be signed until reconciled with the prisoner's property;

(viii) take custody of the prisoner's property;

(ix) not allow access by the prisoner to property during the escort but provide medication and other essentials as required;

(x) provide or arrange for medical assistance to the prisoner if required;

(xi) ensure that the prisoner's medication or other medical items are available during the escort;

(xii) ensure that any reasonable requirements relating to the welfare of the prisoner, including such things as the wearing of footwear, the provision of food, drink and access to toilet facilities is provided where appropriate;

(xiii) when lodging a prisoner at a correctional/detention centre, provide the prisoner's property and all transfer documents to the receiving officer and have that officer acknowledge receipt of that property and the prisoner on the original copy of the QPS prisoner property sheet; and

(xiv) ensure that the original signed copy of the QPS prisoner property sheet is returned to the police officer or watchhouse officer responsible for arranging the escort.

See also s. 16.18.1: 'Transfer of prisoner', of this Manual.

#### **10.4.16 Transporting persons in custody**

##### PROCEDURE

Escorting police officers or watchhouse officers should:

(i) remain alert for possible attempts to escape;

(ii) not obtain seats adjacent to any normal or emergency exit associated with the mode of transport;

(iii) leave the aircraft, coach, train or vessel with the person only after the other passengers have disembarked at that stop; and

(iv) after disembarking, make themselves known to those persons meeting and assisting the escort.

##### ORDER

Escorting police officers or watchhouse officers are:

(i) not to handcuff persons in custody to any part of an aircraft, vehicle, train or vessel unless warranted in the circumstances and in the case of aircraft, sanctioned by the pilot in command;

(ii) to escort persons in custody to and from the toilet. However, escorting police officers or watchhouse officers would normally be prevented from entering the toilet area due to the limited space of this facility on most aircraft, coaches, trains or vessels;

(iii) not to consume alcoholic beverages or permit them to be consumed by persons in custody;

(iv) to supervise meals by persons in custody to ensure utensils are not retained by those persons; and

(v) to ensure that persons in custody do not receive any articles from employees of the transport company, other passengers or members of the public unless sanctioned by the senior escorting officer.

Police officers and watchhouse officers arranging the escort of a person in custody are to notify the transport operator (airline, charter aircraft, coach, train or boat operator) that the arrangements are for the escort of a person in custody regardless of whether the booking is made by a travel agent.

Escorting police officers or watchhouse officers are to comply with any reasonable conditions of transport specified by:

(i) the transport operator; or

(ii) in the case of air travel, the pilot in command;

provided those conditions do not conflict with any Service policies or orders relating to the escort of persons in custody. Where conflict occurs, the matter is to be brought to the attention of the transport operator or pilot in command by escorting police officers or watchhouse officers and if unable to be satisfactorily resolved, the police officer or watchhouse officer responsible for arranging the escort is to make alternative travel arrangements.

## 10.4.17 Queensland Government Air (QGAir)

### POLICY

Commissioned officer approval is required to use Queensland Government Air (QGAir) to transport prisoners.

Notwithstanding any approval granted under this policy or any other Service policy, the pilot in command of the relevant aircraft will always have the overriding authority to refuse to carry any or all prisoners in circumstances where the pilot considers the safety of the aircraft or passengers may be compromised.

### Responsibilities of an officer requesting a prisoner transfer

#### PROCEDURE

The QGAir 'Intranet Flight Booking Form' is available on the QPS Intranet.

Prior to making a booking request, a telephone enquiry should be made to QGAir to establish the availability of seating.

After ascertaining which flight arrangements are most suitable, police officers or watchhouse officers requiring transfer of a prisoner should submit a 'Flight Booking Form'. Confirmation of seating arrangements will be forwarded by email from the QGAir Operations Coordinator to the requesting police officer or watchhouse officer.

When completing a 'Flight Booking Form,' the officer requesting the transfer is to consider each prisoner's:

- (i) gender;
- (ii) age;
- (iii) potential for violence and escape;
- (iv) reason for travel;
- (v) history of mental illness;
- (vi) health issues;
- (vii) special escort requirements;
- (viii) potential security issues;
- (ix) criminal history;
- (x) behaviour;
- (xi) risk classification or status; and
- (xii) any other factor that may present as a relevant safety or security risk e.g. hostile crowds at the point of departure or arrival.

All reasonable care is to be taken to ensure prisoners who have, or may have adverse associations are not scheduled to travel on the same flight. The requesting officer is to make all relevant inquiries to establish if any possible adverse associations between prisoners scheduled to travel together on QGAir exist.

### Responsibilities of commissioned officers

#### PROCEDURE

Prior to approving the use of QGAir to transport prisoners, commissioned officers are to determine the number and gender of police officers or watchhouse officers required to conduct the escort. The commissioned officer approving the escort is to liaise with the QGAir Coordinator to ensure sufficient escorting police officers or watchhouse officers are present at all stages of the flight.

Additionally, commissioned officers should consider the prisoner to escorting police officer or watchhouse officer ratio guide when determining the number of police officers or watchhouse officers to escort a prisoner/s on aircraft operated by QGAir. Members required to assist with the escort of prisoners travelling on QGAir, are to be OST qualified.

### Prisoner to escorting police officer or watchhouse officer ratio guide

Prisoners	Escorting Police Officers or Watchhouse Officers
1	1
2	2
3	2
4	2
5	3
6	3
7	3

The commissioned officer authorising the transport of prisoners is to ensure the QGAir Intranet Flight Booking Form is completed accurately to ensure a threat assessment of the prisoner to be escorted can be made. This information should be forwarded in a timely manner to members assisting with the escort of the prisoner/s.

#### PROCEDURE

Commissioned officers approving travel on QGAir flights are to ensure officers who are:

- (i) not OST qualified; or
- (ii) unable to act as an escort officer due to an injury, medical or other condition, e.g. travelling for concessional reasons,

declare on the QGAir Intranet Flight Booking Form they are not able to act as an escort. Such officers are not to be included in the ratio calculations for the purposes of planning flights.

#### Escort arrangements for special flights

The Superintendent, Intelligence, Counter-Terrorism and Major Events Command, Covert and Specialist Operations Group, may direct that enhanced security arrangements are required for certain prisoners. This may include the operation of a dedicated flight carrying only that prisoner with their own escorting officers.

Similarly, enhanced security arrangements may be directed in the case of mental health patients deemed unsuitable for commercial air travel or scheduled QGAir flights. Escorts of this nature may also require the assistance of specialist medical personnel.

#### Responsibilities of escorting officers

##### POLICY

Officers delivering or receiving prisoners to QGAir are to:

- (i) approach QGAir staff and ensure all required pre-flight procedures are completed;
- (ii) ensure that they and any prisoner under their control remain clear of the aircraft hardstand area and do not approach the aircraft until advised;
- (iii) facilitate the handover of any prisoner, property and documentation to the escorting officer;
- (iv) consider the demeanour and behaviour of the prisoner prior to embarking the flight;
- (v) wait until the aircraft has commenced taxiing for departure in case issues arise that necessitate the rejection of a prisoner from a flight;
- (vi) ensure any restrained disembarking prisoners have their QGAir restraints exchanged with those issued to the escorting officers and all QGAir restraints are returned to the flight crew;
- (vii) question the prisoner to assess whether they will remain compliant for the duration of the flight;
- (viii) conduct a risk assessment and not accept a prisoner unless they reasonably believe the prisoner will remain compliant during the flight and the pilot in command concurs with the assessment;
- (ix) ensure that any embarking prisoner who is to be restrained during the flight is fitted with QGAir restraints and the use of restraints is both authorised and justifiable;
- (x) comply with all directions from QGAir staff regarding seating arrangements and flight safety; and
- (xi) take control of the prisoner and move the prisoner to the allocated seat on the aircraft, fasten the prisoner's seat belt, and explain to the prisoner the safety measures in place for the flight, including the requirement to remain seated with their seat belt secured.

QGAir aircraft are equipped with a number of handcuffs and body belts. Leg shackles can be made available with prior notification. Where the use of leg shackles is deemed necessary for the safety of the aircraft, passengers and crew, the escorting officer must seek approval from the pilot in command of the aircraft before their use.

The escorting officer is to ensure the prisoner is kept under observation and if at any time the prisoner becomes a threat to the safety of the passengers or aircraft, the prisoner is to be removed from the aircraft at the first reasonable opportunity.

Security of the aircraft is the responsibility of the pilot in command at all times. Police officers and watchhouse officers are to comply with the directions of the pilot in command of the aircraft concerning the seating of passengers. Escorting officers are responsible for the security of any prisoner in their custody. Passenger and prisoner movements are to be monitored by QGAir staff.

Police vehicles are not permitted access airside unless approval has been obtained from the aerodrome operator and the provisions of r. 20.9: 'Air service operations – precautions in refuelling, engine and ground radar operations' of the Civil Aviation Orders are observed in relation to aircraft refuelling. In the case of a fuel spill, the engine of the police vehicle is to be shut down immediately and all persons are to comply with the direction given by QGAir staff.



Escorting police officers and watchhouse officers are to comply with the decision of the pilot in command regarding the carriage of weapons by escorting officers. The carriage of weapons and ammunition is to be in accordance with s. 14.11: 'Carriage of firearms or ammunition on aircraft and at airports,' of this Manual.

## 10.4.18 Escort of persons in custody by commercial transport

### Definitions

In this section the following definitions apply:

#### **Aircraft operator**

see s. 9: 'Definitions' of the *Aviation Transport Security Act (Cwlth)* (ATSA(C)).

#### **Dangerous Person**

see s. 4.83(2): 'Definitions for Subdivision' of the *Aviation Transport Security Regulations (Cwlth)* (ATSR(C)).

#### **Department**

means the relevant Commonwealth department within which the ATSA(C) is administered.

#### **Prescribed Aircraft**

see s. 9 of the ATSA(C).

#### **Prescribed Air Service**

see s. 1.06: 'Prescribed air services' of the ATSR(C).

#### **Commercial aircraft**

Subdivision 4.5.3: 'Movement of persons in custody otherwise than under Migration Act' of the ATSR(C) relates to the transport of persons in custody on commercial aircraft.

In all circumstances, an aircraft operator or pilot in command is under no obligation to carry persons in custody. If operators or pilots of commercial aircraft carry persons in custody, the operators or pilots may impose any reasonable conditions upon such travel. Where carriage is refused, alternative travel arrangements should be made.

Permission is to be obtained from a commissioned officer to transport a person in custody on commercial aircraft. Officers or watchhouse officers (WO) seeking the transport are to then complete a Form 001: 'Notice of proposed movement of person in custody'. Officers or WO are to complete both parts A and B of the form and forward it, no less than 48 hours before the start of the intended flight, to the operator of the relevant air service for approval (see SMCD and s. 4.84(3): 'Provision of information to operator of prescribed air service and operator of security controlled airport—escorted travel' of the ATSR(C)).

If the person to be transported is deemed to be dangerous, officers or WO are to send a copy of the endorsed Form 001, at least 12 hours before the arrival of the person to be transported, to the operator of each security controlled airport the person will travel through (see s. 4.84(4) of the ATSR(C)). When transporting dangerous persons there is to be a minimum of two escorts, who must be officers, at least one of which is to be the same sex as the dangerous person (see s. 4.87(2): 'Required escort arrangements for flights involving movements of dangerous persons' of the ATSR(C)). Only one person in custody who is deemed to be dangerous is permitted to be transported on any flight, unless otherwise permitted by the aircraft operator, and officers escorting a dangerous person are not to be responsible for the escort of any other person in custody (see s. 4.88(2): 'Meaning of non-standard movement' of the ATSR(C)).

Where a person in custody is not deemed to be dangerous, the person is to be escorted, although there is no minimum number of escorts required (see Prisoner to escorting police officer or watchhouse officer ratio guide in s. 10.4.17: 'Queensland Government Air (QGAir)' of this Manual and s. 4.89(3): 'Agreement on escort arrangements required for flights involving non-standard movements' of the ATSR(C)). There is to be no more than two persons in custody on any flight unless agreement is reached between the Service and the aircraft operator (see s. 4.89(2) of the ATSR(C)).

An exemption to the number of persons to be transported is possible if more than three of the persons are members of the same family unit and none are deemed to be dangerous. This is only to be done with the agreement of the aircraft operator (see s. 4.88(2) of the ATSR(C)).

Escorting officers or WO are to:

- (i) comply with any reasonable request of the airline, e.g. the wearing of plain clothes;
- (ii) arrive at the airport not less than thirty minutes prior to departure;
- (iii) arrange to board the aircraft in advance of other passengers;
- (iv) upon boarding the aircraft, identify themselves to the senior flight attendant and ensure that their presence and that of a person in custody is brought to the attention of the pilot if not already done;

- (v) ensure at least one escort officer or WO is seated between the person in custody and the aisle unless the seating configuration prevents this arrangement;
- (vi) request the use of a lift when disembarking handcuffed persons in custody rather than utilising external staircases;
- (vii) have regard to the footwear of the person in custody and the risk of injury, if a lift is unavailable; and
- (viii) ensure, if required to use stairs, the person in custody maintains three points of contact at all times.

Officers and WO escorting a person in custody, or restraining a violent person with the authority of the aircraft operator are exempt from s. 56: 'Prohibited items on board an aircraft – strict liability' of the ATSA(C). Unless escorting a person in custody officers are to carry handcuffs as checked baggage, unless permitted in writing by the Secretary of the Department.

Officers are also to comply with s. 14.11: 'Carriage of firearms, ammunition, handcuffs, batons, conducted energy weapons, and Oleoresin Capsicum (OC) spray etc. on aircraft and at airports' of this Manual.

#### **Private or chartered aircraft**

Officers in charge of regions or commands may appoint officers to authorise the use of private or chartered aircraft for air travel of escorts. Where an officer is not appointed in a region, the approval of district officer or overseeing commissioned officer is required.

Officers and WO are to ensure all requisitions or orders chargeable to the Service are endorsed with the appropriate account number.

Officers are to comply with s. 14.11.4: 'Carriage and transport of firearms and ammunition on charter or private aircraft including Queensland Government Air (QGAir)' of this Manual.

#### **Coach/rail/boat**

Subject to local instructions, an OIC of a station or establishment may authorise the use of coach, rail or boat travel for escorts.

### **10.4.19 Escort of persons in custody from a watchhouse without a court order**

#### **PROCEDURE**

A duty of care may warrant the transfer of a person in custody to:

- (i) a hospital when ill or requiring medical treatment;
- (ii) another watchhouse when fire or other threat to the safety of the person in custody warrants that transfer; or
- (iii) another watchhouse because of inadequate facilities or an inability to provide proper supervision of the person in custody, e.g. a one person station where the officer cannot provide adequate supervision to ensure the safety of the prisoner because of other urgent duties (see s. 640: 'Transfer of persons in watchhouses' of the *Police Powers and Responsibilities Act*).

#### **ORDER**

Other than to comply with a duty of care, officers in charge are to ensure that persons in custody are not transferred to another watchhouse facility or elsewhere simply because it is more convenient or cost effective than rostering staff for watchhouse duties.

### **10.4.20 Escort of persons in custody transferred to another watchhouse**

#### **POLICY**

The reason for a transfer should be provided to a person in custody. The watchhouse manager is responsible for ensuring that the reason for transferring a person in custody is recorded in the relevant QPRIME Custody report (full). Refer to Chapter 16: 'Custody' of this Manual for entering information on QPRIME Custody reports.

#### **PROCEDURE**

In addition to ss. 10.4.15: 'Transfer of and taking charge of persons in custody' and 10.4.16: 'Transporting persons in custody' of this chapter, watchhouse managers should:

- (i) give persons in custody a reason for the transfer as soon as practicable;
- (ii) provide persons in custody with the means of advising any person of their transfer, e.g. allowing persons in custody to telephone their next of kin or legal representative;
- (iii) write the reason for the transfer in the relevant QPRIME Custody report (full) with the particular record of that person; and
- (iv) complete the QPRIME Custody report (full).

## 10.4.21 Taking persons in custody to court

### ORDER

Senior escorting officers are responsible for persons in custody taken to court until those persons are returned to their place of detention unless relieved of that responsibility by another police officer or watchhouse officer or the person in custody is discharged by a court.

### POLICY

Senior escorting officers should provide assistance to a person who has been discharged by a court in collecting any personal property which is under the control of the Service and which can be returned to that person.

### ORDER

Senior escorting officers are to:

- (i) record the escorted movement of persons in custody in official documents as required;
- (ii) comply with any lawful direction, request or order of the judge, magistrate or other presiding officer within the confines of the court (e.g. removal of handcuffs from persons in custody). See s. 796: 'Helping courts etc.' of the *Police Powers and Responsibilities Act*;
- (iii) allow persons in custody to take documents into court which relate to their court appearance but under no circumstances allow them to take any object which may endanger any person in the court;
- (iv) supply watchhouse managers with particulars of the result of court proceedings when returning persons in custody; and
- (v) not allow prisoners from a correctional centre to change clothing during their absence from the centre unless it is necessary for the well-being of the prisoner (e.g. changing wet clothing).

## 10.4.22 Escort of children

### POLICY

The Service is responsible for the escort of a child when:

- (i) the child has been arrested, bail refused and the child is to be escorted to a detention centre and later to court for the first appearance;
- (ii) the child is to be brought before a children's court or justice and a warrant has been issued remanding the child into the custody of the Chief Executive, Department of Justice and Attorney-General; or
- (iii) a Childrens Court has convicted and sentenced the child to a period of detention.

The Department of Justice and Attorney-General is responsible for the escort of a child in custody where the child has been admitted to a detention centre and is being taken to a place other than a court.

The Service is not responsible for the transportation of children in the situation where a child is released from court either on bail or following finalisation of their matter in court and no sentence for detention is imposed.

The transportation of a child to or from a watchhouse must be undertaken in such a way that ensures the child's safety, security and wellbeing and be transported as expeditiously as possible.

Police officers and watchhouse officers transporting children to or from watchhouses are to ensure that:

- (i) children in custody are segregated from adults in custody being transported, unless there are compelling reasons in the child's interests to do otherwise;
- (ii) where segregation is not possible such as whilst in flight on the Queensland Government Air (QGAir), assessment of the likely impact of such close contact between the adults in custody and the children in custody will be carried out by the escorting police officer or watchhouse officer prior to the transport after receiving advice from the relevant detention centre or Department of Justice and Attorney-General representative;
- (iii) male children and female children are segregated;
- (iv) children are segregated from other children who are known to be violent or have a history of committing sexual assault offences;
- (v) medication is managed as prescribed for children with medical conditions. The provision of medication should be recorded in accordance with s. 16.13.4: 'Provision of medication' of this Manual;
- (vi) children being transported are provided with meals and fluids at reasonably regular intervals. The minimum requirement is that breakfast, lunch and dinner are to be provided if a child is in transit under escort by police officers or watchhouse officers at such times;
- (vii) children are wearing footwear where possible; and
- (viii) the Department of Justice and Attorney-General representative is advised of:

- (a) the time the transporting arrangements to the detention centre or watchhouse will commence;
- (b) details of the mode of transport being proposed;
- (c) arrangements to provide necessary meal and comfort stops; and
- (d) other support arrangements to meet the child's age and assessed maturity, health and welfare needs.

In cases where a police vehicle is to be used to transport a child in custody, the senior escorting officer is to determine whether the child should be seated in a normal passenger seat, which is fitted with a seat belt as opposed to a part of the vehicle normally used to transport persons in custody. In making this determination the senior escorting officer should consider all relevant factors. Such factors may include the following:

- (i) the risk the child poses to the safety of the escorting police officers or watchhouse officers;
- (ii) the child's history of escape or offences of violence;
- (iii) the risk of the child attempting to commit suicide or self-harm;
- (iv) the availability of a vehicle with sufficient normal passenger seating;
- (v) the need to segregate the child from other prisoners/passengers in the vehicle;
- (vi) the length of the journey;
- (vii) the number of escorting police officers or watchhouse officers;
- (viii) the child's age, gender and level of maturity;
- (ix) the child's level of vulnerability;
- (x) the child's physical and emotional demeanour; and
- (xi) any other factor that may present as a relevant safety or security risk (e.g. hostile crowds awaiting the arrival of a child at court).

#### **10.4.23 Escorting children to and from court**

##### **POLICY**

Children should not be taken to an adult correctional centre whilst en route to a detention centre or a court.

##### **PROCEDURE**

Officers in charge of a case or an application should:

- (i) where the detention centre at which the child is cared for is not known, contact the Area Office of the Department of Justice and Attorney-General which has responsibility for the case;
- (ii) arrange for the child to appear in court. Where the child is in a detention centre, arrangements should be made with the manager of the centre for the child to be ready for escort; and
- (iii) advise their officer in charge of the necessity of an escort of the child to court or from court to a detention centre.

#### **10.4.24 Documents to accompany escorted children**

##### **ORDER**

Where a child is arrested with or without warrant for an offence and bail is refused, arresting officers are to cause arrangements to be made with the Chief Executive, Department of Justice and Attorney-General wherever possible to place the child in a detention centre until brought before a court.

Senior escorting officers are to ensure that, in addition to the requirements of s. 10.4.15: 'Transfer of and taking charge of persons in custody' of this chapter, the following documents accompany a child to a detention centre:

- (i) where the child is to be placed in a detention centre prior to being brought before a court in the first instance, a copy of the bench charge sheet for the offence;
- (ii) where a court remands the child into the custody of the Chief Executive, Department of Justice and Attorney-General, an order to deliver the child into the custody of the Chief Executive Officer (Youth Justice Act Form 15: 'Warrant remanding a child in custody'); or
- (iii) where a court orders the detention of the child in custody, a warrant authorising the detention of the child (Youth Justice Act Form 36: 'Warrant to detain in a detention centre').

See also s. 16.17.7: 'Child breaching bail conditions' of this Manual.

## 10.4.25 Escort of mentally ill persons

### PROCEDURE

See ss. 6.6.1: 'Dealing with mental illness generally', 6.6.3: 'Transporting persons with impaired mental capacity' and Chapter 6: 'Special Needs' of this Manual.

Senior escorting officers when escorting a mentally ill person should:

- (i) seek the opinion of a medical practitioner when there is doubt concerning the person's ability to withstand the strain associated with long distance travel;
- (ii) ensure the person's comfort during the escort, including the provision of fluids and light meals when appropriate;
- (iii) reassure the person that the escort is to a hospital for the purpose of receiving treatment. Do not discuss the person's delusions or obsessions. It may be beneficial for the person to do all the talking;
- (iv) avoid the use of handcuffs;
- (v) seek the assistance of medical officers to facilitate safe conveyance if the mentally ill person is agitated; and
- (vi) ensure that a police officer or watchhouse officer accompanies the person in an ambulance when it is considered necessary or when requested by the medical officer authorising the transport.

## 10.5 Escort of valuables

### 10.5.1 Escort of valuables generally

#### POLICY

The Service may provide, on request, escorts for persons carrying large sums of money or other valuables.

Officers receiving a request for the services of a police officer which may be performed as a special service should refer the person making the request to the officer in charge of the division or cluster in which the service is to be performed. Officers in charge of the division where the escort is to take place should determine whether the service should be performed in the ordinary course of police work or as a special service. Money escorts would normally be performed as special services.

Where it is determined that the escort should be provided as a special service, officers in charge should ensure that such service is provided in accordance with the provisions of clause 6.11 of the Police Service Award – State.

Officers in charge should determine the appropriate number of officers to be used for the escort having regard to the nature of the escort and the safety of officers.

Officers in charge should ensure that if more than one officer is necessary, the individual or organisation requesting the escort is informed of this determination.

#### PROCEDURE

Officers in charge should advise persons requesting an escort that:

- (i) clients are responsible for providing transport for escorting officers from the commencement point of the escort and return to that point; and
- (ii) clients or a member of their staff must be present at all times during the escort and under no circumstances are officers to be left in sole possession of any money or valuables.

Escorting officers should:

- (i) carry a firearm and wear a uniform throughout the escort;
- (ii) travel in the same vehicle as the money or valuables being transported;
- (iii) not hold or carry the money or valuables being escorted; and
- (iv) prior to commencing and following completion of the duty, report in person or by other means to the station responsible for the special service duty to record the period of special services performed.

### 10.5.2 Escort as a special service

#### PROCEDURE

Officers in charge should:

- (i) ensure applicants for special services complete and sign a written application (Form QP 0023A) prior to the provision of special services;

(ii) obtain payment in advance where practicable to avoid the potential problems of non-payment. In such cases, the amount claimed will be an estimated amount and a refund must be promptly made to the applicant if the final charge is less than the prepayment. The reverse also applies in that an invoice must be forwarded to the applicant if the final charge exceeds the prepayment. Where a prepayment has been received, care must be taken to ensure that the applicant has not paid for services which are not subsequently provided in full;

(iii) in all other cases, issue an invoice to the applicant immediately following the provisions of the special services, which is calculated in accordance with the schedule of rates provided at the time of application;

(iv) ensure full details are recorded on Form QP 0023: 'Statement of Special Services' when special services have been performed;

(v) forward a copy of Form QP 0023 to the regional finance officer or in the case of establishments not within a region to the person responsible for finance to enable debt monitoring and review;

(vi) ensure the cost centre of the station/establishment of the officer who worked the special service is credited with the appropriate amount;

(vii) not charge the person requesting the escort for any period during which escorting officers are required to perform their sworn duty thus preventing the special service from continuing. If advance payment has been made a refund of the costs for the period of time in question should be made; and

(viii) allocate special services in an equitable manner.

#### POLICY

Escorting officers should:

(i) not accept cash payment for performing a special service from the person requesting the escort. Where that person does not have the facilities for payment by cheque, any cash payment must be made at a police station/establishment during business hours;

(ii) advise the officer in charge of any period during the escort in which they were required to perform their sworn duty, (e.g. arrests and attendance at serious traffic incidents) and which prevented them from continuing the special service; and

(iii) not perform special service duties while on leave of any kind, including leave without pay. Such duties may be performed on rest days or programmed days off and during off-duty periods outside rostered shifts.

## 10.6 Miscellaneous escorts

### 10.6.1 Miscellaneous escorts generally

#### POLICY

The functions of the Service are outlined in s. 2.3: 'Functions of service' of the *Police Service Administration Act*. The duties of officers relate primarily to the performance of those functions. Accordingly, escorts of persons or property not otherwise dealt with in this chapter should directly relate to the performance of one or more functions of this Service. For example, the escorting of persons for their protection, or the preservation of peace and good order, or to ensure the safety and convenience of the public generally.

Escorts should only be conducted in order to perform one or more functions of this Service as outlined in s. 2.3 of the *Police Service Administration Act*.

#### ORDER

Officers in charge of a station in whose division an escort commences is responsible for arranging the escort.

#### PROCEDURE

Officers in charge who receive a request for a police escort:

(i) should consider Service policy before determining whether an escort will be provided;

(ii) may seek a direction from the relevant district officer, supervising commissioned officer or patrol group Inspector, as to whether an escort should be provided; and

(iii) may give any directions appropriate to the conduct of the escort.

## 10.7 Extraditions into Queensland

### 10.7.1 Extraditions into Queensland generally

#### POLICY

Permission to seek approval of extradition proceedings from another jurisdiction to Queensland may be given when:

- (i) a legal means exists for extradition between Queensland and that other jurisdiction;
- (ii) an indictable offence or, in the case of close border proximity, any other offence considered appropriate for extradition in the circumstances, is involved;
- (iii) in the case of extradition from within Australia, there is a reasonable belief that the issue of a summons would not be effective in bringing the wanted person before a court in this State;
- (iv) there is a real probability on the weight of existing evidence that a conviction and prison term would result from the extradition;
- (v) the circumstances of the individual case justify the time and expense involved in an extradition;
- (vi) the wanted person has been located and positively identified; and
- (vii) no proceedings are current or pending in the jurisdiction in which the wanted person is located (refer to Definitions: 'Person under restraint').

In relation to (vi) and (vii), written confirmation (e.g. email or facsimile message) will be required from the other jurisdiction before any extradition is approved.

The decision to seek or not to seek the extradition of the wanted person from within Australia or New Zealand should be made by the Superintendent, Regional Crime Coordinator of the region in which the offence occurred unless responsibility for investigating the offence lies with a command, in which case, the decision should be made by a superintendent of that command.

The decision to seek or not seek the extradition of the wanted person from another country (other than New Zealand) is made by the relevant Deputy Commissioner.

Extraditions to Queensland should be funded by the officer in charge of the region in which the offence occurred unless responsibility for investigating the offence lies with a command, in which case, the officer in charge of that command should fund the extradition.

Where alleged offences with which wanted persons will be charged upon their return to this State:

- (i) have been committed in more than one region; or
- (ii) responsibility for investigating the offences lies with both a command and a region(s);

the responsibility for payment of expenses associated with the extradition should be determined by the relevant Deputy Commissioner.

Officers should consider the provisions of s. 411: 'When does detention period start for offenders arrested outside Queensland' of the *Police Powers and Responsibilities Act* in relation to the commencement of the detention period when questioning a suspect in another State or upon arrival in Queensland.

Complainants should not be approached to defray the cost of an extradition. Where complainants offer to defray part or all of the cost a note should be made in any report to the officer in charge of the region or command.

For the purpose of extradition procedures, the term 'State' includes Territories of Australia.

Also see s. 10.8.4: 'Contingency costs associated with extraditions' of this chapter.

## 10.8 Extraditions from within Australia

### 10.8.1 Action prior to approval for extradition

#### ORDER

When advice is received by members regarding the whereabouts of a person wanted for an alleged offence committed in this State and that person is at a place other than a prison in another State of Australia, members are to:

- (i) ascertain if an arrest warrant or other warrant (e.g. Bench, Mesne) for the arrest of that person for an offence is in existence;
- (ii) where a warrant to apprehend a wanted person is in existence, notify:

(a) in the case of an arrest warrant, the officer who made the sworn complaint for the issue of the warrant, of the whereabouts of the wanted person. For the purposes of this chapter, the officer who made the complaint on oath is the arresting officer;

(b) in the case of any other warrant, the officer who is in charge of the case;

(c) where the arresting officer or officer in charge of the case is not readily available, or is otherwise unable to proceed with the extradition, the officer in charge of the station or establishment having responsibility for investigating the offence is to designate an officer to proceed with the extradition process. This officer is referred to as the designated officer; and

(iii) where no warrant to apprehend the wanted person is in existence, notify:

(a) the officer who is in charge of investigating the relevant offence, of the whereabouts of the wanted person; or

(b) the officer in charge of the station or establishment having responsibility for investigating the offence where the officer in charge of the case is not readily available or is otherwise unable to proceed with the extradition. The officer in charge of the station or establishment is to designate an officer to proceed with the extradition process. This officer is referred to as the designated officer.

#### PROCEDURE

Arresting officers, officers in charge of a case, or designated officers, when advised of the whereabouts of a wanted person currently in another State, should contact the police service in the other State and obtain written confirmation of:

(i) the whereabouts and positive identification of the wanted person;

(ii) whether proceedings are current or pending in the jurisdiction in which the wanted person is located; and

(iii) whether the wanted person is a 'person under restraint' and if so, details of that restraint.

Where no warrant has been issued officers in charge of a case or designated officers should:

(i) determine if the offence is one for which an arrest warrant can be issued (see s. 371: 'Issue of arrest warrant' of the *Police Powers and Responsibilities Act*); and

(ii) decide whether it is reasonable to believe that the issue of a summons would not be effective in bringing the person before a court.

If both points are satisfied, officers in charge of a case or designated officers may seek the issue of an arrest warrant for the arrest of the wanted person.

If arresting officers, officers in charge of a case, or designated officers, having considered Service policy in s. 10.7: 'Extraditions into Queensland generally' of this chapter, believe that the wanted person should be extradited to Queensland, a report should be furnished through normal channels to the regional crime coordinator of the region in which the offence occurred unless responsibility for investigating the offence lies with a command, in which case, the decision should be made by a superintendent of that command. The report should include:

(i) the wording of the warrant issued;

(ii) the full name and designation of the justice or judge who issued the warrant;

(iii) particulars of place and date of issue of the warrant;

(iv) whether bail is to be opposed;

(v) reference to the title and section of the Act against which the offence has been committed;

(vi) the full name of the person who made the sworn complaint upon which the Warrant in the First Instance was issued, the officer in charge of the case, or designated officer;

(vii) the names of any other officers considered necessary, if any, to escort the person to be extradited. Where the escorting officer is of the opposite gender to the wanted person who is to be extradited, an additional officer of the same gender as the person to be extradited should accompany the above officer;

(viii) a précis of evidence relied upon to support the offence and basis for the extradition, to the satisfaction of the approving officer;

(ix) comment on the availability of prosecution witnesses;

(x) written confirmation from the other State of the whereabouts of the wanted person;

(xi) written confirmation as to whether proceedings are current or pending against the wanted person in the jurisdiction where they were located;

(xii) written confirmation as to whether the wanted person is a 'person under restraint' and if so, details of that restraint;

(xiii) means of travel required, including air travel where appropriate, and the estimated cost of travel;



(xiv) an estimate of the total cost of the extradition;

(xv) any written offers to defray the cost of the extradition, wholly or in part, by any person, organisation or department (e.g. an airline company may offer to provide air travel where the extradition relates to an offence committed on that company. Queensland Corrective Services may offer to pay certain costs where the wanted person is extradited for an offence relevant to the Department). Complainants should not be approached to defray the cost of an extradition but they may offer to defray part or all of the cost when advised of the whereabouts of the wanted person;

(xvi) all available information concerning an offender's propensity for violence and whether specialist police such as the Public Safety Response Team will be required to assist;

(xvii) whether other law enforcement agencies can assist in transporting persons in custody to the point of departure;

(xviii) whether the extradition will exceed three hours of actual escort time; and

(xix) where a person in custody is to be transported by police vehicle:

(a) the route to be taken and the location of any watchhouse that is staffed on a twenty-four hour basis; and

(b) details of overnight accommodation.

Officers should ensure that extraditions using police vehicles should not proceed during hours of darkness or where there is a risk to officer safety.

Officers should seek approval to extradite a person in custody by police vehicle.

#### ORDER

Officers in charge of an establishment at which arresting officers, officers in charge of a case or designated officers are stationed are to provide a recommendation regarding the extradition and the availability and suitability of escorting officers. This recommendation is to accompany the report to the relevant regional crime coordinator or superintendent of the command.

More than one officer is required to participate in the escort in the following circumstances:

(i) where the actual escort time exceeds three hours; or

(ii) where an extradition is undertaken by motor vehicle.

#### PROCEDURE

Regional crime coordinators or superintendents of a command should consider risk management strategies to ensure applications are evidence based and support the extradition request. The regional crime coordinator or superintendent of a command should consider a matter with regard to Service policy outlined in s. 10.7: 'Extraditions into Queensland' of this chapter, and decide if the extradition is warranted in the circumstances. If it is determined that a matter is:

(i) not a suitable case for extradition, the regional crime coordinator or superintendent of a command should cause arresting officers, officers in charge of the case or designated officers, and their officers in charge to be advised of that decision and of any further action required; or

(ii) a suitable case for extradition, the regional crime coordinator or superintendent of a command should stipulate any conditions regarding the extradition and cause arresting officers, officers in charge of the case or designated officers, and their officers in charge to be advised of that decision.

#### ORDER

Regional crime coordinators or superintendents of a command who authorise an extradition are to specify the:

(i) officer responsible for proceeding with the extradition;

(ii) particulars of escorting officers; and

(iii) means of travel.

### 10.8.2 Action following approval to seek extradition

#### ORDER

If approval to seek extradition is given, officers responsible for proceeding with an extradition are to:

(i) if not in possession of the paper warrant, initiate a task to the Release Unit Police via the QPRIME occurrence stating extradition has been approved and that a copy of the warrant is to be faxed or sent to a printer designated by the officer requesting the extradition (Queensland Police only);

(ii) advise police in the State in which the wanted person is located that extradition has been approved and send a copy of the warrant to the relevant police for apprehension of the person named in the warrant (a document is

a copy of an original if it is identical with it in all material respects, this can include an email, facsimile or a photocopy); and

(iii) if for any reason, a copy of the warrant cannot be sent, send the wording of the warrant if available.

### 10.8.3 The extradition process interstate

The person named in the warrant may be apprehended by a police officer in the other State. It is not necessary to produce the original warrant when the person is apprehended. The apprehended person should be taken before a magistrate as soon as practicable after apprehension.

The warrant or a copy of it should be produced to the magistrate. The magistrate must be satisfied that the apprehended person is the person named in the warrant.

If the warrant or a copy is not available, the magistrate should either order that person be released or adjourn the proceeding for a reasonable time and remand the person on bail or in custody. One further adjournment may be granted if reasonable cause for such adjournment is shown. The total time of the adjournments must not exceed five days. If the warrant or a copy is still not produced the person must be released. The proceeding can be resumed before the end of a period of adjournment if the warrant or a copy becomes available.

When the warrant or a copy is produced, unless the magistrate adjourns the proceedings or is satisfied that the warrant is invalid, the magistrate must:

- (i) remand the person on bail to appear in the place of issue of the warrant; or
- (ii) order that the person be taken, in such custody or otherwise, to a place in Queensland. The order may be subject to conditions. The effect of an order may be suspended for a specified period during which time the person may be remanded on bail or into such custody as the magistrate specifies.

The review is by way of rehearing and the Supreme Court may confirm, vary or revoke the order of the magistrate.

### 10.8.4 Action concerning extradition proceedings

ORDER

Officers responsible for proceeding with an extradition are to:

- (i) liaise with the officer in charge of the relevant prosecutions corps regarding the progress of the extradition proceedings;
- (ii) if the matter is adjourned, ascertain the period of remand, the reason for the adjournment, and details of bail/custody arrangements relating to the wanted person. Take any action necessary for the extradition of the wanted person;
- (iii) if the court orders the person to be discharged, ascertain the reason for same and advise the regional crime coordinator or superintendent of a command who is to advise of any further action to be taken;
- (iv) if the person is bailed to appear at a court in this State, obtain from the court the time and place in Queensland that the person has been ordered to appear and:
  - (a) notify via a QPRIME notification task:
    - the arresting officer if applicable; and
    - in the case of a magistrates court appearance, the officer in charge of the relevant police prosecutions corps;
  - (b) in the case of a superior court appearance, notify the Office of the Director of Public Prosecutions (State), of the time and place the person is bailed to appear;
  - (c) provide the relevant police prosecutions corps or Office of the Director of Public Prosecutions (State), as appropriate, with a brief of evidence relating to the offence outlined in the original warrant which includes a written version of the computer warrant, a copy of the paper warrant or the paper warrant, and any material necessary for the prosecution process; and
- (v) where the order is that the person be taken in custody to a place in Queensland:
  - (a) ascertain if the order has been suspended and, if so, the period of remand and whether the wanted person has been granted bail or is in custody;
  - (b) ensure that travel arrangements are made for the extradition subject to any conditions of the court order;
  - (c) arrange for police in the other State to meet and assist on arrival;
  - (d) at the appropriate time, travel with any other escorting officers to the relevant State; and
  - (e) execute the order.

## Review of court order

### PROCEDURE

Where the wanted person applies to a Supreme Court of the State in which the order was made for a review of the order, the Commissioner of Police in that State is the respondent and will be served with the relevant documents. Officers responsible for proceeding with an extradition should liaise with the Office of the Commissioner in that State and provide whatever assistance is required to the office and to the Commissioner's legal representatives for the purpose of the review by a Supreme Court.

Officers responsible for proceeding with an extradition who are interstate for the purpose of escorting the wanted person to Queensland when review proceedings are commenced should:

- (i) ascertain if the Supreme Court has made any arrangements in relation to the wanted person pending the review, e.g. stay the execution of the magistrate's order, or remand the person on bail or in custody; and
- (ii) liaise with the regional crime coordinator or superintendent of a command and the officer in charge, police prosecutions corps regarding the review.

Where officers responsible for proceeding with an extradition and any other escorting officers have not travelled interstate when an application for review of the order is made, they should not travel interstate until advice is received of the order made by the Supreme Court.

## Contingency costs associated with extraditions

### POLICY

A Memorandum of Understanding has been signed by all Australian Police Commissioners agreeing to bear the costs of services provided by government agencies associated with extradition proceedings. These services include:

- (i) costs of services provided by government agencies including legal fees, filing court documents, search fees and other incidental charges levied by government and semi-government agencies will be borne by the law enforcement agency in the State from which an extradition is to occur;
- (ii) where any extradition order has been refused and the jurisdiction requesting the extradition decides to appeal that decision, that jurisdiction should bear the costs associated with the appeal, including costs arising from the decision to appeal, such as legal advice; and
- (iii) where an extradition application has been granted and an appeal is lodged by the subject of the extradition, any associated costs for such appeal will be met by the law enforcement agency from which the extradition is to occur.
- (iv) costs associated with an appeal where an extradition application has been refused; and
- (v) costs associated with an appeal which is lodged by the subject of the extradition.

Travel and accommodation costs incurred and associated with the extradition, will be borne by the law enforcement agency requesting the extradition. In appropriate circumstances this may include victim's costs.

## 10.8.5 Returning to Queensland with a person in custody

### PROCEDURE

An escort may proceed through other States by virtue of the magistrate's or Supreme Court order. Officers responsible for proceeding with an extradition should have possession of the court order and:

- (i) a copy of the paper warrant; or
- (ii) a written version of the computer warrant.

## 10.8.6 Action upon return to Queensland with a person in custody

### POLICY

On arrival in Queensland, officers responsible for proceeding with an extradition should:

- (i) as soon as practicable take the person being extradited to the watchhouse which serves the court at which the person is to appear;
- (ii) provide the watchhouse manager with the order made by the court, the original warrant (a written version of a computer warrant or a copy of the paper warrant or the paper warrant) used for the extradition proceedings, and in the case of a magistrates court appearance, a bench charge sheet containing the wording of the warrant;
- (iii) in the case of a magistrates court appearance, advise the relevant police prosecutions corps of the time and place the person is to appear. The officer should also provide a brief of evidence relating to the offence outlined in the original warrant (a written version of a computer warrant or a copy of the paper warrant or the paper warrant) which includes the Court Brief (QP9) and criminal history of the person. An additional Court Brief (QP9) should be prepared with the wording of the warrant and outlining the extradition;

(iv) in the case of a superior court appearance, advise the relevant Office of the Director of Public Prosecutions (State) of the time and place the person is to appear and provide any material necessary for the prosecution process;

(v) where the original warrant (a written version of a computer warrant or a copy of the paper warrant or the paper warrant) is not tendered as a court exhibit during the prosecution process, hand it to the watchhouse manager or prosecutor where the person is dealt with in Queensland; and

(vi) attach all relevant documents to the QPRIME occurrence that relate to the offence(s) for which the person was extradited and update any relevant flags.

ORDER

Escorting officers are to act strictly in accordance with the court order and are not to take any action that may conflict with such an order.

Watchhouse managers are to cause the person in custody to appear before the court specified in the court order.

## 10.9 Extraditions into Queensland from other countries (except New Zealand)

### 10.9.1 Extraditions from another country

Before a person can be extradited, two conditions must be met:

- (i) a legal instrument must exist which facilitates extradition between Queensland and the jurisdiction from or to which extradition is sought; and
- (ii) the offence for which extradition is sought must be provided for in that legal instrument.

Extraditions to Australia from other countries (except New Zealand) are facilitated by the *Extradition Act* (Cwlth) and various international treaties and conventions. Any request to another country for the surrender of a person must be made by the Federal Attorney-General, and in the case of a person wanted for an alleged offence under State legislation, that request will only be made on the advice of the relevant State Attorney-General.

The Department of the Federal Attorney-General will only request extradition when the wanted person is located and positively identified in another country. Information alone, regardless of its quality, will not be sufficient to commence proceedings unless confirmed by a local police agency of the other country.

The Australian National Central Bureau, Interpol, will assist at all stages of extradition proceedings including the location of wanted persons and provision of advice to requesting officers.

It should be noted that most nations have discretion in determining whether it will extradite one of its own nationals to a country making a request for extradition.

### 10.9.2 Doctrine of Speciality

The doctrine requires that a person may only be tried for the offence or offences to which the extradition applies. This means that if a person is wanted for any other offences which are not extradition offences, the person may not be tried for that offence until punishment has been completed or the person has been discharged in relation to the original extradition offence and been given a reasonable opportunity to leave the jurisdiction. In cases where a person is wanted on more than one offence, the request for extradition should include all offences for which the person is wanted.

The *Extradition Act* (Cwlth) allows a person to consent to surrender on other offences (non-extradition offences) called 'accessory offences'.

### 10.9.3 Action prior to approval to seek extradition

ORDER

Members, upon receiving advice regarding the whereabouts of a person wanted for an alleged offence committed in this State and that person is in another country, are to:

- (i) ascertain if an arrest warrant or other warrant (e.g. Bench, Mesne) for the arrest of that person for an offence is in existence and, if so, are to notify:
  - (a) in the case of an arrest warrant, the officer who made the sworn complaint for the issue of the warrant, of the whereabouts of the wanted person. For the purposes of this chapter, the officer who made the complaint on oath is the arresting officer;
  - (b) in the case of any other warrant, the officer who is in charge of the case; or
  - (c) the officer in charge of the establishment having responsibility for investigating the offence, where the arresting officer, or officer in charge of the case, is not readily available or is otherwise unable to proceed

with the extradition. The officer in charge of the establishment is to designate an officer to proceed with the extradition process; or

(ii) where no warrant to apprehend the wanted person is in existence, notify:

(a) the officer who is in charge of investigating the offence of the whereabouts of the wanted person; or

(b) the officer in charge of the establishment having responsibility for investigating the offence where the officer in charge of the case is not readily available or is otherwise unable to proceed with the extradition.

The officer in charge of the establishment is to designate an officer to proceed with the extradition process.

#### PROCEDURE

Officers in charge of a case, or designated officers who consider that a wanted person should be extradited to Queensland, should seek the issue of an arrest warrant for the arrest of the wanted person. The officer who makes the complaint on oath for the issue of such a warrant is the arresting officer.

Arresting officers, officers in charge of a case or designated officers who consider that a wanted person should be extradited to Queensland, having regard to Service policy, must report through the normal channels to the officer in charge of the region in which the offence occurred or the officer in charge of a command if responsibility for investigating the offence lies with that command. It is expected that arresting officers will prepare the report in consultation with the Officer in Charge, Operational Legal Advice. Legal Services, Legal Division should ensure that it satisfies all requirements of the prosecution process. That report should include:

(i) a copy of the relevant section(s) of the Queensland legislation creating the offence(s) for which extradition is sought. The penalties provided by the legislation must be included together with information as to whether the offence can only be dealt with by way of indictment. The offence must come within the definition of 'extradition offence' as defined in s. 5: 'Interpretation' of the *Extradition Act* (Cwlth).

(ii) a brief outline of the nature of the offence(s), e.g. if a property offence, the value involved, if an offence against the person, the nature and extent of the injuries;

(iii) a brief outline of the harm done, e.g. any circumstances of aggravation relevant to the manner in which the offence was perpetrated or the victims involved;

(iv) the availability of witnesses involved in the case;

(v) the full name and designation of the justice or judge who issued the warrant and particulars of the date and place of issue. The full name of the person who made the sworn complaint upon which the warrant was issued;

(vi) a complete description of the offender including full name, date and place of birth, occupation, nationality and passport details, full description incorporating photographic references, fingerprint classification and any other information which may assist in the identification process;

(vii) the country and location within that country where the wanted person is thought to reside;

(viii) advice on whether the issue of dual criminality has been satisfied, i.e. it is also an offence in the country where extradition proceedings will take place;

(ix) whether the offender is an extraditable person under the provisions of s. 6 of the *Extradition Act* (Cwlth): 'Meaning of extraditable person';

(x) particulars of the relevant bilateral or multilateral treaty dealing with extradition from that country or the existence of reciprocal arrangements on extradition;

(xi) whether the offender is a national of the foreign country where located or has dual citizenship in that country;

(xii) whether there is any information concerning the offender's propensity for violence and include particulars of previous criminal history;

(xiii) whether it is anticipated that extradition proceedings will be strenuously defended;

(xiv) comment on the strength of evidence and the likelihood of conviction and a substantial term of imprisonment being imposed;

(xv) whether any special circumstances exist such as intense public interest or controversy;

(xvi) whether proceedings are current or pending against the wanted person in the jurisdiction where the person is located;

(xvii) the names of those officers considered necessary to escort the wanted person to this State. Where the escorting officer is of the opposite gender to the wanted person who is to be extradited, an additional officer of the same gender as the person to be extradited should accompany the above officer;

(xviii) the means of travel required and the estimated cost of travel;

(xix) an estimate of the total cost of the extradition;

(xx) any written offers to defray the cost of the extradition, wholly or in part, by any person, organisation or department (e.g. an airline company may offer to provide air travel where the extradition relates to an offence committed on that company. Queensland Corrective Services (QCS) may offer to pay certain costs where the wanted person is extradited for an offence relevant to the QCS). Where the complainant (other than an airline company or the QCS) offers to defray part or all of the cost associated with the extradition, a separate report is to be furnished and forwarded to the relevant Deputy Commissioner, with a recommendation by the relevant officer in charge of the region or command as to acceptance of the offer. Complainants should not be approached to defray the cost of an extradition. Where they do offer to defray all or part of the cost, advice should be forwarded to the relevant officer in charge of the region or command; and

(xxi) include the following attachments:

- (a) a brief of evidence relative to the offence(s) for which extradition is sought, together with a synopsis of the evidence with cross-referencing of admissible evidence against the elements of the offence(s). Photocopies of all documentary exhibits and photographs of other exhibits must be attached;
- (b) photocopies of all warrants issued for the arrest of the wanted person; and
- (c) written confirmation by the relevant police prosecutor that the material has been examined and that it meets the requirements of the prosecution process. The prosecutor may also provide any comment or recommendation regarding the matter, particularly on the strength of evidence, and the likelihood of conviction and a substantial term of imprisonment being imposed.

#### ORDER

Officers in charge of establishments at which arresting officers, officers in charge of a case, or designated officers are stationed are to provide a recommendation regarding the extradition and the availability and suitability of any escorting officers. This recommendation is to accompany the report to the relevant officer in charge of the region or command.

#### PROCEDURE

Officers in charge of a region or command should consider the matter with regard to Service policy outlined in s. 10.7: 'Extraditions into Queensland generally' of this chapter and decide if the extradition is warranted in the circumstances. If it is determined that the matter is:

- (i) not a suitable case for extradition, officers in charge of a region or command should cause arresting officers, officers in charge of a case, or designated officers and their officers in charge to be advised of that decision and of any further action required; or
- (ii) a suitable case for extradition, officers in charge of a region or command should approve in principle the provision of escorting officers for the extradition and any associated cost.

In many cases, if extradition is refused on the grounds of nationality, the requested country may prosecute the wanted person for the offences committed in this State. However, before the Federal Attorney-General requests a prosecution, it must be known whether the relevant region or command will fund the expenses of Australian witnesses appearing in the courts of the requested country.

Officers in charge of a region or command should forward the material to the relevant Deputy Commissioner.

The relevant Deputy Commissioner should determine whether or not the matter is a suitable case for extradition and advise the relevant officer in charge of the region or command of the determination. If approval is given to seek extradition, officers in charge of a region or command should cause a request for the location of the wanted person to be forwarded to the Head of the Australian National Central Bureau (ANCB), (see Service Manuals Contact Directory). The request can be by letter, facsimile, or e-mail and must contain all available information regarding the identification of the wanted person and a reason for the inquiry. It is not necessary to forward a copy of the brief of evidence with the request.

The ANCB may forward an Interpol International Notice (colour coded blue – to locate the whereabouts of a suspect or offender) to arresting officers, officers in charge of a case or designated officers for completion and return. Interpol will liaise with the relevant police agency overseas to locate the wanted person. When that person has been located, the ANCB will advise arresting officers, officers in charge of a case, or designated officers in writing of:

- (i) the whereabouts of the wanted person; and
- (ii) whether there are any proceedings outstanding against the wanted person in the jurisdiction of the other country.

Interpol assistance prior to approval to seek extradition by the Federal Attorney-General will be limited to the above and no action can be instituted to arrest the wanted person without that approval.

Arresting officers, officers in charge of a case, or designated officers should forward the advice from the ANCB to the officer in charge of the region or command concerned.

Officers in charge of a region or command receiving written confirmation of the whereabouts of a wanted person should cause that advice to be forwarded to the relevant Deputy Commissioner.

The relevant Deputy Commissioner should cause all relevant material to be delivered to the office of a legal practice manager, at the Office of the Director of Public Prosecutions (State), Brisbane. Where the alleged offences with which the wanted person will be charged upon return to this State have been committed:

- (i) in more than one region; or
- (ii) where responsibility for investigating the offences lies with both a command and a region;

The relevant Deputy Commissioner should determine responsibility for payment of expenses associated with the extradition.

#### **10.9.4 Action by the Office of the Director of Public Prosecutions**

The legal practice manager, Office of the Director of Public Prosecutions (State), should assess the material and advise the relevant Deputy Commissioner, of the assessment and further inquiries are required to be made or additional material obtained to ensure it is in an appropriate form for the particular jurisdiction.

The Office of the Director of Public Prosecutions (State) should advise the State Attorney-General on the matter. If extradition is to be sought, the State Attorney-General will liaise with the Federal Attorney-General. The decision of the Federal Attorney-General should be conveyed to the Deputy Commissioner (Specialist Operations), who should advise the relevant officer in charge of the region or command.

##### **ORDER**

Where the Federal Attorney-General requests extradition, officers in charge of a region or command are to recommend to the relevant Deputy Commissioner, the officer who is to have carriage of the extradition and any other escorting officers.

##### **PROCEDURE**

Officers in charge of a region or command may appoint an experienced officer to overview an extradition and assist an officer responsible for proceeding with an extradition.

#### **10.9.5 Urgent arrest required prior to approval by Federal Attorney-General**

##### **PROCEDURE**

Where there are reasonable grounds to believe that a wanted person may avoid apprehension if not arrested at the earliest opportunity, a request for provisional arrest should be made through the Office of the Director of Public Prosecutions (State). That office will consult with the Federal Attorney-General's Department before a request for provisional arrest is made. A request for a provisional warrant can only be made by the Federal Attorney-General's Department. However, that department needs to be satisfied that a soundly based formal request for extradition can thereafter be made within the applicable time limit.

Usually a request for the issue of a provisional warrant in the other country is initiated and forwarded by Interpol to the appropriate foreign police force.

If the wanted person is provisionally arrested in the other country, then all relevant material must be delivered to the Office of the Director of Public Prosecutions (State), Brisbane, as soon as possible. That material must be forwarded to the Federal Attorney-General's Department and a formal request for extradition made before expiry of the time limits provided in the treaty or the laws of the other country.

#### **10.9.6 Standard of evidence**

Where the requested country requires that the Australian request be supported by prima facie evidence, the Federal Attorney-General may authorise a magistrate in Australia to take evidence in support of the extradition request. It is necessary for the documents in support of the extradition to be certified and/or authenticated by a magistrate. The prosecutor at the Office of the Director of Public Prosecutions (State) will normally arrange a hearing to take such evidence with certification generally consisting of:

- (i) an affidavit by each witness (including police) which will be sworn before the magistrate, or a statement which will be adopted by each witness under oath before the magistrate;
- (ii) certification of the warrant of arrest (usually an arrest warrant); and
- (iii) certification of other exhibits.

All witnesses must be present at the proceedings. Preference is normally given to evidence being taken by way of affidavit.

The magistrate will issue a certificate in relation to the taking of evidence and cause the documentation to be forwarded to the Federal Attorney-General (the prosecutor will usually send the material).

Prior to requesting the surrender of a wanted person, the Federal Attorney-General must approve and issue a requisition for such surrender. When issued, all documentation is forwarded by the Federal Attorney-General's Department to the Australian embassy in the country subject of the request. The request for the wanted person's arrest is then made through diplomatic channels.

## PROCEDURE

Officers responsible for proceeding with an extradition should:

- (i) liaise with a legal practice manager, at the Office of the Director of Public Prosecutions (State) for the purpose of compiling evidence or information. That office can advise on the nature and format of the evidence required in the other country; and
- (ii) if necessary, attend court before a magistrate to give evidence.

### 10.9.7 The extradition process in the other country

The country subject of the request decides whether it will commence extradition proceedings. If that country does decide to extradite, then a provisional warrant is issued by that country for the arrest of the wanted person. When executed, the wanted person is brought before a court.

From the time of arrest, time limitations will operate. A formal request for extradition must be made by the Federal Attorney-General within that time limit. If this limitation is not complied with the extradition of the wanted person will not proceed. The time limitation can vary from thirty to ninety days. The Federal Attorney-General's Department 'Extradition Manual' outlines time limits for extradition in other countries.

The wanted person is brought before a competent authority (usually a court) and the requisition and supporting documentation are examined to assess their sufficiency in accordance with the treaty and that country's domestic legislation. If satisfied, the competent authority will take action to facilitate surrender (e.g. place the wanted person in custody).

## PROCEDURE

At this time, the Federal Attorney-General's Department should be advised of the full names and ranks of the escorting officers who will travel to the requested country to escort the wanted person to Queensland.

The relevant Deputy Commissioner is responsible for advising the Office of the Director of Public Prosecutions (State) of the full names and ranks of the escorting officers. The names and ranks of the escorting officers will only be provided to the Office of the Director of Public Prosecutions (State) after all Service and Ministerial approval has been obtained (including for the extradition and travel) and any relevant criminal justice certificates have been obtained. This information will be supplied to the Federal Attorney-General's Department who will advise the relevant Australian diplomatic mission of the impending arrival and identity of the escorting officers.

After the expiration of any application period for appeal, the government or other competent authority of the requested country may order the wanted person to be surrendered. Advice of this decision is communicated through diplomatic channels to the Attorney-General's Department and passed to the prosecutor and/or relevant police.

The escorting officers should not leave Australia for the other country until advised that the order for the surrender of the wanted person has been signed.

If there is a necessity to stop for any length of time in a third country when returning to Queensland, transit permission must be obtained from that country. Without transit permission from the relevant country, an escorting officer has no power over the wanted person and will not be accorded assistance by local police. In effect, the wanted person can simply leave or possibly apply to a court for release from custody.

Available transit arrangements are detailed in the treaty with the transit country or in the legislation of that country. Interpol are able to obtain transit permission for some countries while other requests for transit permission must be made through diplomatic channels. The Federal Attorney-General's Department can provide details.

Under the *Migration Act* (Cwlth) persons who are not Australian citizens are termed non-citizens. Officers who believe that it is necessary for the purposes of the administration of criminal justice with respect to an offence against State law for a non-citizen to enter Australia or for a non-citizen unlawfully in Australia to remain may apply to the Commissioner for the issue of a State criminal justice entry certificate or a State criminal justice stay certificate (see s. 11.15.5: 'Criminal justice certificates' of this Manual).

## ORDER

Escorting officers, prior to leaving Australia for the other country to escort the wanted person back to Australia are to:

- (i) ensure approval for the extradition is obtained in compliance with ss. 10.9.3: 'Action prior to approval to seek extradition' and 10.9.4: 'Action by the Office of the Director of Prosecutions' of this Manual;
- (ii) ensure that overseas travel has been approved by both the Service and the Minister. See Travel Services policies and procedures available on the 'Persons in Custody, Escorts and Extraditions' and 'International Travel' web pages of the Service Intranet;
- (iii) ensure that escorting officers have valid passports and, if required, visas for the other country. See s. 11.6: 'Passports' of the Management Support Manual;
- (iv) arrange through Interpol for the escorting officers to be met and assisted (accommodation, transport, translators, etc.) by police in the other country and for transit permission during any stopover en route from that country (where police to police requests are adequate);



(v) if the wanted person is not an Australian citizen, ensure that certification is obtained pursuant to s. 11.15.5: 'Criminal justice certificates' of this Manual;

(vi) if the wanted person is an Australian citizen but does not have a current passport, ensure that a current passport is issued or other documentation is obtained to allow the wanted person to enter Australia;

(vii) ascertain health requirements for travel to the foreign country from the Australian Government Health Services within the Commonwealth Department of Health and Aged Care (e.g. cholera/typhoid injections) and arrange necessary immunisation and certification; and

(viii) arrange travel for escorting officers and the wanted person. On any voucher, requisition or order for travel, the appropriate Queensland Police Service account number is to be entered. Where possible, air travel should be conducted by an Australian airline. With the permission of the pilot-in-command, escorting officers can control an 'on board' situation. When bookings are made, airline security should be advised that a prisoner under escort is to be on board.

## 10.9.8 On arrival in Queensland

### PROCEDURE

Officers responsible for proceeding with the extradition should:

- (i) take the person to the watchhouse which serves the court at which the person is to appear;
- (ii) provide the watchhouse manager with the order for the surrender of the wanted person and in the case of a magistrates court appearance, a bench charge sheet containing the wording of the original warrant;
- (iii) in the case of a magistrates court appearance, advise the relevant police prosecutions corps of the time and place the person is to appear. Also provide a brief of evidence relating to the offence outlined in the original warrant which includes the Court Brief (QP9) and criminal history of the person. Observe the requirements of s. 10.9.2: 'Doctrine of Speciality' of this chapter. An additional QP9 should be prepared with the wording of the original warrant and which outlines the extradition;
- (iv) in the case of a superior court appearance, advise the relevant Office of the Director of Public Prosecutions (State) of the time and place the person is to appear and provide any material necessary for the prosecution process;
- (v) where the original warrant is not tendered as a court exhibit during the prosecution process, hand it to the watchhouse manager or prosecutor where the person is dealt with in Queensland; and
- (vi) furnish a comprehensive report on the extradition at the completion of same for transmission to the relevant Deputy Commissioner.

### ORDER

Watchhouse managers are to cause the person in custody to appear before the court specified in the order for surrender.

## 10.10 Extraditions into Queensland from New Zealand

### 10.10.1 Definitions

Extraditions from New Zealand to Australia are conducted under the provisions of the *Extradition Act* (NZ). For the purposes of this section, the following definitions apply:

#### **nominated officer**

officer nominated to prepare the necessary documentation in relation to an extraditable person pursuant to the *Extradition Act* (NZ).

#### **deposition**

is defined in s. 2: 'Interpretation' of the *Extradition Act* (NZ) as including:

- (i) an affidavit or statement made on oath;
- (ii) an affidavit or statement made by affirmation that is allowed or required by the law of the country in which the affidavit or statement is made;
- (iii) a statement made before any court or judicial authority if, under the law of the country in which it is made, a person making such a statement falsely is liable to punishment.

#### **extradition country**

is defined in s. 2: 'Interpretation' of the *Extradition Act* (NZ) as including:

(i) in Part 4: 'Extradition from New Zealand to Australia and Designated Countries', any country to which that Part applies under s. 39: 'Application of this part'.

### **extraditable person**

is defined in s. 3: 'Meaning of extraditable person' of the *Extradition Act* (NZ) as:

(i) a person is an extraditable person in relation to an extradition country if:

- (a) the person is accused of having committed an extradition offence against the law of that country; or
- (b) the person has been convicted of an extradition offence against the law of that country and:
  - there is an intention to impose a sentence on the person as a consequence of the conviction; or
  - the whole or a part of a sentence imposed on the person as a consequence of the conviction remains to be served.

### **extradition offence**

is defined in s. 4: 'Meaning of extradition offence' of the *Extradition Act* (NZ) as:

- (i) an offence punishable under the law of an extradition country for which the maximum penalty is imprisonment for not less than twelve months or any more severe penalty, and which satisfies the condition in subsection (ii);
- (ii) The condition referred to in subsection (i) is that if the conduct of the person constituting the offence in relation to the extradition country, or equivalent conduct, had occurred within the jurisdiction of New Zealand at the relevant time it would, if proved, have constituted an offence punishable under the law of New Zealand for which the maximum penalty is imprisonment for not less than twelve months or any more severe penalty.

## **10.10.2 Extraditions from New Zealand**

In accordance with the *Extradition Act* (NZ), a New Zealand court surrender hearing needs to consider whether:

- (i) the warrant has been properly endorsed;
- (ii) the person is an extraditable person; and
- (iii) the offence concerned is an extraditable offence.

Pursuant to s. 41: 'Endorsement of warrant issued in extradition country' of the *Extradition Act* (NZ), extradition from New Zealand is based on the endorsement of the relevant Australian warrant by a New Zealand judge.

### **PROCEDURE**

When advice is received that an extraditable person is in New Zealand, or in transit to New Zealand, the provisions of s. 10.8: 'Extraditions from within Australia' of this chapter should be followed until arresting officers, officers in charge of a case or other designated officers decide to seek approval for the extradition to Queensland of the extraditable person. Officers should then report through normal channels to the regional crime coordinator of the region in which the offence occurred or the superintendent of a command if responsibility for investigating the offence lies with that command. That report should include:

- (i) an outline of the circumstances of the case and copies of any available evidence which shows a link between the wanted person and the person named in the relevant warrant;
- (ii) the wording of the warrant issued;
- (iii) the full name and designation of the justice or judge who issued the relevant warrant(s);
- (iv) particulars of place and date of issue of such warrant(s);
- (v) particulars of the class of offence(s) in question, i.e., whether indictable or punishable upon summary conviction;
- (vi) the full wording of the charge(s) with reference to the relevant title(s) and section(s) of the Act(s) for which the extraditable person is sought;
- (vii) the full name of the:
  - (a) officer who made the sworn complaint upon which the arrest warrant was issued; or
  - (b) arresting officer where a fail to appear warrant was issued;
- (viii) written confirmation of the whereabouts of the wanted person and why the wanted person is, or is suspected of being, in New Zealand or in transit to New Zealand;

- (ix) written confirmation as to whether proceedings are current or pending against the wanted person in the jurisdiction in which the person is located;
- (x) the full names of any other officers considered necessary to escort the wanted person;
- (xi) comment on the availability of prosecution witnesses;
- (xii) the estimated cost of air travel and the total cost of the extradition; and
- (xiii) any written offers to defray the cost of the extradition, wholly or in part, by any person, organisation or department (e.g., an airline company may offer to provide air travel where the extradition relates to an offence committed on that company. Queensland Corrective Services (QCS) may offer to pay certain costs where the wanted person is extradited for an offence relevant to the QCS).

#### ORDER

Officers in charge of establishments receiving the above report are to provide a submission:

- (i) recommending or denying the extradition; and
- (ii) where an extradition is recommended:
  - (a) submit details of an appropriate nominated officer; and
  - (b) the availability and suitability of any escorting officers.

This recommendation is to accompany the report to the regional crime coordinator of the region or superintendent of the relevant command.

#### PROCEDURE

The regional crime coordinator of a region or superintendent of a command should consider the matter with regard to Service policy outlined in s. 10.7: 'Extraditions into Queensland' of this chapter and decide if the extradition is warranted in the circumstances. If the matter is:

- (i) not a suitable case for extradition, the:
  - (a) officer who made the sworn complaint upon which an arrest warrant was issued;
  - (b) arresting officer where a fail to appear warrant was issued; and
  - (c) officer submitting the report regarding the extraditable person,

should be advised by the relevant regional crime coordinator of a region or superintendent of a command of that decision and of any further action required by any of the above officers; or

- (ii) a suitable case for extradition, the relevant officer in charge of a region or command should stipulate any conditions relating to the extradition including the:
  - (a) nominated officer;
  - (b) particulars of escorting officers; and
  - (c) means of travel,

and advise the nominated officer of that decision.

#### POLICY

Where the alleged offences with which the extraditable person will be charged upon return to this State have been committed:

- (i) in more than one region; or
- (ii) where responsibility for investigating the offences lies with both a command and a region;

the relevant deputy commissioner, should determine responsibility for payment of expenses associated with the extradition.

### 10.10.3 Documentation required for extradition from New Zealand

Under s. 41: 'Endorsement of warrant issued in extradition country' of the *Extradition Act* (NZ) (EA) the relevant Australian warrant relating to the extraditable person is required to be endorsed by a New Zealand district court judge for execution by New Zealand Police. Once the warrant is endorsed, the person can be arrested in New Zealand and brought before the court for bail to be considered and the surrender hearing to be set.

#### Obtaining the warrant

Original warrants only, and not certified copies or computer warrants, are to be obtained (where an original warrant has been lost, a duplicate/replacement of the warrant) in relation to all offences for which the extraditable person is sought to be extradited.

New Zealand Police have provided the guide titled: 'Extradition – requests made by Australia to New Zealand, A guide for Australian Police when seeking to have a person surrendered from New Zealand to Australia' which provides details regarding best practice for documentation New Zealand require, including some proforma examples (available on the Operational Improvement webpage on the Service Intranet.

The nominated officer is to obtain the original warrant(s) regarding the extraditable person. The Warrant Bureau, Offender Management Centre (OMC), Information Management Services (IMS) will retain a copy of the warrant.

The nominated officer is to:

- (i) witness the warrant(s) being issued;
- (ii) ensure the person who issues the warrant prints or stamps their full name and designation under their signature on the warrant;
- (iii) obtain a certified copy of the statutory provision the warrant is issued under, which should confirm the person issuing the warrant has authority to do so. The legislation used is to be the authorised version which is marked 'Authorised by the Parliamentary Counsel'. Since 2013, legislation on the Queensland Government Queensland Legislation webpage is so marked. Pre-2013 legislation on the webpage could be unauthorised in which case the warning 'This reprint is not an authorised copy' will be on the cover. Authorised versions of legislation pre-2013 are held in hard copy at the QPS Library; and
- (iv) obtain a certified copy of the certificate of appointment of the person who issued the warrant (this should be a formal notice appointing the judicial officer or a copy of the Queensland Government Gazette). To obtain a copy of the Queensland Government Gazette which advises of the relevant appointment, officers can:
  - (a) refer to the Judicial Profiles page on the Supreme Court Library Queensland webpage to establish when a person was appointed; and
  - (b) obtain a certified copy of the advice of appointment in the relevant Queensland Government Gazette from the QPS Library.

Where the warrant has previously been issued, and as a result it is not possible for the nominated officer to witness the warrant being issued, the nominated officer is to outline in their affidavit the reasons why they were unable to witness the warrant being issued.

Where the warrant has previously been issued, and does not have a legible signature of the issuing officer, the nominated officer should apply for a duplicate/replacement warrant in order to:

- (i) witness the warrant(s) being issued;
- (ii) ensure the person who issues the warrant prints or stamps their full name and designation under their signature on the warrant;
- (iii) obtain a certified copy of the statutory provision the warrant is issued under, which should confirm the person issuing the warrant has authority to do so; and
- (iv) obtain a certified copy of the certificate of appointment of the person who issued the warrant.

Where the warrant has been issued by the courts, officers are to contact the Warrant Bureau, OMC, IMS to coordinate the request for a replacement. The decision whether to issue a replacement warrant will be made by the Department of Justice and Attorney-General. Where the warrant was an arrest warrant issued by a justice of the peace, the nominated officer is responsible for requesting and obtaining the replacement.

### **Affidavit preparation**

The nominated officer is to prepare an affidavit, relative to the application for extradition, which includes:

- (i) the offences for which extradition is sought and their penalties;
- (ii) a summary of the conduct alleged to give rise to the offence (this could be included as an exhibit appendix of a summary of facts that sets out the facts alleged which would, if proved, fulfil the elements of the offence(s));
- (iii) how and when the warrant/s were issued;
- (iv) the basis for believing the person is in New Zealand;
- (v) identification evidence so the court in New Zealand can confirm the person who is eventually arrested is the person named in the warrant;
- (vi) an appendix for exhibits with a visible exhibit letter at the top of the page for each exhibit and an exhibit note signed by the person witnessing the affidavit, including the following:
  - (a) a certified copy of the relevant title(s) and section(s) of the Act(s) for the offence and penalty provisions which the extraditable person is sought, including any amendment(s) to the section(s) (note: see subsection 'Obtaining the warrant' of this section for details on obtaining the authorised version of the legislation);

- (b) a summary of facts that sets out the facts alleged which would, if proved, fulfil the elements of the offence(s);
- (c) certified copy of the statutory provision the warrant is issued under, which should confirm the person issuing the warrant has authority to do so;
- (d) certified copy of the certificate or notice of appointment of the person who issued the warrant (this should be a formal notice appointing the judicial or a copy of the Gazette);
- (e) a copy of the warrant regarding the extraditable person (the original warrant is to be kept separate from the affidavit); and
- (f) proof of identity of the extraditable person (preferably a recent photograph of the person and confirming the deponent knows the person and the photo is a true likeness of the person. Identification can also be shown by fingerprints taken from the extraditable person in Australia that can be compared to the person after the arrest);
- (vii) any other relevant information (e.g. why a provisional arrest warrant is requested to be issued and when the original Queensland warrant will be forwarded to New Zealand for endorsement by a New Zealand district court judge, objections to bail); and
- (viii) a request asking for the original Australian warrant, or duplicate/replacement of such warrant, to be endorsed by a New Zealand district court judge authorising any New Zealand police officer to execute the warrant.

Where an officer requires a certified copy of a document to attach as an appendix exhibit, the copy should be certified by a magistrate, justice of the peace or court registrar ensuring the person certifying the documents writes or stamps their full name and designation under their signature.

Where a document is referred to in the affidavit, the document is to be attached to the affidavit as an exhibit appendix. Each exhibit appendix is to be clearly marked alphabetically at the centre top of the exhibit (e.g. "A") and contain an exhibit note (e.g. 'This is the document marked "A" and referred to in the annexed affidavit of (full name of person swearing affidavit) sworn at (city) (state), Australia this (day) day of (month) 20XX before me: (signature of magistrate/judge taking affidavit) Magistrate/Judge)').

Where the nominated officer is not able to cover all matters necessary for the extradition application, more than one officer will need to swear an affidavit.

Where an officer prepares an affidavit they are to swear it in front of a magistrate or judge ensuring the magistrate or judge:

- (i) and the person swearing the affidavit each initial on the bottom of all pages of the affidavit including exhibit appendices;
- (ii) writes or stamps their full name and designation under their signature; and
- (iii) signs any exhibit notes.

### **Certificate of authentication preparation**

In accordance with ss. 75: 'Depositions and official documents taken or made overseas', 76: 'Admissibility of documentary hearsay evidence' and 78: 'Authentication of overseas documents' of the EA, an affidavit sworn outside of New Zealand needs to be authenticated before it is admissible in New Zealand court proceedings. If there are exceptional and urgent circumstances regarding the extradition, see subsection 'Documentation relating to a provisional arrest warrant' of this section.

The OIC of the nominated officer is to prepare a certificate(s) of authentication ensuring it covers:

- (i) certification the documents annexed to the certificate comprises the affidavit/s and exhibit appendices sworn or affirmed; and
- (ii) the documents are tendered in support of a request to New Zealand to surrender the person to the Commonwealth of Australia.

Where an officer prepares a certificate/s of authentication, they are to have the affidavit(s) authenticated by a judge, minister of the state government or federal government, or an official of a government department (e.g. the local court registrar) (not the same person who signed the original warrant) ensuring:

- (i) they have signed the certificate where marked and their full name and position is clearly typed, printed or stamped underneath;
- (ii) they seal and initial all pages of the certificate; and
- (iii) if there are two or more affidavits being authenticated by the same person in a single certificate of authentication, place the certificate of authentication on the front of the affidavits being authenticated and then bind the bundle by tying them together with a ribbon and sticking the ends of the ribbon to the front page with wax, glue or a sticker with the seal stamped on it.

## Objection to bail

A person arrested on an original Australian warrant or where appropriate a New Zealand provisional arrest warrant will not automatically be remanded in custody. Separate advice opposing or not opposing bail, outlined on a QP 0215: 'Bail affidavit' and QP 0215A: 'Bail Affidavit Annexure (Adult)' should be forwarded for the information of New Zealand authorities. This advice should include, where relevant:

- (i) a copy of the person's Queensland criminal history;
- (ii) current active charges; and
- (iii) grounds for believing the wanted person may abscond (e.g. seriousness of offence, weight of evidence, likelihood of imprisonment, and connection to New Zealand or any other country).

## Covering report and collation

The nominated officer is to forward:

- (i) a covering report including;
  - (a) where the person to be extradited is believed to be located;
  - (b) any additional information as to the identity of the person; and
- (ii) a QP 0215 and QP 0215A if bail is opposed outlining any grounds for opposing bail which should be raised once the person is arrested;
- (iii) original warrants (which are not to be attached to the affidavit);
- (iv) authenticated affidavits; and
- (v) four copies of the originals of each of the above (note: it is preferable to obtain the copies prior to the affidavits being bound together),

to the regional crime coordinator of the relevant region or superintendent of the relevant command.

The relevant regional crime coordinator or superintendent is to check the documentation and forward it to the New Zealand Police Liaison Officer through registered post (see Service Manuals Contact Directory). A cover report under the hand of the OIC of the region or command should clearly indicate the officer who will be proceeding with the application for extradition and the officer's station/establishment and contact details.

If the matter is urgent, the material can be sent by email, however the original should be forwarded as soon as practicable.

## Documentation relating to a provisional arrest warrant

In certain circumstances a provisional arrest warrant may be issued by a New Zealand district court judge under s. 42: 'Issue in New Zealand of provisional arrest warrant' of the EA. This will enable New Zealand Police to arrest the extraditable person before the original Australian warrant is available.

Circumstances where a provisional warrant may be issued include receipt of information the extraditable person is preparing to leave New Zealand and arresting the person immediately on a provisional warrant will prevent the person's departure.

Section 42: 'Issue in New Zealand of provisional arrest warrant' of the EA provides for when a district court judge may issue a provisional warrant. Where an officer is requesting a provisional arrest warrant they are to contact the New Zealand Police Liaison Officer (see Service Manuals Contact Directory) to discuss what documentation is required. Generally, the New Zealand Police will request a copy of the original Australian warrant and a report which includes details of:

- (i) the investigation;
- (ii) the offences involved (charges and legislation);
- (iii) the reasons for urgency;
- (iv) the reasons for believing the person is in or on their way to New Zealand;
- (v) information regarding the identification of extraditable person;
- (vi) an undertaking the full extradition documents will be completed and submitted within a reasonable time; and
- (vii) any other relevant information (e.g. objection to bail).

New Zealand Police will not request the affidavits and certificate of authentication/s due to the urgency of the matter. The authenticated affidavit/s will still need to be provided as a matter of urgency following the arrest for use at the surrender hearing.

#### 10.10.4 Arrest of an extraditable person in New Zealand

The New Zealand (NZ) police liaison officer (PLO) will ensure the documentation is in order and forward it to the Interpol Office, Police National Headquarters in NZ.

Police in NZ will:

- (i) have the original warrant endorsed by a district court judge or, where necessary, obtain a provisional warrant; and
- (ii) execute the endorsed original warrant or the provisional warrant and arrest the extraditable person.

Once the warrant has been executed, the NZ PLO will advise the responsible officer of the following particulars:

- (i) the extraditable person has been arrested and whether there are any issues regarding identification;
- (ii) the location of the court and date of appearance of the extraditable person;
- (iii) the remand date that will be sought or has been obtained for the hearing of the extradition;
- (iv) when a surrender order takes effect; and
- (v) when all appeal time periods have expired relating to a surrender order (or when the extraditable person has waived all rights to appeal).

Generally, the responsible officer will not be required to appear at the extradition proceedings.

Once a court orders the extraditable person may be extradited it must issue a warrant for the detention of the person. The person will not be surrendered to Queensland police until the expiration of 15 days after the date of the issue of the warrant, unless the person waives this right. Under s. 46: 'Procedure following court's determination of whether person eligible for surrender' of the *Extradition Act* (NZ) (EA(NZ)) the court may grant bail to the person during this period, with or without conditions.

If a person is not surrendered into the custody of Queensland police and conveyed out of NZ within two months after the date of the issue of the warrant for this purpose, under s. 57: 'Discharge of person if not surrendered within 2 months' of the EA(NZ) the person may apply to a judge of the NZ High Court to be discharged. This does not preclude further proceedings against the person pursuant to s. 59: 'Discharge of person under the Part does not preclude further proceedings' of the EA(NZ) at a later date.

The nominated officer is to liaise with the NZ PLO and respond to any requests necessary to assist in the extradition process (e.g. obtaining the original warrant for endorsement by a NZ district court judge where this warrant was not originally available).

Officers responsible for proceeding with the extradition when advised of the apprehension of the extraditable person are, prior to leaving Australia, to escort the wanted person back to Australia to:

- (i) ensure approval for the extradition is obtained in compliance with ss. 10.10.2: 'Extraditions from New Zealand' and 10.10.3: 'Documentation required for extradition from New Zealand' of this chapter;
- (ii) ensure overseas travel has been approved by the Commissioner. See s. 5.9: 'Travel Policy' of the Financial Management Practice Manual;
- (iii) ensure escorting officers have valid passports (visas are not required for officers with Australian passports. If escorting officers have other nationality passports, visa requirements will need to be checked);
- (iv) where the wanted person:
  - (a) is a NZ citizen, enquire whether NZ police hold or can obtain the wanted persons valid passport to give to escorting officers; or
  - (b) is an Australian citizen, enquire whether NZ police hold the wanted persons passport and if it is valid for travel. If the passport is not valid or lost/not available, ensure a current passport is issued or other documentation is obtained to allow the wanted person to enter Australia;
- (v) where the wanted person is not an Australian citizen and:
  - (a) does not have a valid NZ passport; or
  - (b) has a valid NZ passport but would not be granted a visa on arrival in Australia on character grounds (see s. 501: 'Refusal or cancellation of visa on character grounds' of the *Migration Act* (Cwlth));

ensure certification is obtained pursuant to s. 11.15.5: 'Criminal justice certificates' of this Manual;

- (vi) ascertain when the wanted person will be surrendered into the custody of Queensland police;
- (vii) ensure all appeal time periods have expired relating to a surrender order or the right to appeal has been waived by the extraditable person, and then arrange travel for escorting officers and the wanted person. The one way ticket for the wanted person is to be in the relevant passport name and for the same return flight as the escorting officers. On any voucher, requisition or order for travel, the appropriate Service account number should

be entered. Where possible, air travel should be conducted by an Australian airline. With the permission of the pilot in command, the escorting officers can control an 'on board' situation. When bookings are made airline security must be advised that a prisoner will be on board;

(viii) arrange to be met and assisted in NZ;

(ix) travel with other escorting officers (if required) to NZ; and

(x) have the original Australian warrant, where this warrant has not been previously forwarded to NZ, in their possession.

### **Arrest on a provisional arrest warrant**

If an extraditable person has been arrested on a NZ provisional arrest warrant and a warrant issued in Australia has not been endorsed by the NZ court, under s. 44: 'Procedure following arrest' of the EA(NZ), the relevant court may:

(i) from time to time adjourn proceedings; or

(ii) if a reasonable time has elapsed for the endorsement of the relevant Australian warrant, order the person be discharged.

### **10.10.5 The extradition court process**

The extraditable person is brought before a New Zealand District Court Judge for a surrender hearing in proceedings similar to the preliminary hearing of an indictable offence. Where extradition is granted, the District Court Judge will issue a warrant of remand and authenticate the warrant by signing the depositions made at the hearing.

The Remand Warrant, authenticated depositions and original arrest warrant will be given to the officer having carriage of the extradition.

ORDER

Officers responsible for proceeding with an extradition are to execute a remand warrant according to the directions on the warrant.

### **10.10.6 Returning to Queensland on extradition**

PROCEDURE

Officers responsible for proceeding with an extradition should:

(i) have possession of the remand warrant, authenticated depositions and the original or duplicate arrest warrant; and

(ii) ensure the extraditable person is removed from New Zealand within one month of issuing the remand warrant or finalisation of the appeal process.

### **10.10.7 Action upon returning to Queensland on extradition**

PROCEDURE

On arrival in Queensland officers responsible for proceeding with an extradition should:

(i) immediately take the person to the watchhouse which serves the court at which the extradited person is to appear;

(ii) provide the watchhouse manager with the remand warrant, original arrest warrant, and in the case of a Magistrates Court appearance, a Bench Charge Sheet containing the wording of the original warrant; and

(iii) in the case of a Magistrates Court appearance, advise the relevant police prosecutions corps of the time and place the extradited person is to appear. Also provide a brief of evidence relating to the offence outlined in the original warrant which includes the paper warrant or duplicate warrant, the Court Brief (QP9) and criminal history of the person. An additional Court Brief (QP9) should be prepared with the wording of the original warrant and which outlines the extradition; or

(iv) in the case of a Superior Court appearance, advise the relevant Office of the Director of Public Prosecutions of the time and place the extradited person is to appear and provide any material necessary for the prosecution process; and

(v) where the original or duplicate warrant is not tendered as a court exhibit during the prosecution process, hand it to the Magistrates Court Office or Court Registry where the person is dealt with in Queensland; and

(vi) attach all relevant documents to the QPRIME occurrence that relates to the offence(s) for which the person was extradited and update any relevant QPRIME flags.

ORDER

Watchhouse managers are to cause the extradited person in custody to appear before the court specified in the remand warrant.



## 10.11 Extraditions out of Queensland

### 10.11.1 Extraditions out of Queensland

#### POLICY

Officers should provide all necessary assistance to another State in extraditing a person wanted in that other State.

For policy relating to assistance to another country in extraditing a person wanted to that other country see s. 10.11.3: 'Extradition to another country' of this chapter.

When assisting officers from another state, Queensland officers should advise interstate officers of the provisions of s. 374 of the *Police Powers and Responsibilities Act*. The term 'extradition offence' defined in s. 374 should not be confused with the term defined in the *Extradition Act* (Cwlth). See s. 10.8.4: 'Contingency costs associated with extraditions' of this chapter and Service Manuals Definitions.

While interstate officers will perform the majority of extradition escorts out of Queensland, instances may arise where officers of the Queensland Police Service may need to perform the escort out of Queensland (e.g. where a magistrate has issued an order under s. 83(8)(b) of the *Service and Execution of Process Act* (Cwlth) and the order requires the person be remanded into the custody of a named officer of the Queensland Police Service). In these instances, the officer intending to perform the extradition escort should submit a report through normal channels to the officer in charge of the region or command to which the officer is attached. That report should include:

- (i) the reasons why the extradition will not be performed by interstate officers (including the wording of any order issued under the *Service and Execution of Process Act* (Cwlth));
- (ii) the names of any other officers considered necessary, to escort the person to be extradited. Where the escorting officer is of the opposite gender to the wanted person who is to be extradited, an additional officer of the same gender as the person to be extradited should accompany the above officer;
- (iii) written confirmation from the requesting State or Territory that the extradition is required;
- (iv) the means of travel required, including air travel where appropriate, and the estimated cost of travel;
- (v) an estimate of the total cost of the extradition;
- (vi) any written offers to defray the cost of the extradition, wholly or in part, by any person, organisation or department (e.g. the law enforcement agency requesting the extradition may offer to pay the costs of the escort). Complainants should not be approached to defray the cost of an extradition but they may offer to defray part or all of the cost when advised of the whereabouts of the wanted person;
- (vii) all available information concerning an offender's propensity for violence and whether specialist police such as the Public Safety Response Team will be required to assist;
- (viii) whether other law enforcement agencies can assist in transporting persons in custody to the point of departure;
- (ix) whether the extradition will exceed three hours of actual escort time; and
- (x) where a person in custody is to be transported by police vehicle:
  - (a) the route to be taken and the location of any watchhouse that is staffed on a twenty-four hour basis; and
  - (b) details of overnight accommodation.

Officers should ensure that extraditions using police vehicles should not proceed during hours of darkness or where there is a risk to officer safety.

Officers should seek approval to extradite a person in custody by police vehicle.

#### ORDER

Officers in charge of stations or establishments who receive a report requesting authority to approve officer(s) of the Queensland Police Service to perform an extradition escort out of Queensland are to provide a recommendation regarding the extradition and the availability and suitability of escorting officers. This recommendation is to accompany the report to the relevant officer in charge of the region or command.

More than one officer is required to participate in the escort in the following circumstances:

- (i) where the actual escort time exceeds three hours; or
- (ii) where an extradition is undertaken by motor vehicle.

#### ORDER

Officers in charge of a region or command who authorise an extradition are to specify the:

- (i) officer responsible for proceeding with the extradition;

- (ii) particulars of escorting officers; and
- (iii) means of travel.

## 10.11.2 Extraditions to another State or Territory of Australia

### Action prior to court

#### ORDER

When the whereabouts of a person wanted in another State becomes known, officers having that knowledge are to urgently advise police in that State of the following information:

- (i) the whereabouts of the wanted person;
- (ii) whether there are any outstanding charges or warrants relating to the wanted person;
- (iii) whether the wanted person is able to assist police in this State in any investigation;
- (iv) whether the wanted person is required as a witness in respect of any criminal proceedings;
- (v) whether the wanted person is a 'person under restraint'; and
- (vi) any valid reason that would necessitate a delay in extradition proceedings.

When officers receive:

- (i) advice from the extraditing officer in another State that an extradition is approved; and
- (ii) the interstate warrant (original or copy) or the wording of a warrant for the arrest of a wanted person for an alleged offence committed in another State, they are to:
  - (a) apprehend the person named in the warrant (the warrant need not be produced when the person is apprehended);
  - (b) endorse on the back of the warrant (original or copy) if available, the date and time of apprehension, sign the endorsement and add the name, rank and registered number of the officer executing the warrant after the signature;
  - (c) cause the apprehended person to appear before a court as soon as practicable; and
  - (d) complete a Court Brief (QP9) with a copy of the warrant, the warrant or the wording of the warrant attached.

For an 'extradition offence' under s. 374: 'Power of arrest for offences committed outside the State' of the *Police Powers and Responsibilities Act* a police officer may arrest a person without warrant if the police officer reasonably suspects the person is committing or has committed an extradition offence. In such cases, officers are to:

- (i) if necessary, detain the person in custody under Chapter 15: 'Powers and responsibilities relating to investigations and questioning for indictable offences' of the *Police Powers and Responsibilities Act* for questioning in relation to the extradition offence by a Queensland police officer or a police officer from the State where the offence happened;
- (ii) unless the person is released without being charged, charge and take the person before a court as soon as practicable after questioning ends. The wording of any charge preferred is to be the wording of the charge applicable in the State where the offence happened;
- (iii) if the person is charged, complete a Court Brief (QP9); and
- (iv) attempt to obtain the warrant from the extraditing State to commence extradition proceedings in relation to the arrested person.

The person may be remanded in custody to allow a person to apply, within seven days, for the extradition of the person to the State where the extradition offence is alleged to have been committed.

If a proceeding for the person's extradition is not started within seven days from the date of the court appearance/the remand date, the person, if remanded in custody, is to be released from custody. The arresting officer is to ensure that the person is released from custody as soon as practicable following any decision made not to start extradition proceedings, and that the court to which the person has been remanded to appear at is notified.

The following provisions are to be complied with as required:

Chapter 15, Part 3, ss. 414 to 441: 'Safeguards ensuring rights of and fairness to persons questioned for indictable offences'; ss. 548, 391, 681 and if a child, s. 392 of the *Police Powers and Responsibilities Act*;

Part 5, Division 1, ss. 22: 'Asking persons to attend for questioning' and 23: 'Right to communicate with friend, relative or lawyer' of the Responsibilities Code; and

s. 2.1.2: 'Registers required to be kept' of this Manual

## Action during and after court proceedings

### ORDER

Apprehending/arresting officers are to:

- (i) be guided by the magistrate as to any further action required;
- (ii) advise the extraditing officer in the other State of the progress of extradition proceedings; and
- (iii) provide any necessary advice and assistance to the extraditing officer.

## 10.11.3 Extradition to another country

### ORDER

Extraditions out of Australia are generally conducted by members of the Australian Federal Police. Members who receive a request for assistance in an extradition out of Australia are to notify the officer in charge of their region or command through normal channels prior to any assistance being given. All extraditions out of Australia are to be authorised and organised through Interpol prior to any assistance being given by the Service. Where the extradition has not been authorised through Interpol, the relevant officer in charge of the region or command is to assess whether or not assistance is to be provided in terms of 'Potential death penalty charge situations' prior to any assistance being given. See s. 7.3.1: 'International inquiries through Interpol' and subheading 'Potential death penalty situations' of the Management Support Manual.

## 10.12 Transfer of interstate prisoners

### 10.12.1 Transfer of interstate prisoners generally

The *Prisoners (Interstate Transfer) Act* provides in part for the transfer of prisoners to and from Queensland to face trial on outstanding criminal charges before the expiration of their current sentence.

Under the provisions of the *Prisoners (Interstate Transfer) Act*, the State Attorney-General has the power to request the transfer to Queensland of an interstate prisoner from a participating State (any State having corresponding legislation). Where this request is agreed to by the Attorney-General of the participating State, a court order is sought to effect the transfer. An interstate prisoner may also request transfer to Queensland to face outstanding charges.

### 10.12.2 Police seeking transfer of prisoners from interstate to Queensland

#### POLICY

This Service may seek the transfer of an interstate prisoner to Queensland when:

- (i) an indictable offence is involved for which extradition would normally be sought;
- (ii) it is not in the interests of the victim, public or accused person to delay the trial of the person concerned. Some matters to consider include the:
  - (a) adverse effects on the rehabilitation of the victim due to the lengthy delay between the commission of the offence and the trial of the alleged offender. This may be significant, particularly for victims of violent offences who may have to recall details of the offence after many years;
  - (b) availability of witnesses after a lengthy delay and the accuracy of their recollections of the events which may be diminished with the years;
  - (c) adverse effect on the rehabilitation of the accused by having to wait some years before matters are finalised; and
  - (d) expected release date of the prisoner;
- (iii) the prisoner has indicated an intention not to apply for transfer to Queensland or has applied for transfer but was not successful;
- (iv) there is a real probability on the weight of existing evidence that a conviction and substantial prison term will result from the trial of the person;
- (v) the circumstances of the case justify the time and expense involved; and
- (vi) no proceedings are current or pending in the jurisdiction in which the wanted person is imprisoned.

#### PROCEDURE

Approval to seek the transfer of an interstate prisoner and the payment of costs associated with that transfer is the responsibility of the officer in charge of a region or command within which an investigation is being conducted.

Where the alleged offences for which a wanted person is to be transferred or will be charged with upon return to this State have been committed in more than one region or responsibility for investigating the offences lies with both a command and a region(s), the responsibility for payment of expenses associated with the extradition should be determined by the relevant Deputy Commissioner.

### 10.12.3 Transfer of prisoners from other States

#### ORDER

When advice is received by officers regarding the whereabouts of a person wanted for an alleged offence committed in this State and that person is in a prison of another State, officers are to ascertain if a Warrant in the First Instance or other warrant (e.g. Bench, Mesne) for the arrest of that person for an offence is in existence.

Where a warrant to apprehend a wanted person is in existence, notify:

- (i) in the case of an arrest warrant, the officer who made the sworn complaint for the issue of the warrant of the whereabouts of the wanted person. For the purposes of this chapter, the officer who made the complaint on oath is the arresting officer;
- (ii) in the case of any other warrant, the officer who is in charge of the case; or
- (iii) the officer in charge of the establishment having responsibility for investigating the offence, where the arresting officer or officer in charge of the case is not readily available or is otherwise unable to have carriage of the transfer process. The officer in charge of the establishment is to designate an officer to proceed with the transfer process.

Where no warrant to apprehend the wanted person is in existence, notify the:

- (i) officer who is in charge of investigating the relevant offence of the whereabouts of the wanted person; or
- (ii) officer in charge of the establishment having responsibility for investigating the offence where the officer in charge of the case is not readily available or is otherwise unable to have carriage of the transfer process. The officer in charge of the establishment is to designate an officer to proceed with the transfer process.

#### POLICY

Arresting officers, officers in charge of a case, or designated officers, when advised of the whereabouts in another State of a wanted person, should contact authorities in the other State and obtain written confirmation:

- (i) of the whereabouts of the wanted person and the expected release date; and
- (ii) whether proceedings are current or pending in that State.

#### ORDER

Where no warrant has been issued, officers in charge of a case or designated officers are to seek the issue of a Warrant in the First Instance for the arrest of the wanted person. An officer who makes the complaint on oath for the issue of such a warrant is the arresting officer.

#### POLICY

If arresting officers, officers in charge of a case or designated officers believe that a wanted person should be transferred to Queensland, they should report through the normal channels to the officer in charge of the region in which the offence occurred or the officer in charge of a command if responsibility for investigating the offence lies with that command. That report should include:

- (i) a copy of the warrant issued;
- (ii) the full name of the person who made the sworn complaint upon which such warrant was issued;
- (iii) particulars of the class of the offence in question, i.e. whether indictable or punishable upon summary conviction;
- (iv) reference to the title and section of the *Prisoners (Interstate Transfer) Act* that is offended against;
- (v) a brief of evidence prepared in accordance with the provisions of Chapter 3: 'Prosecution Process' of this Manual;
- (vi) comment on the present and future availability of witnesses involved in the prosecution's case;
- (vii) written confirmation that the wanted person is a prisoner in another State, their expected date of release and whether they are willing to request a transfer to this State to face outstanding charges;
- (viii) written confirmation as to whether proceedings are current or pending against the wanted person in the other State. If another State has expressed interest in either transferring the prisoner to their State or seeking extradition at the completion of the sentence, then advice to that effect should also be included;
- (ix) the names of any other officers considered necessary to escort the prisoner;
- (x) means of travel required, including air travel where appropriate, and the estimated cost of travel;
- (xi) an estimate of the total cost of the transfer; and

(xii) any written offers to defray the cost of the transfer, wholly or in part, by any person, organisation or department, e.g. an airline company may offer to provide air travel where the extradition relates to an offence committed on that company.

#### ORDER

Officers in charge of an establishment at which arresting officers, officers in charge of a case, or designated officers are stationed are to provide a recommendation regarding the transfer of the prisoner and the availability and suitability of any escorting officers. This recommendation is to accompany the report.

#### POLICY

Officers in charge of a region or command should consider the matter and decide if transfer of a prisoner is warranted in the circumstances. Arresting officers, officers in charge of a case or designated officers and their officers in charge will then be advised of that decision.

Where officers in charge of a region or command decide that the transfer of a prisoner is warranted, they should forward the material to a legal practice manager at the Office of the Director of Public Prosecutions (State), Brisbane, with a recommendation that the Attorney-General request the transfer of the interstate prisoner to Queensland.

Where the alleged offences for which the wanted person is to be transferred or will be charged with upon return to this State have been committed in more than one region or responsibility for investigating the offences lies with both a command and a region(s).

The relevant Deputy Commissioner should determine responsibility for payment of expenses associated with the extradition.

### **10.12.4 Action following approval to seek transfer of prisoners from interstate**

#### ORDER

Arresting officers, officers in charge of a case or designated officers are to liaise with the Office of the Director of Public Prosecutions (State) regarding the preparation of a full and comprehensive brief of evidence. In some instances there may be an urgent need to bring the matter to trial by way of ex-officio indictment and it is then necessary for the prosecution case to be properly prepared before seeking the prisoner's transfer.

### **10.12.5 The court process of seeking the transfer of prisoners from interstate**

When satisfied that the prosecution process can begin, the Office of the Director of Public Prosecutions (State) should liaise with the Attorney-General for the purpose of requesting the transfer of the prisoner from a participating State. If both Attorneys-General agree to the transfer, the prisoner will be brought before a magistrate court which may make an order for transfer (the application for the issue of a court order will be made by authorities in the participating State). At this hearing, the prisoner is entitled to appear and have legal representation.

No order for transfer will be made by the court if such order would be harsh or oppressive or not in the interests of justice. An appeal against the court order can be made to the Supreme Court within fourteen days by the prisoner or either Attorney-General.

The Attorney-General in this State should advise Queensland Corrective Services of the prisoner's transfer.

### **10.12.6 Action following the court order for the transfer of prisoners from interstate**

#### ORDER

If an order for the transfer of a prisoner is made by a court arresting officers, officers in charge of a case or designated officers are to:

- (i) liaise with the prison authorities in the participating State regarding the collection of the prisoner;
- (ii) ensure travel arrangements for the transfer are made;
- (iii) if necessary, arrange to be met and assisted on arrival in the other State;
- (iv) travel with other escorting officer/s (if required) to the other State; and
- (v) execute the court order according to its tenor (see s. 10.4: 'Escort of persons in custody' of this chapter in relation to taking charge of persons in custody and the transport of such persons).

### **10.12.7 Returning to Queensland with interstate prisoners**

The escort may proceed through other States by virtue of the order for the transfer of the prisoner.

#### PROCEDURE

Arresting officers, officers in charge of a case or designated officers should have possession of an order made by a magistrate or judge when escorting an interstate prisoner.

## 10.12.8 Action upon return to Queensland with interstate prisoners

### PROCEDURE

Arresting officers, officers in charge of a case or designated officers should take:

- (i) the prisoner to the place specified in the order (this will be a correctional centre) and deliver the prisoner into the custody of the gaoler of that correctional centre;
- (ii) all necessary action to secure the removal of the prisoner from the correctional centre to answer outstanding charges at court (see Chapter 3: 'Prosecution Process' of this Manual); and
- (iii) any action necessary for the prosecution process.

## 10.13 Transfer of prisoners between interstate correctional centres

### 10.13.1 Prisoner seeking transfer to a Queensland correctional centre

When transfer has been initiated by the prisoner, most escorts should be conducted by members of Queensland Corrective Services (QCS). However, when the prisoner has requested the transfer to face outstanding charges in this State and those offences would warrant interstate transfer, then this Service would normally conduct the escort. The Attorney-General's Department advises the Service of the transfer.

### POLICY

This Service should conduct the escort of an interstate prisoner to a Queensland correctional centre when:

- (i) the prisoner has initiated the transfer to face outstanding charges and not for welfare reasons; and
- (ii) the outstanding charges relate to offences for which a request for interstate transfer would normally be made by this Service had the prisoner not been willing to initiate a transfer.

### Escort of interstate prisoners

The escort of persons in custody is dealt with in s. 10.4: 'Escort of persons in custody' of this Chapter.

### 10.13.2 Prisoner seeking transfer from Queensland correctional centre to a prison in another State

If a Queensland prisoner wishes to be transferred to another State, the prisoner is required to submit a written request to the Minister responsible for Corrective Services. Upon receipt of that request, the Minister should determine whether the prisoner transfer should occur. In order to assist the Minister in exercising this discretion the Minister may be informed as seems fit.

The Minister may have regard to several factors when forming an opinion or exercising discretion under Part 2, ss. 6 and 10A: 'Transfer at request of prisoner' of the *Prisoners (Interstate Transfer) Act*.

Should the Minister determine that the prisoner is to be transferred, a written request should then be made by the Minister to the corresponding Minister in the other State requesting that the transfer of that prisoner be accepted.

When the Minister is notified in writing that the other State will accept the transfer of the prisoner, the Minister may issue an order for transfer from Queensland.

There are occasions when the prisoner makes an application for transfer for reasons which relate wholly or in part to that person's assistance to police with criminal investigations. In those circumstances, the Service should provide suitable information and a recommendation to assist the Minister to make a decision regarding the application for transfer.

It should always be borne in mind that the other State must agree to the transfer. No transfer can take place without that agreement.

### POLICY

Where a Queensland prisoner makes an application for transfer for reasons which relate wholly or in part to that prisoner's assistance to this Service with criminal investigations, the officer having knowledge of that assistance should provide information to assist the relevant Minister make a decision regarding the application for transfer.

### PROCEDURE

Where a Queensland prisoner has:

- (i) made a written request to the Minister responsible for Corrective Services for transfer to another State; and
- (ii) those reasons relate wholly or in part to the prisoner's assistance to this Service with criminal investigations, officers having knowledge of the prisoner's assistance should:
  - (a) liaise with the Executive Officer (Interstate Transfers), Custodial Corrections, QCS regarding the status of the prisoner's application for transfer; and

(b) if necessary, provide a written report through normal channels to their officer in charge of the region or command fully outlining matters relevant to the prisoner's application.

Officers in charge of a region or command should provide a recommendation regarding the transfer of a prisoner and forward the report in confidence to the QCS for their information and referral to the relevant Minister.

#### ORDER

Officers having contact with a prisoner prior to the Minister issuing an order for transfer from Queensland are not to advise or suggest to the prisoner that a transfer will take place.

OPM Issue 66  
Public Edition