Operational Procedures Manual

OPM Issue 113
Public Edition

Queensland Police Service

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Table of Contents

Introduction 3

Use of Manual 4

Chapter 1—Operational Management 6

Chapter 2—Investigative Process 101

Chapter 3—Prosecution process 377

Chapter 4—Property 493

Chapter 5—Children 566

Chapter 6—Persons who are Vulnerable, Disabled or have Cultural Needs 607

Chapter 7—Child Harm 650

Chapter 8—Coronial Matters 736

Chapter 9—Domestic and Family Violence 785

Chapter 10—Escorts and Extraditions 872

Chapter 11—Federal Issues 919

Chapter 12—Missing Persons 953

Chapter 13—Miscellaneous 970

Chapter 14—Operational Skills and Practices 1113

Chapter 15—Driving of Service Vehicles 1235

Chapter 16—Custody 1270

Chapter 17—Major Incidents 1399

Chapter 18—Counter-Terrorism and Security 1480

OPM Issue 113 Public Edition

Introduction

The Operational Procedures Manual is issued pursuant to the provisions of s. 4.9: 'Commissioner's directions' of the *Police Service Administration Act*.

The aim of this Manual is to provide members with guidance and instruction for operational policing. It provides links to associated Service policies, Manuals, instructions and resources and requires local procedures to be developed at regional, district and station or establishment level.

Members are to comply with the contents of this Manual so that their duties are discharged lawfully, ethically and efficiently and failure to comply with the contents may constitute grounds for disciplinary action.

However, it is recognised in policing, many decisions must be made quickly having regard to diverse circumstances and it is not possible to instruct members on every possible scenario. Therefore, in accordance with the section titled 'Use of Manual' of this Manual, the general policies and procedures may, where justified, be adapted to circumstances as they arise.

The contents of this Manual will be continually reviewed and updated to ensure currency and consistency with the law and community expectations.

Members are to make themselves familiar with the contents of this Manual in order to carry out the Service's functions and deliver an effective level of policing to the community.

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Use of Manual

The Operational Procedures Manual (OPM) became effective on 1 January 1995 and contains Service policies in relation to operational matters of the Service and unless otherwise stated, the words and terms defined within the Service Manuals Definitions (SMD) apply to the contents this Manual.

Policy in this Manual that uses the terms:

(i) **are to**, **are not**, **is to** and **is not**, requires compliance with and **is not** to be departed from; and

(ii) **should**, is a term which outlines the Service attitude regarding a specific subject and **should** be complied with under ordinary circumstances but may be departed from if there is sufficient reason(s) for doing so. Members may be required to justify their decision to depart from the policy.

Where the term **ORDER** appears as a heading in this Manual, it is used to bring to a member's attention a specific **ORDER** requirement within that section.

The heading **ORDER** and the terms **are to, are not, is to** and **is not** require compliance with. Orders **are not** to be departed from, unless exceptional circumstances exist. Members will be required to explain and justify their decision to depart from such policy in subsequent investigations and/or court proceedings.

This Manual has been designed as a Service wide document and as such does not generally prescribe instructions unless applicable in all areas of the Service. In order to recognise the needs of local communities and policing requirements, it will be necessary for officers in charge of regions, districts, and stations/establishments to develop regional, district and station/establishment Instructions to give effect to this Manual at a local level.

Regional, district and station/establishment instructions are ancillary to and are not to conflict with this Manual which will have precedence over any instructions developed at the local level.

Each chapter in this Manual has an individual table of contents. The contents of this Manual are to be read in conjunction with other Service Manuals and relevant legislation.

ORDER

All members are to be familiar with the contents of this Manual and any amendments made to it.

Common abbreviations

Common abbreviations that may be used in this Manual:

Legislation

CC means the Criminal Code

CP(OROPO)A means the *Child Protection (Offender Reporting and Offender Prohibition Order) Act*

DFVPA means the *Domestic and Family Violence Protection Act*

PPRA means the *Police Powers and Responsibilities Act*

PSAA means the *Police Service Administration Act*

TO(RUM)A means the *Transport Operations (Road Use Management) Act*

YJA means *Youth Justice Act*

Manuals

DERIE means the Digital Electronic Recording of Interviews and Evidence Manual

MSM means the Management Support Manual

OPM means the Operational Procedures Manual

SMCD means Service Manuals Contact Directory

SMD means Service Manual Definitions

TM means the Traffic Manual

Appointments

DDO means district duty officer

OIC means officer in charge

RCC means regional crime coordinator

RDO means regional duty officer

Command/Division names

ERCC means Emergency Response and Coordination Command

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ESC means Ethical Standards Command

OGC means General Counsel, Office of the General Counsel

OSD means State Discipline

RDC means Recruiting and Development Command

SCTFSC means Security, Counter-Terrorism and Forensic Services Command

Unit names

CIB means criminal investigation branch

CPIU means child protection and investigation unit

FCU means forensic crash unit

ODPP means Office of the Director of Public Prosecutions

PSRT means Public Safety Response Team

SERT means Special Emergency Response Team

Requesting changes to this Manual

The Service strongly values and recognises its members and actively seeks input relevant to any problems or suggested changes within this Manual's content. The Inspector, Operational Policy and Improvement (OPI) is responsible for the development and publication of Service Manuals. Advice relevant to its contents, perceived problems or suggested changes should be forwarded to the Inspector, OPI.

On receipt of a proposal to develop or amend a policy, OPI will research the proposal and, if viable, develop Service policy. In researching the matter, all major stakeholders are consulted to ensure the proposal is congruent with present Government and Service policy and relevant legislation.

The Manual is subject to regular update by OPI and the latest amendments will be highlighted throughout. It remains the responsibility of the member of the Service accessing the Manual via other means (e.g. local copies) to ensure currency when viewing.

Interpretation information for this Manual

New or amended content in this amendment issue is highlighted in grey.

When reading this Manual, members should be aware that some content is located in other Service holdings:

Contact Directory: Contact details for:

(i) external organisations and agencies are contained within the Service Manuals Contact Directory (SMCD).

(ii) units within the Service are contained within the Staff and Work Unit Contact System on the Service Intranet.

Definitions: Definitions are contained within the Service Manuals Definitions (SMD).

Delegations and Authorities: Service delegations and authorities are published in the Delegations and Authorities Library SharePoint page.

Forms: Unless otherwise specified within this Manual, Service forms are available on QPS Forms Select. Where a form is available in QPRIME, a back-up version of the form is available in QPS Forms Select.

QPRIME: Assistance and further information in relation to QPRIME is available from the QPRIME User Guide.

QPS internet: Reference to QPS internet means the Queensland Police Service Corporate Internet.

Service intranet: Reference to Service Intranet means the QPS Corporate Intranet (Bulletin Board).

OPM Issue 113 Public Edition

Chapter 1—Operational Management

1.1 Introduction 9

1.2 Human rights and policing 9

1.2.1 Human Rights Act 9
1.2.2 What are human rights? 9
1.2.3 How does the Human Rights Act apply to the Service and its members? 10

1.3 Regional operations performance review strategy 11

1.3.1 Divisional and crime/support unit performance review 11
1.3.2 District performance review 12
1.3.3 Regional performance review 13

1.4 Duties and responsibilities of officers 13

1.4.1 Introduction 13
1.4.2 Structure of Service 13
1.4.3 Responsibilities of OIC of regions and nominated commands/divisions and police groups 14
1.4.4 Responsibilities of district officers 18
1.4.5 Responsibilities of officers in charge of stations or establishments 19
1.4.6 Responsibilities of regional duty officer, district duty officer and shift supervisor 20
1.4.7 Responsibilities of regional crime coordinators 24
1.4.8 Roles and responsibilities of detective inspectors 25
1.4.9 Responsibilities of patrol group inspectors 25
1.4.10 Role and function of police liaison officers 26
1.4.11 Role and function of district police liaison officer coordinators 28
1.4.12 Role and function of the state police liaison officer coordinator 28
1.4.13 Role and function of Torres Strait Island police liaison officers 29
1.4.14 Role and function of PCYC police liaison officers 30
1.4.15 Role and function of Booyah police liaison officers 31
1.4.16 Role and function of protective services officers 31

1.5 Planning 31

1.5.1 Strategic and operational planning 31
1.5.2 Operational planning (action plans, operation orders, briefings and debriefings) 32
1.5.3 Regional, district and station/establishment instructions 34
1.5.4 Shift taskings and statement of objectives and outcomes 35
1.5.5 Public event planning 36

1.6 Management of operational information 40

1.6.1 Recording initial demand 40
1.6.2 Activity logs 41
1.6.3 QPRIME armed person caution 42
1.6.4 Weapons licensing related tasks 42
1.6.5 Response to firearm related calls for service and intelligence 43
1.6.6 Deleted 45
1.6.7 Deleted 45
1.6.8 Deleted 45
1.6.9 Deleted 46
1.6.10 Street checks 46
1.6.11 Updating operational information in QPRIME 47

1.7 Community based policing strategies 48

1.7.1 Deleted 48
1.7.2 Crime prevention (statewide initiatives and supporting programs) 48
1.7.3 Neighbourhood Watch 49
1.7.4 Queensland Blue Light Association Incorporated 49
1.7.5 Queensland Police-Citizens Youth Welfare Associations 49
1.7.6 Youth programs 49

OPM Issue 113 Public Edition

1.7.7 Party Safe 50
1.7.8 Police in schools 50
1.7.9 Station community crime reduction officers 52
1.7.10 Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual plus Liaison Program 52
1.7.11 When a member of the Service is exempt from holding a blue card 53
1.7.12 Security assessments 54

1.8 Situational Decision Model 56

1.9 Confidentiality of information related to victims, witnesses and other vulnerable persons 58

1.10 Deleted 59

1.11 QPRIME occurrences 60

1.11.1 Policelink entered occurrences 61
1.11.2 Recording an offence in QPRIME 62
1.11.3 Amendments/updates of Policelink entered occurrences (supplementary reports) 67
1.11.4 Assigning Policelink and Missing Persons Unit entered occurrences 68
1.11.5 Quality of occurrences recorded in QPRIME 68
1.11.6 Follow up investigations 69
1.11.7 Prosecution of offender 70
1.11.8 Monitoring of occurrences requiring investigation 70
1.11.9 QPRIME unavailable 70
1.11.10 Use of notification flags on Service employee QPRIME records 70
1.11.11 QPRIME offender action status type and requirements 72

1.12 Incident command 76

1.12.1 Police commander/emergency commander/TE commander/CBRE commander 77
1.12.2 Police operations centre 77
1.12.3 Police forward commander 77
1.12.4 Police forward command post 77
1.12.5 Incident management team 77
1.12.6 Support functions and roles 77
1.12.7 Incident action plans 77
1.12.8 Operational planning tool for incident command 77

1.13 Operational Legal Advice 77

1.14 Deleted 78

1.15 Crime Stoppers 78

1.15.1 Receipt, investigation and finalisation of Crime Stoppers submissions 79
1.15.2 Crime Command investigations 80
1.15.3 Media releases including comfits 80
1.15.4 Receipt of criminal information at stations or establishments 80
1.15.5 Release of information 80

1.16 Fatalities or serious injuries resulting from incidents involving members (police related incidents) 80

1.16.1 First response procedures 81
1.16.2 Regional duty officer or district duty officer responsibilities 81
1.16.3 Responsibility for investigation 83
1.16.4 Police related incidents involving fatalities 83
1.16.5 Police related incidents not involving fatalities 83
1.16.6 Integrity of investigation 84

1.17 Significant event reviews 84

1.17.1 District/group significant event review matter 85
1.17.2 Purpose of a significant event review 86
1.17.3 The establishment of a significant event review capability 86
1.17.4 Jurisdiction of significant event reviews 86
1.17.5 Conducting significant event reviews 87

OPM Issue 113 Public Edition

1.17.6 Significant event review considerations 87
1.17.7 Recording and reporting findings and recommendations 89
1.17.8 Critical incident review 90

1.18 Significant events 91

1.18.1 Significant event messaging system (SEMS) 93

1.19 Queensland Police Security Alert Level (QPSAL) 94

Appendix 1.1 NOTICES—Recording initial demand 96

Appendix 1.2 SOLVE—Recording initial demand 97

Appendix 1.3 Deleted 98

Appendix 1.4 Deleted 98

Appendix 1.5 Deleted 98

Appendix 1.6 Agreed guidelines for helicopters operating near scenes of police operations 99

Appendix 1.7 Standard plans 100

OPM Issue 113
Public Edition

1.1 Introduction

This chapter provides a framework to assist members at all levels to carry out their functions regarding operational matters.

It is designed to clarify the roles and responsibilities of members and to clearly set a level of accountability consistent with the *Police Service Administration Act* to ensure that service delivery is effective and professional.

1.2 Human rights and policing

1.2.1 Human Rights Act

The *Human Rights Act* (HRA) does not fundamentally change operational policing in Queensland. Members are already accustomed to respecting, protecting and promoting common law human rights, such as the right to liberty and security of the person, the right to a fair trial and freedom of expression. The HRA reinforces the need for members to make lawful decisions that comply with Service policy.

The aim of the HRA is to ensure:

(i) respect for human rights is embedded in the culture of all Queensland Government departments, including the Service; and

(ii) public powers and functions are exercised in a principled way that respects and promotes human rights, by placing individuals at the centre of decision-making and service delivery.

The HRA requires the Service and its members consider human rights in all decision-making processes and interactions with its members and the community.

The requirement to consider human rights does not apply to individuals interacting in a private capacity.

1.2.2 What are human rights?

The *Human Rights Act* (HRA) legislates 23 human rights applicable to all individuals in Queensland:

(i) recognition and equality before the law;

(ii) right to life;

(iii) protection from torture and cruel, inhuman or degrading treatment;

(iv) freedom from forced work;

(v) freedom of movement;

(vi) freedom of thought, conscience, religion and belief;

(vii) freedom of expression;

(viii) peaceful assembly and freedom of association;

(ix) taking part in public life;

(x) property rights;

(xi) privacy and reputation;

(xii) protection of families and children;

(xiii) cultural rights—generally;

(xiv) cultural rights—Aboriginal peoples and Torres Strait Islander peoples;

(xv) right to liberty and security of person;

(xvi) humane treatment when deprived of liberty;

(xvii) fair hearing;

(xviii) rights in criminal proceedings;

(xix) children in the criminal process;

(xx) right not to be tried or punished more than once;

(xxi) retrospective criminal laws;

(xxii) right to education; and

(xxiii) right to health services.

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The protected human rights are:

(i) rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status;

(ii) rights individuals are entitled to, without discrimination, when dealing with government departments and their employees; and

(iii) based on principles of dignity, equality and mutual respect.

Only individuals have human rights (see s. 11: 'Who has human rights' of the HRA). Corporations or other legal entities do not have human rights.

1.2.3 How does the Human Rights Act apply to the Service and its members?

Most actions or decisions by the Service and its members will have an impact on human rights.

In carrying out the functions of the Service (e.g. preventing crime, preserving peace, protecting the community), members protect and promote human rights. However, in the performance of their duties (e.g. arrest, detention, use of force, seizure of property) members may be required to limit a person's human rights.

While the *Human Rights Act* (HRA) seeks to promote and protect human rights, most human rights are not absolute. In certain circumstances some human rights may be limited to protect the rights of others and achieve a public policy objective (e.g. maintain public safety). Officers should minimise the limitation of a person's human rights to the extent reasonably necessary to lawfully resolve an incident and achieve an objective.

Members are to be able to explain and justify any limitation of a person's human rights.

Human rights obligation

The HRA requires the Service and its members:

(i) act or make decisions in a way that is **compatible with human rights**; and

(ii) in making a decision, **properly consider** any human rights relevant to the decision.

This requirement extends to all acts and decisions of the Service and its members, including:

(i) operational matters (e.g. see s. 1.5.2: 'Operational planning (action plans, operation order, briefings and debriefings)' of this chapter);

(ii) administrative matters;

(iii) internal matters (e.g. employee policies and decisions); and

(iv) external matters (e.g. exercising police powers and responsibilities).

Where appropriate and reasonably practicable, members should explain to a person the reasons for their decision when limiting that person's human rights.

Upon subsequent review, members are to be able to explain their considerations and justify their actions and decisions.

How is an act or decision compatible with human rights?

An act or decision is compatible with human rights if:

(i) it does not limit a human right; or

(ii) it only limits a human right to the extent that is reasonable and justifiable in the circumstances (i.e. proportionate).

An officer may lawfully limit a person's human rights where there is a power which allows for the limitation (e.g. arresting an adult pursuant to s. 365: 'Arrest without warrant' of the PPRA). However, where the power provides for discretion, an officer is to choose the least restrictive approach, which is reasonable, proportionate and appropriate in the circumstances, to minimise the limitation of a person's human rights (e.g. discontinuing an arrest to issue an infringement notice or NTA pursuant to s. 377: 'Additional case when arrest of adult may be discontinued' of the PPRA).

What is proper consideration?

Proper consideration includes:

(i) identifying any human rights that may be affected by an action or decision;

(ii) considering how and to what extent the action or decision will limit the relevant human rights;

(iii) considering if there is an alternative action or decision that will limit the relevant human rights to a lesser extent;

(iv) weighing the limitation of an individual's human rights with the objective of the action and decision (e.g. protection of the safety and rights of others); and

OPM Issue 113 Public Edition

(v) identifying an action or decision that is reasonable and justifiable in the circumstances (i.e. proportionate).

To assess whether an action or decision is compatible with human rights, the Service has adopted the 'PLAN' approach.

P	**Proportionate**	Are your limitations on the person's human rights balanced and proportionate against what you are trying to achieve?
L	**Lawful**	Do you have a lawful basis for your actions and for making your decisions?
A	**Accountable**	Have you considered human rights in your decision making? Can your actions be justified? Have you documented your considerations and reasons for your decision?
N	**Necessary**	Are your actions necessary to achieve your objectives? Can you do anything that will still achieve your objective but have less of an impact on the person's human rights (i.e. a less restrictive option)?

1.3 Regional operations performance review strategy

The purpose of the strategy is to align regional, district, divisional and crime/support performance reviews to enable all levels of management to be confident that current and future operational business strategies and activities are consistent and meet the strategic and operational imperatives of the Service.

To facilitate performance assessment at an operational level, the Service has adopted a three tiered, but interlinked, performance review strategy for regional operations being:

(i) divisional and crime/support performance review;

(ii) district performance review; and

(iii) regional performance review.

It is expected that the relevant performance review process would be used to inform completion of individual performance development agreement plans.

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1.3.1 Divisional and crime/support unit performance review

Divisional performance review

The divisional performance review consists of:

(i) completion of a 'Divisional Performance Management Appraisal Report' (Appraisal Report) throughout the review period by OIC; and

(ii) evaluation of the division by the relevant district officer (or delegate).

The divisional performance review is designed to:

(i) acknowledge and share innovation and good practice;

(ii) identify opportunities to improve performance;

(iii) create positive and productive workplaces; and

(iv) create safer communities through enhanced service delivery.

The Appraisal Report should be used as a forward looking 'living document' to constantly monitor the effectiveness and efficiency of strategies and activities conducted within the division.

Crime/support performance review

As crime/support units provide a diverse range of assistance to the district, they are not required to complete an Appraisal Report. Additionally, the Appraisal Report will also focus on issues of importance to the district and the Service.

Responsibilities

ORDER

District officers (or delegate) will conduct a performance review on divisions and crime/support units under their control twice yearly. District officers (or delegate) are to use the Appraisal Report framework which outlines prescribed criteria as applicable to the type of review being conducted.

POLICY

District officers are responsible for monitoring the performance of all divisions and crime/support units under their control through biannual reviews encompassing January to June and July to December. The Appraisal Report will provide the district officer (or delegate), with a platform for structured discussion with the officer in charge.

The performance review process relates to the performance of divisions and crime/support units, rather than the performance of individual members.

Wherever practical, district officers are to personally attend the performance review process.

1.3.2 District performance review

The district performance review is a flexible process designed to:

(i) identify and reward good practice and innovation;

(ii) actively respond to emerging crime and community safety issues; and

(iii) incorporate review and response to:

(a) resources;

(b) finance; and

(c) ethical issues.

The structure of the district performance review will be similar in manner to the divisional performance reviews, but with a focus on district level results and achievements. This complementary structure will allow the free flow of critical strategic and operational information between divisional and crime/support unit performance reviews and district performance reviews. It will later inform the regional performance review.

The district performance review structure is informed from the directions of the district evaluation of the divisional and crime/support unit performance reviews with the focus of discussion on:

(i) governance;

(ii) exceptions;

(iii) trends or causal factors;

(iv) compulsory training compliance;

(v) emerging issues;

(vi) innovation;

(vii) good practice; and

(viii) any themes or issues particular to:

(a) the regional assistant commissioner;

(b) relevant regional deputy commissioner; or

(c) Commissioner.

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As part of district performance reviews, districts are to evaluate any:

(i) Significant Event Review Panel related issues (see ss. 1.17.1: 'District/group significant event review matter' and 1.17.2: 'Purpose of a significant event review' of this chapter); and

(ii) use of force related issues,

in addition to the focus of discussion points listed above. Districts should also discuss how a culture of continual improvement and good practices are promoted.

ORDER

As soon as practicable after their district performance review, district officers are to forward to the office of the Inspector, Risk Management and Business Continuity, Ethical Standards Command any issues, factors or trends identified from the SERP and use of force discussions.

Responsibilities

Regional assistant commissioners are responsible for monitoring and measurement of performance of the districts under their control. While they will regularly examine the response to emerging issues, a biannual formal district performance review is conducted following the end of each six-monthly financial year period.

Regional assistant commissioners, shall:

(i) consult routinely with all districts on responses to emerging issues relating to district performance;

(ii) meet biannually, in person, with district officers to utilise the formal district performance review process; and

(iii) conclude the district performance review process within three months, including completion of a final report and ensure a copy has been forwarded to:

(a) Deputy Commissioner, Regional Operations; and

(b) district officer.

1.3.3 Regional performance review

The regional performance review is an open conversation designed to:

(i) generate information exchange that enhances professional capabilities;

(ii) drive the development of flexible and innovative solutions to emerging policing issues; and

(iii) identify good practice able to be shared throughout the Service.

The regional performance review is informed by:

(i) crime data analysis;

(ii) national community satisfaction survey;

(iii) 'Working for Queensland' employee opinion survey;

(iv) divisional performance reviews;

(v) crime/support unit performance reviews; and

(vi) district performance reviews.

A regional performance review examines:

(i) senior officer leadership characteristics;

(ii) how senior officers achieve effective regional policing practice through:

(a) engagement;

(b) collaboration; and

(c) intervention; and

(iii) the achievement of targeted policing outcomes.

Responsibilities

The relevant regional deputy commissioner is responsible for monitoring and measurement of performance of the regions under their control. While they will regularly examine the response to emerging issues, a biannual formal regional performance review involving a face to face meeting is conducted following the end of each six monthly financial year period.

The relevant regional deputy commissioner, is to:

(i) consult routinely with all regions on responses to emerging issues relating to regional performance;

(ii) meet biannually, in person, with regional assistant commissioners to utilise the regional performance review process; and

(iii) conclude the regional performance review process within three months, including completion of a final report and ensure a copy has been forwarded to:

(a) Commissioner; and

(b) relevant regional assistant commissioner.

OPM Issue 113 Public Edition

1.4 Duties and responsibilities of officers

1.4.1 Introduction

The Service is committed to providing an effective and efficient policing service to the community. To facilitate this, activities carried out by its members are to be properly managed. Strategic and operational planning processes have been adopted which are designed to ensure that the outcomes achieved meet needs and expectations.

1.4.2 Structure of Service

The PSAA imposes upon the Commissioner the responsibility for determining the appropriate organisational structure of the Service. Through executive directions (see s. 1.2.1: Executive directions of the MSM), the Commissioner has

established that structure to include commands, regions, districts, patrol groups, divisions and establishments (also see s. 1.5: 'Declaration of stations/establishments' of the MSM).

1.4.3 Responsibilities of OIC of regions and nominated commands/divisions and police groups

The Commissioner has assigned policing responsibilities to assistant commissioners which within their span of control include to:

(i) stop crime;

(ii) make the community safer;

(iii) build relationships across the community and within the Service;

(iv) ensure the effective performance of members;

(v) lead, motivate and improve service delivery by districts/groups;

(vi) deliver work environments committed to professional standards, ethical practices and discipline;

(vii) ensure a program of inspections is conducted annually within the financial year for all stations and establishments under their control in respect of compliance with Service policy and procedures. Use of the online Compliance performance checklist and report available on the ESC SharePoint page is mandatory in the conduct of these inspections;

(viii) ensure annual compulsory training requirements are completed by members under their control;

(ix) identify risks which present as an exception and deal with the risk in accordance with the provisions of s. 3.3: 'Reporting requirements' of the MSM;

(x) audit the removal of prisoners/children from a corrective services facility or youth detention centre as a suspect or for law enforcement purposes (where applicable);

(xi) ensure annual physical security inspections of all facilities under their control are conducted within current risk management reporting and exception reporting requirements (see s. 3.3 of the MSM); and

(xii) foster an inclusive workplace where health, safety and wellbeing are promoted and prioritised.

Relevant to supporting Service strategies and goals, assistant commissioners and chief superintendent have the following responsibilities:

Regional assistant commissioners:

(i) supervise provision of effective and efficient operational policing and support activities within districts under their control;

(ii) ensure the development, resourcing and provision of tasking and coordination models in nominated regions and commands to contribute to the delivery of the Service's strategic objectives;

(iii) lead and supervise financial management of budgets and funds within their span of control;

(iv) ensure the regional management team actively contributes to the achievement and progression of Service goals;

(v) guide all operational business strategies and activities within each district toward alignment to and measurement against Service strategic and operational imperatives, including through supervision of the regional operations performance review strategy (see s. 1.3: 'Regional operations performance review strategy' of this chapter); and

(vi) initiate or endorse solutions which improve operations and actively progress their advancement.

Assistant Commissioner, Crime Command:

(i) provision of specialist and crime specific capabilities with the ability to provide service on a statewide basis;

(ii) provision of investigational expertise on a statewide basis;

(iii) coordination of statewide and/or major criminal investigations both within and outside the state;

(iv) enhancing the Service's approach to intelligence and the capacity to produce useful data and knowledge that aids decision making in support of serious, major and organised crime investigations and frontline policing operations;

(v) extensive liaison with other law enforcement agencies;

(vi) control and coordination of criminal investigation activities;

(vii) representation of the Service both interstate and nationally on crime related matters;

(viii) focusing available and emerging investigative strategies to combat serious and organised crime networks, businesses and individuals;

OPM Issue 113 Public Edition

(ix) enhancing the prevention and disruption strategies to reduce the impact of crime on the community;

(x) remain the central point of contact for interstate, international, government and industry partners for matters pertaining to serious and organised crime; and

(xi) drive serious and organised crime strategic activities (e.g. but not limited to): Organised Crime Strategy, Cyber Crime.

Assistant Commissioner, Emergency Response and Coordination Command:

(i) provision of specialist work groups, namely:

(a) Aviation Capability Group;

(b) Communications Group;

(c) Emergency Management & Coordination Group;

(d) Policelink Group;

(e) Road Policing Group;

(f) Specialist Response Group; and

(g) Specialist Services Group.

(ii) provide operational support to districts including via specialist capabilities supporting frontline policing;

(iii) develop and support the delivery of specialist road safety strategies;

(iv) provision of effective communication centres across the State;

(v) provision of community-facing contact points to receive and provide information relevant to service delivery to internal and external stakeholders and the community;

(vi) proactive and preventative focus on influencing improvements in road, space and place behaviours;

(vii) representation of the Service both intrastate and nationally including for road policing, communications and other related matters;

(viii) foster ongoing effective partnerships with key stakeholders and agencies to support frontline policing; and

(ix) provide authoritative advice on the impacts of strategies, policies and services as they affect the state of Queensland, and influence key decision-making on policies, programs and operational matters in line with the Queensland disaster arrangements;

(x) provide leadership in shaping Service disaster and emergency management priorities and developing capability within the organisation through effective planning;

(xi) lead an effective, responsive and innovative team in partnership with government and non-government stakeholders to improve Queensland capability and capacity across the prevention, preparedness, response and recovery (PPRR) of disaster management;

(xii) ensure the ethical and professional health and climate of the Service is developed and maintained through effective monitoring and action;

(xiii) ensure performance and accountability standards are realised in all spheres of operations within a strong governance framework;

(xiv) actively contribute to corporate management, policy and direction as a member of the Service Executive Leadership Team;

(xv) develop close links with relevant agencies and appropriate groups to ensure participative and responsive problem identification and resolution; and

(xvi) provide appropriate and authoritative representation of the Service in external forums and promote a positive public perception of the Service and its activities.

Assistant Commissioner, State Discipline:

(i) give effect to Part 7 of the PSAA and the relevant *Public Sector Act* requirements relating to conducting disciplinary proceedings in relation to allegations of corruption, misconduct and other grounds for disciplinary action in the Service;

(ii) apply principles of human rights, natural justice and procedural fairness to administrative/employment issues to achieve the purpose of discipline;

(iii) provide quality advice to the Commissioner on disciplinary matters to ensure effective, efficient and appropriate outcomes that will meet community scrutiny;

OPM Issue 113 Public Edition

(iv) collaborate and contribute to the development of educational strategies to promote, reinforce and engender in members a full understanding of the expected standards of ethical behaviour;

(v) liaise with Executive Leadership of the Service and represent State Discipline at the organisational level;

(vi) maintain high standards of ethical behaviour for members of the Service by identifying behavioural trends, and work with stakeholders to discourage unethical conduct; and

(vii) encourage members to report suspect behaviour.

Executive Director, Assets Division:

(i) identify and improve the Service position to deliver and utilise professional policing assets;

(ii) assist in engagement and collaboration with other government departments and relevant business agencies;

(iii) enhance strategic thinking in asset management coordination; and

(iv) supervise governance and achievement of the above through the operations of the:

(a) Capital Assets and Facilities Management Group;

(b) Fleet Services Group;

(c) Marine Fleet Services;

(d) Operational Equipment and Capability Management; and

(e) Strategic Asset Management.

Assistant Commissioner, Security, Counter-Terrorism and Forensic Services Command:

(i) provision of activities designed to prepare for, prevent and respond to threats of terrorism and other security related matters;

(ii) liaise with law enforcement and security intelligence partners, and represent the Service nationally and internationally on terrorism and security related matters;

(iii) assisting our business, government and community partners to strengthen their counter-terrorism and security arrangements;

(iv) control and coordination of statewide counter-terrorism policing;

(v) provision of timely, high quality and efficient forensic policing services in collaboration with community, government and non-government partners; and

(vi) provision of counter-terrorism, security and forensic activities delivered by specialist work groups, namely:

(a) Counter-Terrorism Investigation Group;

(b) Prepare, Prevent, Protect Group;

(c) Protective Services Group; and

(d) Forensic Services Group,

some of which are based within districts and categorised as 'centrally functioned' to the Security, Counter-Terrorism and Forensic Services Command.

Assistant Commissioner, Ethical Standards Command:

(i) reviewing and reporting on issues such as the reliability and integrity of financial and operational information of the Service through the ESC, Integrity and Performance Group inspections program;

(ii) investigation of allegations of corruption, misconduct and serious grounds for discipline in the Service;

(iii) development of educational strategies to promote, reinforce and engender in members a full understanding of the expected standards of ethical behaviour;

(iv) enhancement of ethical standards for members of the Service by developing practices and strategies which prevent, minimise and discourage unethical conduct; and

(v) contribute to an ethical pro-disclosure culture including the provision of internal witness support services to those who comply with their discipline reporting obligations or make Public Interest Disclosures.

Assistant Commissioner, Recruiting and Development Command:

(i) delivery of high-quality and professional education and training to members of the Service within an environment of continuous improvement;

(ii) routinely conduct Service-wide training needs assessments aimed towards delivering members of the Service who are skilled and capable of achieving the Commissioner's vision for policing services;

OPM Issue 113 Public Edition

(iii) development and delivery of training to:

(a) maintain and improve the skills and capacities of all officers;

(b) assist the advancement of Service specialist roles;

(c) provide appropriate guidance and development of staff members; and

(d) develop the abilities of recruits in preparation for commencement of operational duties;

(iv) delivery of efficiencies and building of economies of scale; and

(v) coordination of Honours and Awards.

Detective Chief Superintendent, Crime and Corruption Commission (CCC) (Senior officer within the CCC Police Group who performs the role of General Manager, Operations Support, CCC):

(i) command of the CCC Police Group including supervision and discipline;

(ii) direct operational command of the Operations Support Division, CCC;

(iii) liaising with the Commissioner and members of the Service;

(iv) collaborating with other law enforcement agencies;

(v) advising the Chairperson and CEO of the CCC in relation to police matters generally;

(vi) liaising with other divisions of the CCC;

(vii) fostering an inclusive workplace where health, safety and wellbeing are promoted and prioritised;

(viii) overseeing the recruitment and transfer of seconded QPS officers to and from the CCC;

(ix) the efficient deployment of officers seconded to the CCC (joint responsibility with the CEO, CCC in accordance with s. 255(4) of the *Crime and Corruption Act*); and

(x) other duties that may from time to time be assigned by the CEO, CCC.

Detective Chief Superintendent, Crime Operations, Crime Command:

(i) the efficient and effective management of policing within the Command;

(ii) resource allocation, planning and control of activities within the Command consistent with Service goals and objectives;

(iii) ensuring programs for the training, development, welfare, performance measurement and discipline of members under their control are implemented and that facilitators of those programs are adequately resourced;

(iv) ensuring members under their control comply with Service policy and demonstrate behaviour consistent with Service and community expectations;

(v) ensuring operational business strategies and activities within each group are aligned to and measured against Service strategic and operational imperatives;

(vi) the financial management of their budget and funds;

(vii) participating in operational committees;

(viii) liaising with other commands and regions, and provide the necessary support and capabilities as required in relation to operational issues;

(ix) liaising with other law enforcement agencies and agencies in relation to operational issues;

(x) representing the Assistant Commissioner and the Service on intra-agency and inter-agency committees and working groups;

(xi) other duties that may from time to time be assigned by the Assistant Commissioner, Crime Command; and

(xii) fostering an inclusive workplace where health, safety and wellbeing are promoted and prioritised.

Chief Superintendent, Disaster Operations, Emergency Management and Coordination Group:

(i) ensure effective and efficient operations for statewide disaster management to align capability functions to the Prevention, Preparedness, Response and Recovery principles through the management of available resources having regard to the organisational environment;

(ii) provide quality advice to the Assistant Commissioner on operational and support capabilities to meet whole-of-government goals;

(iii) drive legislative change and lead policy development to achieve improved disaster management capability outcomes;

OPM Issue 113 Public Edition

(iv) develop and maintain effective communication with and between area of responsibility to maximise use of resources, provide advice and promote cooperation;

(v) initiate and promote the development of programs which improve performance levels of individual personnel and functional units to enhance the quality of disaster management services provided;

(vi) liaise and negotiate with members of the Service, government, community groups and the private sector at state, national and international levels towards the achievement of effective outcomes;

(vii) ensure compliance with relevant legislation and standards as they apply to Service disaster management capabilities; and

(viii) maintain a work environment committed to professional standards, ethical practices and discipline.

Chief Superintendent, State Discipline:

(i) give effect to Part 7 of the PSAA and the relevant *Public Sector Act* requirements related to conducting disciplinary proceedings in relation to allegations of corruption, misconduct and other grounds for disciplinary action in the Service;

(ii) apply principles of human rights, natural justice and procedural fairness to administrative/employment issues to achieve the purpose of discipline;

(iii) contribute to systemic reviews as required and the continual improvement of the discipline system;

(iv) represent the Service with relevant internal/external stakeholders, tribunals and oversight bodies;

(v) provide quality advice to the Commissioner on disciplinary matters to ensure effective, efficient and appropriate outcomes that will meet community scrutiny;

(vi) other duties that may from time to time be assigned by the Assistant Commissioner, State Discipline;

(vii) foster an inclusive workplace where health, safety and wellbeing are promoted and prioritised; and

(viii) maintain a work environment committed to professional standards, ethical practices and discipline.

Superintendent, State Custody and Property Group:

(i) provision of statewide strategic oversight and management of custody and exhibit standards;

(ii) foster ongoing effective partnerships with key stakeholders and agencies to support frontline policing; and

(iii) representation of the Service both intrastate and nationally including for custody and exhibit related matters.

1.4.4 Responsibilities of district officers

District officers are responsible for:

(i) the efficient and effective management of policing their district and effective deployment of members under their control;

(ii) resource allocation, planning, and control of activities within the district, consistent with Service goals and objectives;

(iii) ensuring goals and objectives for their area of control are developed, implemented, reviewed and evaluated in accordance with the Service's strategic plan;

(iv) taking action to identify trends within their area of control in order to better allocate available resources;

(v) ensuring programs for the training, development, welfare, performance measurement, and discipline of members under their control are implemented and that facilitators of those programs are adequately resourced;

(vi) developing and monitoring strategies to ensure annual compulsory training requirements are completed by members within the district;

(vii) ensuring members under their control comply with Service policy and demonstrate behaviour consistent with Service and community expectations;

(viii) developing and maintaining appropriate community-based projects which foster more effective interaction between members of the Service and the community;

(ix) ensuring operational business strategies and activities within each division are aligned to and measured against Service strategic and operational imperatives, including through the application of the divisional and crime/support unit performance review (see s. 1.3: 'Regional operations performance review strategy' of this chapter);

(x) ensuring members under their control receive adequate feedback concerning issues within the district;

(xi) the financial management of their budget and funds;

OPM Issue 113 Public Edition

(xii) liaising with emergency services (including the State Emergency Service) and community-based organisations in their area of responsibility, in terms of:

(a) developing plans to respond to specific incidents or events;

(b) maintaining a register of contact numbers; and

(xiii) fostering an inclusive workplace where health, safety and wellbeing are promoted and prioritised.

1.4.5 Responsibilities of officers in charge of stations or establishments

OICs of stations or establishments are responsible for:

(i) the efficient and effective management of policing within their area of control;

(ii) ensuring close interaction between members of the Service under their control and the community, including the appointment of appropriate officers to perform the role of:

(a) Adopt-a-Cops to schools within the division (see also s. 1.7.8: 'Police in schools' of this chapter);

(b) Neighbourhood Watch police liaison officer for Neighbourhood Watch groups within the division;

(c) station community crime reduction officer; and

(d) station domestic and family violence liaison officer (see s. 9.13.5: 'Station DFV liaison officers' of this Manual);

(iii) the effective management of resources allocated within their area of control, including the management and maintenance of Service assets (see ss. 2.3: 'Physical asset management' and 4.2.1: 'Responsibilities and duties of officers' of the MSM);

(iv) discipline;

(v) liaison within and external to the Service;

(vi) budgeting;

(vii) welfare, health and safety issues relating to members under their control;

(viii) implementation of education and training programmes;

(ix) implementing strategies to ensure annual compulsory training requirements are completed by members under their control;

(x) developing and maintaining a register of physical resources under their control which includes equipment on personal issue to officers under their control (see also s. 14.22.1: 'Operational equipment' of this Manual);

(xi) transfer of information;

(xii) monitoring district/branch operational plans and developing, division/unit 28-day rosters to address operational requirements. The OIC is also to monitor roster compliance in conjunction with shift supervisors or district duty officers and evaluate the outcomes;

(xiii) selecting a shift supervisor (see s. 1.4.6: 'Responsibilities of regional duty officer, district duty officer and shift supervisor' of this chapter) for each shift and indicating that selection on the duty roster;

(xiv) the regular monitoring of good order and other minor offence records on the QPRIME computer system to ensure that officers under their control comply with s. 3.5.9: 'Justification for arrest' of this Manual;

(xv) the efficient and effective deployment and management of all members under their control in compliance with Service policy, procedure and legislation;

(xvi) monitoring compliance with Service policy and procedure by all members under their control;

(xvii) participation in the divisional and crime/support unit performance review process ensuring the operational business strategies and activities within the division are aligned to Service strategic and operational imperatives (see s. 1.3: 'Regional operations performance review strategy' of this chapter); and

(xviii) foster an inclusive workplace where health, safety and wellbeing are promoted and prioritised.

The OIC of officers appointed to the roles in (ii)(a) to (d) are responsible for the performance and supervision of the officers and should allow adequate time and resources for the officers to perform their appointed duties.

Additional responsibilities for CIB and CPIU OICs

The OICs of CIBs and CPIUs are responsible for undertaking the role of the sexual violence liaison officer (SVLO) as outlined in the section: 'Sexual violence liaison officer (SVLO) responsibilities' of s. 2.6.3: 'Sexual offences' of this Manual.

OPM Issue 113 Public Edition

1.4.6 Responsibilities of regional duty officer, district duty officer and shift supervisor

RDO

ORDER

The OIC of a region or command is to ensure that:

(i) at all times a commissioned officer is rostered or available on call, on either a regional or district basis, to provide:

(a) advice;

(b) direction; and

(c) leadership,

to members; and

(ii) the OIC of stations and establishments, within the region or command, and the Duty Officer, Brisbane Police Communications Centre are advised of the method the commissioned officer can be contacted.

Duties of an RDO

The duties of an RDO include:

(i) time management;

(ii) supervising the activities of staff;

(iii) identifying, intervening and investigating instances of inappropriate use of force by officers and, where necessary, educating officers regarding the obligations and expectations upon them when required to use force;

(iv) in districts and regions with a District Tasking and Coordination Centre (DTACC), ensure integration and liaison between the DDO and DTACC coordinator;

(v) inspecting and endorsing the activity logs and objectives completed by operational staff;

(vi) coordinating and directing policing activities within the area of responsibility;

(vii) providing leadership for staff;

(viii) reviewing and supervising the implementation and effectiveness of station or establishment action/operational plans;

(ix) attending shift briefings and debriefings;

(x) inspecting equipment;

(xi) inspecting watch-houses, watch-house records and persons in custody therein (see also s. 16.13.3: 'Prisoner/watch-house inspection' of this Manual);

(xii) taking command of all major incidents (see s. 2.6: 'Specialist investigation' of this Manual);

(xiii) identifying and specifying training requirements;

(xiv) monitoring the security of stations and establishments in the region;

(xv) maintaining an activity log; and

(xvi) maintaining standards of discipline by taking remedial action, or causing remedial action to be taken, if necessary; and

(xvii) foster an inclusive workplace where health, safety and wellbeing are promoted and prioritised.

Considerations by RDOs in the performance of their duties

The following factors may be considered by RDOs in the performance of their duties:

(i) time management and the allocation of time to stated objectives;

(ii) supervising staff activities:

(a) stations, establishments attended;

(b) staff spoken to;

(c) activities staff were undertaking at the time;

(d) the relativity of those activities to stated objectives;

(e) the effectiveness of the activities;

(f) any issues raised by staff, including welfare matters;

OPM Issue 113 Public Edition

(g) any actions taken relating to the supervision of staff, including the education of officers regarding the obligations and expectations upon them when required to use force; and

(h) particulars of any complaint made against a member of the Service and action taken;

(iii) inspecting and endorsing activity logs and objectives:

(a) endorse the time, date, place and odometer reading; and

(b) endorse with the signature, name and rank of the inspecting officer;

(iv) review and supervision of stated objectives:

(a) the time the objectives were reviewed;

(b) comment on the detail and effectiveness of the objectives;

(c) comment on the outcomes of the objectives to that time; and

(d) any changes recommended to the setting of the objectives;

(v) staff attendances:

(a) the names of staff not in attendance in accordance with the roster of duty; and

(b) explanations for non-attendance of staff;

(vi) shift briefings and debriefings:

(a) briefings and debriefings attended;

(b) identity of officer conducting the activity;

(c) comment on the effectiveness of the activity; and

(d) comment on actions taken on the conduct of the briefing or debriefing;

(vii) equipment:

(a) comment on items of service property inspected;

(b) comment on the cleanliness and operational efficiency of stations and establishments, and equipment;

(c) take appropriate action for any damage or misuse of equipment; and

(d) comment on the availability and condition of resources;

(viii) watch-houses (see also s. 16.13.3 of this Manual);

(a) the time of visit and identification of members staffing the establishment;

(b) comment on the condition and cleanliness of the buildings and fittings;

(c) identification of the number and sex of persons in custody;

(d) comment on the apparent health and care of all persons in custody inspected;

(e) comment on and recording of any complaints from persons in custody; and

(f) ensuring that standing orders and the provisions of Chapter 16: 'Custody' of this Manual are being observed particularly with respect to:

- *Bail Act* provisions;
- health and care of persons in custody; and
- custody report entries;

(ix) major incidents:

(a) time, date, place and details of any major incident;

(b) particulars of any messages forwarded;

(c) situation reports at the time of termination of duty and nominated relief; and

(d) status of any 'Emergency Situation' which has been declared in terms of the Public Safety Preservation Act; and

(x) training requirements:

(a) processes requiring training activity; and

(b) personnel identified as requiring further training and the specific training required including instances where inappropriate use of force by officers has been identified.

OPM Issue 113 Public Edition

DDO

Where DDOs are appointed, their duties may include those duties outlined for an RDO or a shift supervisor. In districts or regions with a DTACC they are to liaise with the DTACC coordinator to ensure efficient and effective management of police under their control including resource allocation, planning, and control of activities within the district, consistent with Service goals and objectives.

DDOs who are not commissioned officers cannot perform functions where legislation specifically requires a commissioned officer or dictates rank as inspector or above (see for example, s. 57: 'Power of entry for ss 54–56' of the PPRA).

DDOs who are not commissioned officers cannot perform functions where Service policy specifically requires a commissioned officer to do so. Relevant sections of the Manual include:

(i) s. 17.10.4: 'Special Emergency Response Team (SERT)';

(ii) s. 5.13.3: 'Notifying persons at risk';

(iii) s. 10.4.17: 'Queensland Government Air (QGAir)';

(iv) s. 12.8.1: 'Applying for a missing person warrant'; and

(v) s. 12.6: 'Amber alerts' through to s. 12.6.5: 'Detective Superintendent, Child Abuse and Sexual Crime Group, Crime Command';

(vi) s. 17.5.3: 'Senior Search and Rescue Operators, Search and Rescue Operators and Field Search Coordinators';

(vii) s. 17.5.4: 'Search and rescue operation'; and

(viii) s. 17.5.9: 'Commonwealth-State agreement'.

The OIC of a region or command is to ensure that where DDOs are utilised, that district and station instructions clearly outline the DDOs duties and responsibilities.

District officers are to ensure officers under their control performing the role of DDO either on a substantive or a temporary basis have successfully completed an approved incident command course (see SMD). Where practicable, DDOs should have successfully completed an approved incident command course before being selected by the relevant district officer.

Where it is not practicable for an officer to complete an approved incident command course prior to taking up DDO duties, the officer is to successfully complete the Competency Acquisition Program (CAP) book/module QCO101: 'Fundamentals of Incident Management'. The officer is to then complete incident command training as soon as practicable.

ORDER

Rostered RDOs and DDOs upon termination of their rostered duty are to complete and forward to the OIC of the region a computerised log.

OPM Issue 113 Public Edition

Shift supervisor

Shift supervisors provide a key role in the provision of frontline leadership and supervision including advice to, and support of, operational staff.

In addition to any other responsibilities, during the course of the rostered shift, a shift supervisor may be given responsibility for:

(i) the security and allocation of station or establishment resources;

(ii) monitoring and reporting to the OIC on the operational activities of staff;

(iii) monitoring staff movements and absences;

(iv) ensuring that all messages and demands for police action during the shift receive an appropriate response and effective action;

(v) setting objectives, monitoring results and tasking outcomes, activity logs, reports and any other documentation set out in accordance with any relevant operational plans;

(vi) ensuring that information or intelligence is effectively evaluated and disseminated;

(vii) recording the outcomes of the operational plan, the policing activity undertaken during the period and any other matters as directed by the OIC;

(viii) ensuring the security and proper storage of property coming into the possession of members in the course of the shift;

(ix) the management of correspondence;

(x) monitoring/supervising standards of conduct and appearance of members during the course of the shift;

(xi) in circumstances relating to high-risk calls for service or critical/major incidents where a commissioned officer or DDO cannot attend or supervise, a shift supervisor, preferably at the rank of sergeant, should plan and manage the Service response until relieved, or the matter is otherwise appropriately resolved. Where practicable this should involve attendance at the scene in favour of distal command/control;

(xii) identifying, intervening and investigating instances of inappropriate use of force by officers and where necessary, educating officers regarding the obligations and expectations upon them when required to use force (see s. 14.3: 'Use of force' of this Manual);

(xiii) causing remedial action to be taken, if necessary; and

(xiv) in the case of significant events, as outlined in this section below, cause a significant event message to be completed and submitted. See s. 1.18: 'Significant events' of this chapter for further information.

DTACC coordinator

DTACC coordinators are responsible for ensuring the effective coordination, allocation and delivery of timely and efficient policing services to enable equal focus to prevention, disruption, response and investigation.

With a view to operationalising these accountabilities, the DTACC coordinator may be given responsibility for:

(i) the effective and efficient management of priority code 4 demand;

(ii) the allocation and monitoring of live time tasks as determined through the district tasking and coordination process;

(iii) conducting electronic and face-to-face briefings to promote situational awareness of operational members;

(iv) responding to and acting on resource requests in line with established district principles.

(v) maintaining situational awareness relating to district resources/demand;

(vi) the review and auditing of live time task allocations and recording of tasking results for the information of divisional OIC's; and

(vii) the preparation and dissemination of shift briefing documents for each shift.

DDOs or shift supervisors:

(i) at each station and establishment are to, in conjunction with the OIC, monitor division/unit 28 day rosters as specified in s. 1.4.5(xi): 'Responsibilities of officers in charge of stations or establishments' of this chapter. These plans are to be consistent with statements and plans described in the 'Guide to planning' (on the Service Intranet) and contain suitable annotations and legends; and

(ii) are to implement and monitor operational shift plans for officers under their control who are rostered for duty during the shift;

(iii) are to foster an inclusive workplace where health, safety and wellbeing are promoted and prioritised.

DDOs or shift supervisors should:

(i) plan their activities to ensure that shift objectives are formulated. They may be formulated during a previous shift and may apply to a number of shifts during the roster period or across roster periods; and

(ii) ensure that the outcomes of shift objectives are recorded and reviewed at the completion of each shift.

Shift briefing/debriefing

Briefings and debriefings should be conducted at the commencement and completion of each shift. Shift briefings and debriefings are essential and are a means of drawing the attention of members to matters that may affect the way they carry out their duties. Shift briefings may be conducted in a formal or informal manner. Shift objectives are to be clearly stated at the commencement of a shift, and outcomes evaluated at the conclusion. The degree to which desired outcomes are achieved enables supervisors and OICs to plan future policing activity.

Shift supervisors, DDOs or patrol group inspectors (PGIs) should conduct briefings and debriefings at the commencement of, and prior to, the conclusion of rostered shifts.

In districts or regions with a DTACC, the DTACC Coordinator will be responsible for briefings encompassing an appreciation of District demand and planned live time taskings.

It is recommended a shift debriefing be conducted in the event of a major incident. See also s. 1.5.2: 'Operational Planning (action plans, operation orders, briefings and debriefings)' of this chapter.

ORDER

Shift supervisors, DDOs or PGIs who conduct briefings or debriefings are to record significant information and provide it to the OIC, district officer or other appropriate users.

All rostered staff, unless otherwise directed by the shift supervisor, DDO, PGI or OIC are to participate in briefings and debriefings.

OPM Issue 113 Public Edition

Briefing and debriefing format

The briefing and debriefing format should be approved by the OIC of the station or establishment.

The briefing should:

(i) outline the shift tactical plan;

(ii) record staff attendances and absences;

(iii) advise of changes to legislation affecting the policing function;

(iv) advise of changes to Service policy or procedures;

(v) pass on information relating to the Service generally; and

(vi) highlight any significant information relating to wanted persons and investigations.

The debriefing should:

(i) review actions taken;

(ii) review documentation generated during the shift;

(iii) acknowledge and/or commend functions carried out by members;

(iv) provide information to the shift supervisor or DDO as a basis for an action/tactical plan for any following shift;

(v) identify information to be passed to intelligence officers; and

(vi) identify information of interest to OIC of stations, establishments, districts and regions.

Significant events

RDOs or DDOs are to include in their activity log details of significant events occurring during their shift.

See s. 1.18: 'Significant events' of this chapter for further information.

1.4.7 Responsibilities of regional crime coordinators

Regional crime coordinators have the following roles and responsibilities within their region:

(i) overview of, and assisting in the management and coordination of all major criminal investigations, or any other investigations of significance as directed by the OIC of the region;

(ii) facilitation of the provision of relevant regional resources in support of major investigations and operations;

(iii) unless otherwise directed, investigation or control of investigations of 'police related incidents' in accordance with s. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (Police related incidents)' of this chapter;

(iv) is to assign a commissioned officer in their region to overview all submissions to the coroner to ensure the overall adequacy and professionalism of the investigation (see s. 8.3.2: 'Responsibility for investigating and reporting on deaths' of this Manual);

(v) direct supervision and line control of any other unit/position nominated by the OIC of the region;

(vi) liaison with and coordinating assistance from Crime Command or other specialist units, and law enforcement agencies on behalf of the region, where necessary;

(vii) providing advice and support regarding investigation processes to plain clothes and detective staff (investigators);

(viii) coordination of professional development and training of investigators;

(ix) liaison with community and media groups including crime stoppers and homicide victims support group;

(x) monitoring of crime trends and promotion of effective strategies to address crime problems;

(xi) membership of regional committees and groups as determined by the OIC of the region;

(xii) authorising requests for extraditions from within Australia and New Zealand in accordance with s. 10.7.1: 'Extraditions into Queensland generally' of this Manual;

(xiii) auditing the removals of prisoners/children from corrective services facility or youth detention centre as a suspect or for law enforcement purposes;

(xiv) conduct protocol responsibilities in relation to significant security threats to public transport operation in accordance with s. 17.3.26: 'Terrorist emergency' of this Manual;

(xv) any other duties delegated or required by the OIC of the region; and

(xvi) foster an inclusive workplace where health, safety and wellbeing are promoted and prioritised.

OPM Issue 113 Public Edition

1.4.8 Roles and responsibilities of detective inspectors

Detective inspectors in charge of crime investigation units are to:

(i) overview and assist in the management and coordination of all major and serious criminal investigations, as directed by the regional crime coordinator;

(ii) prioritise investigative responses, initiatives, and direction of resources under their command to ensure consistency with Service and regional/command priorities and objectives;

(iii) manage and allocate resources and personnel in support of investigative priorities and operations;

(iv) assess and manage investigational and organisational risk within their area of control;

(v) coordinate professional development and training of investigators under their supervision, management or command to build organisational capabilities and responsiveness;

(vi) monitor and maintain professionalism and ethical conduct of staff under their supervision, management or command;

(vii) manage fiscal resources for their command appropriately and efficiently;

(viii) monitor crime trends and promote effective strategies to address crime hotspots;

(ix) develop and maintain internal and external relationships;

(x) liaise with community and media groups including Crime Stoppers and Homicide Victims Support Group;

(xi) in regional areas (i.e. excluding Crime Command), regularly liaise with the local taxi and bus industries as the transport liaison officer with a view to:

(a) ensuring an equivalent representative is appointed by the local taxi and bus industries;

(b) identifying and addressing any barriers to effective service delivery to the local taxi and bus industries;

(c) improving relationships between the Service and local taxi and bus industries, to assist in solving reported crime and developing criminal intelligence;

(d) improving knowledge within the local taxi and bus industries of the role of police, in particular as it relates to common offences committed against transport industry employees (e.g. fare evasion, common assault), and

(e) develop and maintain regional instructions to guide officers in the downloading of images from transport vehicles (see s. 2.28.1: 'Security cameras in vehicles' of this Manual); and

(xii) foster an inclusive workplace where health, safety and wellbeing are promoted and prioritised.

OPM Issue 113 Public Edition

1.4.9 Responsibilities of patrol group inspectors

Patrol group inspectors are responsible for:

(i) the efficient and effective management of policing and effective coordination of deployments of members within their patrol group;

(ii) supervising the implementation and ongoing effectiveness of district resource allocations and planning relevant to their area of control;

(iii) discipline;

(iv) ensuring district goals and objectives relevant to their patrol group are appropriately communicated and implemented;

(v) ensuring the operational business strategies and activities within each division are aligned to and measured against Service strategic and operational imperatives, including through the application of the divisional and crime/support unit performance review (see s. 1.3: 'Regional operations performance review strategy' of this chapter);

(vi) supervising the implementation of district strategies to ensure annual compulsory training requirements are completed by members within their patrol group;

(vii) leading community liaison by establishing and maintaining productive working relationships with community leaders and key stakeholders;

(viii) ensuring appropriate community-based projects are implemented and operating effectively in divisions within their patrol group;

(ix) supervising to ensure members under their control comply with Service policy and demonstrate behaviour consistent with Service and community expectations;

(x) promoting and securing the inclusion of centrally functioned staff in the delivery of Service activities within their area of control;

(xi) undertaking regular inspections and audits within their patrol group as required by Service policy and procedure;

(xii) regular communication with staff on environmental issues impacting within the patrol group;

(xiii) overviewing financial management of Service budgets and funds allocated to divisions within the patrol group;

(xiv) establishing and maintaining productive continuing working relationships with emergency services (including the State Emergency Service) operating within the patrol group, including provision of coordination as required;

(xv) taking control or providing coordination of specialist investigations (see s. 2.6: 'Specialist investigation' of this Manual) where required; and

(xvi) committed involvement in major incident responses and planning including:

(a) assisting the district officer with disaster management;

(b) promoting and aiding local disaster management groups;

(c) ensuring plans are operating and effective within the patrol group; and

(d) performance of district disaster coordinator functions, if so appointed by the Commissioner; and

(xvii) foster an inclusive workplace where health, safety and wellbeing are promoted and prioritised,

(see also Chapter 17: 'Major incidents' of this Manual).

1.4.10 Role and function of police liaison officers

Police liaison officers (PLO) are employed by the Service to establish and maintain relationships between First Nations and culturally specific communities and the Service. The role of PLOs is to promote trust and cooperation between the Service and community by contributing to:

(i) the reduction and prevention of crime;

(ii) the diversion of people from the criminal justice system;

(iii) advice and education to Service members on culture and cultural issues, including cultural awareness for First Nations and diverse cultures;

(iv) enhancing community awareness of law and order and policing services; and

(v) enhancing relationships with international visitors, students and workers that may form part of the Queensland community.

OPM Issue 113 Public Edition

PLOs are:

(i) accountable to the assistant commissioner of the relevant region and as such the line control and command of PLOs is at the discretion of the assistant commissioner; and

(ii) to ensure any duties they perform are conducted with the approval of their nominated supervisor.

It is important that a high level of cooperation exists between all members of the service, including police officers, PLOs and other staff members. Emerging issues should be addressed in confidence, quickly and diplomatically. Wherever possible, cross cultural liaison officers are to assist in resolving any issues.

The objectives of the PLO role are to:

(i) promote trust and understanding between diverse community groups and the Service through effective and sensitive liaison aimed at enhancing communication and cooperation;

(ii) contribute towards the provision of policing services that are responsive to the needs of all members of the community;

(iii) enhance community knowledge and awareness of policing services and law and order issues;

(iv) provide cultural advice and awareness to Service members;

(v) identify issues of concern to the community and assist to develop plans to address these issues;

(vi) contribute towards providing a visible presence of the Service in the community;

(vii) recommend and participate in interventions aimed at crime prevention and reduction, including assisting in diverting people from the criminal justice system and reducing numbers of people in custody; and

(viii) assist in developing and participating in activities designated to reduce youth involvement in anti-social behaviour and criminal activity.

The responsibilities of PLOs are to:

(i) establish and maintain communication between First Nations and multicultural communities and the Service;

(ii) maintain regular contact with First Nations and multicultural communities to identify local community concerns and to assist in developing crime prevention and early intervention strategies;

(iii) assist in identifying potential crime and offences against good order within First Nations and multicultural communities;

(iv) provide advice, liaison and support in applying appropriate prevention, disruption and responsive measures for First Nations and multicultural communities;

(v) advise Service members on the characteristics and protocols of First Nations and multicultural communities including advice on culturally informed communication practices;

(vi) assist in the response to specific incidents involving First Nations and multicultural community members through effective liaison;

(vii) assist in minimising offensive behaviour, violence and crime within First Nations and multicultural communities;

(viii) contribute to the development and implementation of strategies designed to reduce youth involvement in anti-social and criminal activity;

(ix) assist members of the community in accessing policing services and advise on referrals to other support services where appropriate;

(x) comply with human resource management principles and legislation, including workplace health and safety, equal employment opportunity and anti-discrimination legislation as applied in the working environment;

(xi) foster an inclusive workplace where health, safety and wellbeing are promoted and prioritised; and

(xii) engage with First Nations and multicultural individuals who are in police custody, including watch-houses, and provide assistance and support where appropriate.

Deployment of police liaison officers

ORDER

When deploying PLOs, supervisors are to consider that PLOs do not have powers to detain, arrest, search or fingerprint persons. PLOs are not to be deployed other than in accordance with legislative provisions and in line with the PLO role and responsibilities. In exceptional circumstances PLOs may assist officers in accordance with s. 612: 'Assistance in exercising powers' of the PPRA.

Where a police liaison officer can be deployed

Police liaison officers may be deployed in:

(i) performing traffic control duty in emergency situations, where an officer is not available to attend to that duty or is otherwise engaged in other urgent duties. Wherever possible an officer is to relieve the PLO of this duty as soon as reasonably practicable;

(ii) assisting an officer in escorting, tending or guarding persons in custody but only when an officer is present and responsible for the person in custody. This may be in circumstances where the presence of the PLO may provide support in preventing or reducing escalation of negative behaviours of the person in custody;

(iii) searching, photographing or fingerprinting a person in a watch-house who refuses to cooperate with an officer who has attempted to undertake that duty. This may only be conducted when the person concerned consents and is willing to cooperate with the PLO and an officer is present and responsible for the person whilst the search, photographing or fingerprinting is conducted;

(iv) performing duties aimed at assisting First Nations and multicultural community groups;

(v) performing duties in conjunction with schools that promote the role of police and PLOs;

(vi) gathering community information to assist in the provision of policing services; and

(vii) providing transport services, with the authority of their supervisor.

Where a police liaison officer cannot be deployed

Police liaison officers are not to be deployed in:

(i) performing duties that require the PLO to act in a capacity that could lead to an expectation or perception that they are a police officer;

(ii) attending interviews as independent persons, except attending a Service disciplinary hearing, if nominated by the subject person;

OPM Issue 113 Public Edition

(iii) performing duty as a first response officer at any incident scene, especially one which involves domestic violence or other forms of violence or disturbances (see also s. 2.4: 'Incident management' of this Manual);

(iv) detaining or removing intoxicated persons to a watch-house or rehabilitation centre; and

(v) any operation as a covert operative.

Access to computers

PLOs may access the Service computer network to use email, forms, Service intranet and other local features of the computer including Microsoft Office 365 applications.

Access to the Service computer network through a QLiTE and other methods, in particular QPRIME, will only be granted once Service approved training has been completed and is recorded on Ignite.

PLOs are to refer to Chapter 4: 'Information security' of the Information Management Manual on the appropriate use of Service computer systems.

PLOs are to refer to the QPRIME User Guide for adding and updating entities in QPRIME and creating, modifying and ending flags and cautions.

1.4.11 Role and function of district police liaison officer coordinators

In addition to the roles and functions of police liaison officers (PLO) outlined in this section, district PLO coordinators are responsible for the following:

(i) supervision and coordination of the activities of the district (or regional) PLO cohort;

(ii) provision of advice and assistance to PLOs and police officers in identifying crime and social order issues within First Nations and multicultural communities and contribute to initiatives to prevent, disrupt and respond;

(iii) developing and maintaining professional relationships with community leaders by participating in meetings, forums or festivals, and ensuring the input of community concerns in crime prevention issues;

(iv) workplace assessments for the district PLO cohort in relation to relevant workplace functions and competencies;

(v) management and coordination of day-to-day taskings and functions of the district PLO cohort, including HR and performance management. These functions are to be in consultation with cross cultural liaison officers or station OICs; and

(vi) contribution to training and orientation of police officers and other Service employees within districts.

1.4.12 Role and function of the state police liaison officer coordinator

The state police liaison officer (PLO) coordinator is responsible for the coordination of the development, training, functions and responsibilities of PLOs within the Service. The state PLO coordinator provides advice on matters relating to the PLO workforce and service delivery.

The state PLO coordinator sits within the Domestic, Family Violence and Community Engagement Group and is responsible for the following:

(i) management of the training program to support the skills and knowledge acquisition of officers and improve the efficiency and effectiveness of service delivery.

(ii) provision of guidance and direction for the professional development of PLOs.

(iii) provision of advice and direction on the continuous development of the PLO training program.

(iv) provision of high-quality, well researched advice on emerging issues likely to affect service delivery for the PLO and cross cultural liaison officer (CCLO) workforce.

(v) liaison with districts and regions in a timely and proactive manner to address priority issues relating to the PLO workforce and training program to ensure the application of appropriate resources to achieve client service delivery.

(vi) monitoring, evaluating, and reporting on the efficiency and effectiveness of the PLO workforce as it relates to the strategic direction developed for the delivery of policing services to First Nations and multicultural communities.

(vii) coordinating the delivery of the annual PLO, Torres Strait Island police liaison officers (TSIPLO) and CCLO conference.

(viii) coordinating the state PLO/TSIPLO and CCLO networks and facilitate delivery of action items.

OPM Issue 113 Public Edition

1.4.13 Role and function of Torres Strait Island police liaison officers

Torres Strait Island police liaison officers (TSIPLOs) are attached to the Torres Strait Patrol Group, Thursday Island Division, and are located on remote island communities that are not permanently staffed by sworn officers. There are TSIPLOs in 15 populated communities across 14 islands.

The primary function of TSIPLOs is to provide island community connectivity, support, intelligence and cultural guidance to inform proactive and reactive police operations across the Torres Strait.

The objectives of the TSIPLO program are to:

(i) promote trust and understanding between community groups and the Service through effective and sensitive liaison aimed at enhancing communication and cooperation;

(ii) contribute towards the provision of policing services that are responsive to the needs of all community members; and

(iii) professionally represent the Service.

Governance of the TSIPLO program includes:

(i) control and command by the Assistant Commissioner, Far Northern Region;

(ii) the OIC Thursday Island having responsibility for all TSIPLOs; and

(iii) the Thursday Island cross cultural liaison officer is the supervisor for all TSIPLO functions and activities. All duties are to be approved by the supervisor.

TSIPLOs are to:

(i) be aware of community incidents and concerns and provide intelligence to officers to enhance situational awareness and response support;

(ii) establish and maintain communication between community groups and the Service;

(iii) maintain regular contact with community groups and leaders to identify local community concerns;

(iv) advise and educate police officers on Torres Strait Island community protocols and characteristics, including appropriate means of communication, while balancing specific cultural needs with those of the Service and community;

(v) develop crime prevention strategies and community knowledge that also foster cooperation and understanding between community members and the Service;

(vi) help to prevent offensive behaviour and crime through effective and sensitive communication with community members;

(vii) contribute to the development and implementation of strategies to reduce youth involvement in anti-social and criminal activity;

(viii) assist members of the community in accessing policing services and referrals to other community services where appropriate;

(ix) comply with human resource management policies and legislation;

(x) provide a visible Service presence in the community including conducting patrols (with or without sworn officers) to positively engage the community, identify safety and/or public order issues;

(xi) assist in diversions from the criminal justice system and reducing the number of people in custody;

(xii) submit reports providing potential enforcement information to police; and

(xiii) assist in the delivery of Service documents.

Torres Strait Island police liaison officer deployment

ORDER

TSIPLOs have no statutory authority, including no power to detain, arrest, search or fingerprint. TSIPLOs are not to be deployed other than in accordance with legislation and TSIPLO scheme objectives and designated responsibilities.

TSIPLOs are to assist police officers only in exceptional circumstances and in accordance with s. 612: 'Assistance in exercising powers' of the PPRA.

TSIPLOs may be deployed:

(i) under remote direction of a police officer to assist with incident assessment and situational awareness (e.g. search and rescue);

(ii) under remote direction of a police officer to take reasonable action to manage any incident or preserve safety until arrival of police officers (e.g. crime scene preservation);

OPM Issue 113 Public Edition

(iii) to perform traffic control duty in emergency situations until arrival of a police officer;

(iv) to assist in escorting, tending or guarding persons in custody but only if police officers are present and responsible for the person and the TSIPLO's presence and communication skills can deescalate the situation;

(v) whilst a police officer is present and responsible, to search, photograph or fingerprint a prisoner in a watch-house who refuses to cooperate with the police officer and the person consents and cooperates with a TSIPLO;

(vi) to assist Community Consultative and other community groups;

(vii) to duties in conjunction with schools, and other government agencies contributing to community safety;

(viii) to gather community information to assist in the provision of policing services; and

(ix) to provide transport services (e.g. victim of crime to an island health clinic or alternate place of safety).

TSIPLOs are not to be deployed:

(i) to perform duties that require the TSIPLO to act in a capacity that could lead to an expectation or perception that they are a police officer;

(ii) in any capacity to any incident where they indicate an inability to attend for reasons of personal safety or culture;

(iii) to act as an independent person in an official police interview, except attending a Service disciplinary hearing, if nominated by the subject person;

(iv) as a first response police officer to any volatile or potentially volatile incident (see also s. 2.4: 'Incident management' of this Manual);

(v) to detain or remove intoxicated persons to a watch-house or rehabilitation centre; or

(vi) as a covert operative.

Access to computers

TSIPLOs may access the Service computer network to use email, forms, Service intranet and other local features of the computer including Microsoft Office 365 applications.

Access to Service computer network through a QLiTE and other methods, in particular QPRIME, will only be granted once Service approved training has been completed and is recorded on Ignite.

TSIPLOs are to refer to Chapter 4: 'Information security' of the Information Management Manual on the appropriate use of Service computer systems.

TSIPLOs are to refer to the QPRIME User Guide for adding and updating entities in QPRIME and creating, modifying and ending flags and cautions.

OPM Issue 113 Public Edition

1.4.14 Role and function of PCYC police liaison officers

Police Citizen Youth Club police liaison officers (PCYCPLO) are employed by the Service to assist in developing and maintaining trust and understanding between members of the Service, Queensland Police Youth Welfare Association (QPCYWA) and local communities by liaising with local First Nations communities and people from other diverse backgrounds.

The objectives of the PCYCPLO scheme are to:

(i) promote trust and understanding between diverse community groups and the Service through effective and sensitive liaison aimed at enhancing communication and cooperation;

(ii) contribute towards the provision of policing services that are responsive to the needs of all members of the community;

(iii) enhance community knowledge and appreciation of policing services and law and order issues;

(iv) provide advice to officers on issues of diversity and education in cultural awareness;

(v) identify issues of concern to the community and assist to develop plans to address these issues;

(vi) contribute towards providing a visible presence of the Service in the community;

(vii) recommend and participate in interventions aimed at crime prevention and/or reduction including assisting in diverting people from the criminal justice system and reducing numbers of people in custody; and

(viii) assist in developing and participating in activities designed to reduce youth involvement in anti-social behaviour and criminal activity.

In addition to the responsibilities of PLOs outlined in s. 1.4.10: 'Role and function of police liaison officers' of this section, PCYCPLOs should:

(i) provide guidance to relevant stakeholders to be aware of the need to balance cultural, policing, QPCYWA, and community needs;

(ii) assist the community to access policing and PCYC services, providing assistance on referral to other community services where necessary;

(iii) assist in the delivery and development of a broad range of activities in a safe environment to meet the needs of the community (with an emphasis on young people);

(iv) assist in the development and implementation of crime prevention/youth/community development programs to promote community engagement through PCYC programs;

(v) maintain contact with community leaders by participating in meetings, forums, events and festivals, collaborating to ensure input of community concerns in policing issues; and

(vi) communicate sensitively with members of the community to prevent offensive behaviour, violence, unrest and potential crime.

1.4.15 Role and function of Booyah police liaison officers

In addition to the responsibilities of PLOs outlined in s. 1.4.10: 'Role and function of police liaison officers' of this section, the responsibilities of Booyah police liaison officer (PLOs) include:

(i) contributing to a multi-disciplinary team of police and youth workers in the delivery of the Booyah Program; and

(ii) delivery of other Service youth programs for at-risk youths.

Booyah PLOs are accountable to the Executive Director, Communication Culture and Engagement Division (CCE) and as such, the line control and command of Booyah PLOs is at the discretion of the Executive Director. Booyah PLOs are to ensure any duties they perform are undertaken with the approval of their nominated supervisor.

1.4.16 Role and function of protective services officers

Protective services officers are employed to provide mobile and static security services to Queensland Government buildings including:

(i) on site security of government property and assets;

(ii) an alarm monitoring and response service;

(iii) mobile patrolling of property assets; and

(iv) government identification card production.

OPM Issue 113 Public Edition

1.5 Planning

1.5.1 Strategic and operational planning

Strategic and operational planning occurs at several levels within the Service:

(i) strategic and operational plans at the Service level:

(a) the strategic plan provides strategic direction for the forthcoming four-year period. The current Service strategic plan is available on the Planning webpage on the Service Intranet; and

(b) the operational plan describes the activities, projects and strategies that contribute to the implementation of the agency's strategic plan over a one-year period. The current Service operational plan is available on the Operational Planning webpage on the Service Intranet;

(ii) operational planning at the region, command and divisional level enables executive leadership team members to set the direction for the area they are responsible for over the coming year; and

(iii) while not mandatory, operational planning at the district, group, branch and establishment (i.e. unit or station) levels, can enable the work area to define how they will contribute to delivering the outcomes of higher-level plans in the Service.

In regions and districts with an established District Tasking and Coordination Centre (DTACC), the integration of the DTACC in strategic and operational planning will assist in the delivery of the strategic intent of a district and support the overall success of a district.

For information on the Service strategic and operational plans and requirements at each planning level, members should refer to the QPS Guide to Strategic & Operational Planning available on the Operational Planning webpage on the Service Intranet.

1.5.2 Operational planning (action plans, operation orders, briefings and debriefings)

When preparing operational documentation for an operational event, officers are to use:

(i) QP 0633: 'Action Plan'; or

(ii) QP 0634: 'Operation Order'.

An operation occurrence is to be created in QPRIME with supporting documentation (e.g. an operation order, a written appreciation, separate tasking sheets, rosters and operation outcomes) linked as an 'External document occ. Report'.

Officers should prepare an appreciation to produce, from known or assumed factors, the best course of action to be implemented for the action plan or operation order (see online learning product (OLP) QCO402: 'Operational Planning in the QPS' for assistance in preparing an operation order).

Appreciations

An appreciation of the situation is a logical process of reasoning, the object of which is to determine from factors known or assumed, the best course of action to adopt in any given circumstances. The urgency or complexity of the operational issue to be addressed will determine the type of appreciation that is produced. For action plans the appreciation would be relatively simple, whereas for a complex operation order the appreciation will be substantial.

There are two ways of making an appreciation:

(i) mental appreciation is used on all simple problems and almost invariably, on all operational problems where speed in decision is essential; and

(ii) written appreciation is used during planning for large operations and for administrative problems where time is not critical.

See OLP QCO402: 'Operational Planning in the QPS' for assistance in preparing an appreciation.

Action plans

A QP 0633 is a two-page (maximum) document using the SMEAC format, which is used when responding to a specific operational issue, over a short time-frame and which is non-recurring i.e. RBT operation, complaints of public nuisance. Action plans are aimed at divisional, inter-divisional and inter-establishment level issues and should provide operational staff with sufficient information to carry out the duties and provide the necessary resources to execute the planned operation.

An Action plan exceeding two pages should be completed on a QP 0634.

Operation orders

A QP 0634 is a comprehensive document written to address a significant operational or crime issue, requiring a co-ordinated response from various groups and specialist squads over a protracted period i.e. rodeos, major crime investigations, significant traffic operations (e.g. Operation Stopper). Aimed at patrol groups, inter-patrol groups, inter-district level, specialist squads external to patrol group or district.

An operation order is a logical sequence of conveying information relevant to the impending operation to locations required to contribute resources or skills.

The method selected for issuing operation orders will usually depend on the time factor. Operation orders may be issued in the following ways:

(i) in writing, as:

(a) a formal order using the QP 0634; or

(b) confirmatory notes following verbal orders; or

(ii) verbally.

Written operation orders

In accordance with district or patrol group instructions, written operation orders should be prepared with respect to major investigations, incidents or events and linked to the relevant QPRIME occurrence.

Unless otherwise specifically directed, the officer responsible for the preparation of an operation order is:

(i) in cases of investigations, the OIC of the major investigation; or

(ii) the OIC of the major incident or major event.

District officers or patrol group inspectors should appoint a senior officer with the responsibility to overview the development, preparation and final checking of an operation order.

Whenever appropriate, the officer responsible for the preparation of an operation order and the appointed over-viewing officer should consult and receive advice from specialist areas of the Service (see s. 18.1.1: 'Planning considerations for public and other events' of this Manual).

OPM Issue 113 Public Edition

The officer responsible for the preparation of an operation order is to provide a completed copy of the order to the appointed overviewing officer.

The appointed overviewing officer is to check the operation orders to ensure the contents are appropriate for the operation and they:

(i) consider any legal and procedural requirements of the operation;

(ii) where possible, confirm the available intelligence of the operation;

(iii) ensure the order was based upon an appreciation;

(iv) ensure any documentation required to be produced in a court at a later date, contains accurate and correct information;

(v) consider the safety of police and the public; and

(vi) consult with and receive advice from specialist or technical police units involved in the investigation or operation.

An operation order is to be issued or given in sufficient time to allow subordinates to frame and distribute their own orders, to the staff carrying out the operation.

Sequence of orders

To ensure that all information is passed on, operation orders are given in a set sequence. The sequence consists of the SMEAC model and it is arranged in seven distinct parts:

(i) situation (background or general information);

(ii) mission (what is to be done);

(iii) execution (how it is to be done);

(iv) administration and logistics (how it is to be supported);

(v) command and communications (what control arrangements are necessary);

(vi) annexes (details which will assist); and

(vii) distribution (who is to receive copies).

Officers are to ensure the SMEAC model is used when giving orders or briefing staff in relation to an operation or major incident.

See OLP QCO402: 'Operational Planning in the QPS' for assistance in preparing an operation order.

Verbal orders

Verbal operation orders should be prepared and issued for all police operations which do not necessitate the preparation of formal written orders as required in the previous subsection.

Whenever verbal operation orders are issued, appropriate written records should be made in a notebook, patrol log or other approved form.

Warning order

Where possible, it is essential to plan and warn all concerned of impending events and operations, by use of the warning order. Having completed the appreciation and outline plan it is necessary to advise others of the demands to be placed upon them by way of a QP 0636: 'Warning Order'. The warning order should contain an outline of the impending operation to allow preparations to start while the detailed planning progresses.

See OLP QCO402: 'Operational Planning in the QPS' for assistance in preparing a warning order.

Operation or incident briefings/debriefings

Where practicable, briefings and debriefings should be conducted at the commencement and as soon as possible after the conclusion of an operation or major incident.

A briefing is aimed at informing, persuading, directing and guiding officers in all aspects of an operation or major incident, including the:

(i) situation, mission and individual or group tasks; and

(ii) administrative and logistical arrangements.

A briefing should not be confused with an orders group. An orders group is restricted to senior officers.

A briefing should be given in sufficient time and in enough detail to enable the identified mission to be achieved.

At the conclusion of a briefing all group members should understand their tasks and what they are required to do to achieve these tasks.

OPM Issue 113 Public Edition

A debriefing is a structured meeting to evaluate successes and problems experienced during an operation or incident. It provides an opportunity to review and evaluate the adequacy of existing procedures or plans. An officer conducting a debriefing should:

(i) decide the aim of the debriefing and draw up an agenda. Where appropriate, address the following topics in the agenda:

(a) reliability of various sources of intelligence and information;

(b) accuracy of important information obtained;

(c) accuracy of maps in use;

(d) accuracy of operational forecasts made;

(e) limitations on the conduct of operations;

(f) additional hazards encountered;

(g) additional consequences of such hazards;

(h) impact on the community;

(i) effectiveness of communications;

(j) effectiveness of equipment; and

(k) evacuation procedures;

(ii) consider the time and space available for the debriefing;

(iii) decide the level of representation at the debriefing;

(iv) decide whether to hold an immediate or delayed debriefing; and

(v) tell the participants of the aim and the time limit to be imposed on each speaker. Non-police agencies should be given an opportunity to discuss problems and make suggestions for improvement.

Minutes should be prepared and distributed to any relevant senior officers or agencies who participated in the operation or incident.

An officer should be appointed to complete a report in relation to the conduct of the operation or incident, including an evaluation of:

(i) any procedures, policies or plans;

(ii) the command and control arrangements;

(iii) the communication and administration arrangements;

(iv) any safety issues;

(v) any transport issues;

(vi) the interaction and cooperation between agencies; and

(vii) the number of officers involved and their roles.

The officer completing the report may make recommendations in relation to any facet of the police response.

Venues for briefings or debriefings

The nature, size and timing of an operation or incident will determine the choice of a venue for a briefing or debriefing. Officers responsible for conducting a briefing or debriefing should consider:

(i) estimating the number of persons who may attend and make appropriate preparations;

(ii) the weather conditions, where the meeting is intended to be held outdoors;

(iii) examining the intended location and where necessary, making changes to provide an environment suitable for the meeting. This may include the availability of amenities, writing material, seating or refreshments;

(iv) the equipment required to conduct the meeting. Equipment may include white boards, overhead projector, facilities to display a map or visual aids such as a slide projector or video;

(v) the importance of privacy and for security of sensitive information; and

(vi) having each group seated with its group leader so that each group can question or be questioned by other groups.

1.5.3 Regional, district and station/establishment instructions

There are three levels of written instructions to Service members:

OPM Issue 113 Public Edition

(i) regional instructions;

(ii) district instructions; and

(iii) station/establishment instructions.

ORDER

All instructions are to be completed on a QP 0635: 'Region/command/district/station/establishment instruction' template.

Instructions are not to unnecessarily restrict Service policy or delegations which have devolved authority levels to particular ranks.

The member authorising the instruction is to sign and date the original copy of the instruction.

Regional instructions

Regional instructions are strategic, complex and long-term focused documents, which can include regional issues where clear and concise instructions are required for districts i.e. uniformity of policy across the region. They could refer to matters such as Whole of Government issues; cross-portfolio measures, Government commitments, regional operations funding etc.

District instructions

District instructions are moderately complex documents, with an operational focus in the medium-term.

District instructions are for a unique operational issue exclusive to that district or patrol group and can provide local instructions which have a medium-term focus reviewed annually. Examples could be escorting of juvenile persons in custody to courts or propensity for the district/patrol group to suffer cyclones during the storm season etc.

District instructions should provide a flexible format that can be adopted to any locality within the state. The information contained in district instructions should adequately advise staff of the actions required to be taken by officers in the event of the unique operational event occurring or likely to occur within their division or patrol group.

Districts nominated to establish a District Tasking and Coordination Centre (DTACC) should create district instructions that contain relevant information regarding the establishment and function of the DTACC.

Station/establishment instruction

Station/establishment instructions are administrative matters relative to the particular station or establishment for which they are written.

Station/establishment instructions are purely administrative matters that the OIC needs adherence to for the effective and efficient operation of their station/establishment (such as activating the station alarm system when the station is vacated after hours for patrolling duties or the provision of operational staff on a set day of the week for court orderly duties).

Station/establishment instructions are to contain sufficient information for the station/establishment staff to carry out the required duties or tasks desired to be achieved by the OIC.

OPM Issue 113 Public Edition

1.5.4 Shift taskings and statement of objectives and outcomes

Activities should be planned and carried out in terms of predetermined objectives, which should be set via:

(i) LCAD code 4 taskings where a DTACC is established;

(ii) ITAS taskings; or

(ii) a QP 0305: 'Statement of objectives and outcomes'.

The objectives and taskings should be in line with objectives and desired outcomes stated in station operational plans and matters arising from the district tasking and coordination lifecycle. The objectives and taskings should be clear and realistic statements of what is to be achieved by an officer or crew, including a police liaison officer, during any period of duty.

An outcome is a statement of how each objective or tasking was addressed and the extent to which each objective or tasking was met.

The extent to which outcomes are achieved may depend upon factors including assigned workload during the period of duty. Activities undertaken are recorded on the activity log (see s. 1.6.2: 'Activity logs' of this chapter) and should be considered by shift supervisors or district duty officers as they review the extent to which outcomes are achieved. ITAS taskings may be set to cover more than one shift.

ORDER

Shift supervisors or district duty officers (DDOs) are to set shift objectives or ITAS taskings for officers under their control and are to review the extent to which the objectives or taskings are achieved.

Shift supervisors, DDOs, DTACC coordinators (or coordinator's delegate) or another member designated by the OIC of the station or establishment are to:

(i) review each log;

(ii) identify significant management information; and

(iii) ensure the appropriate information is forwarded or has been forwarded to the appropriate destination including where applicable, the OIC of the station or establishment.

1.5.5 Public event planning

Where a public event is planned to be conducted in an OIC's area of responsibility an assessment should be conducted to determine what, if any, policing response is required.

In all instances police numbers provided to perform duty at an event are dependent on an operational appreciation. Part of the operational appreciation for that event should include consideration of the net public benefit and the level of demand on services to be imposed.

However, the actual number of officers required at an event will be identified, in consultation with the event organiser during development of the appreciation for the event using known information and intelligence holdings. Successful planning of a policing response to an event will be aided by early planning and engagement and ensuring any plans are intelligence driven and partnership orientated.

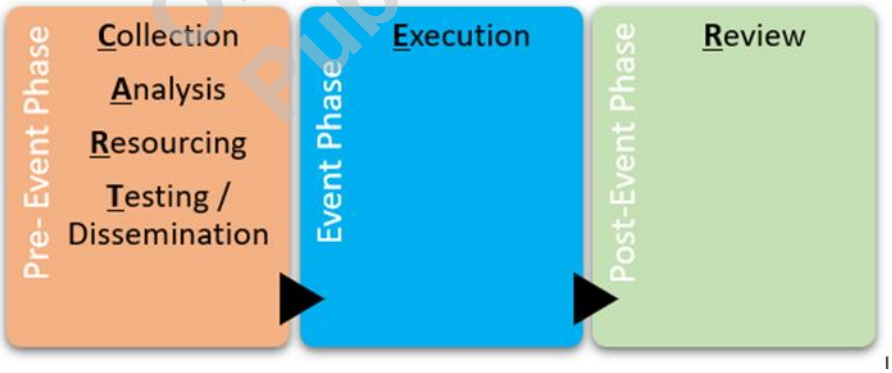
Early planning and engagement: early planning and engagement with external and internal stakeholders are key to ensuring successful mission outcomes. Officers should engage with the event organiser, venue managers and security providers to ascertain the policing requirements and notify relevant Government agencies and Service units (stations, specialist units) as required. The earlier the engagement the earlier issues can be identified and resolved. Police commanders should also be appointed early in the planning process to enable any resourcing etc. decisions to be made.

Intelligence driven: any response to an event should be based on the current threat environment and relevant intelligence relating to crime, public order and terrorism risks. For smaller scale localised events, the intelligence function can usually be performed by the officer or unit responsible for planning the operation. For larger or high-risk events, an intelligence coordinator should be appointed. The intelligence coordinator will be responsible for completing the intelligence management plan and monitoring open-source information in addition to reviewing relevant intelligence holdings that impact the response to the event.

Partnership orientated: officers must balance event goals with the strategic objectives of the Service. Officers must recognise that event organisers are stewards of their events and have a responsibility for the safety of their event constituents, while the Service has a duty to protect the public at large. Officers should therefore work closely with event organisers to balance these competing interests.

CARTER planning cycle

The Service has adopted the CARTER (collection, analysis, resourcing, testing/dissemination, execution, review) planning cycle when developing and implementing an operational policing response to events.



The Service has compartmentalised the CARTER process into three distinct phases:

(i) **pre-event phase**, which involves:

(a) the collection of all information relevant to the event that will assist in understanding its impact on public infrastructure, road networks, the community generally and potential for risks to public safety and public order. This is conducted through:

- event notification;
- event evaluation / appreciation (see s. 1.5.2: 'Operational planning (action plans, operation orders, briefings and debriefings)' of this chapter);
- preliminary event categorisation tool (PECT) (see section titled 'Preliminary event categorisation tool (PECT)' below);
- event category (see section titled 'Event categorisation' below);

OPM Issue 113 Public Edition

- gather information and intelligence;
- physical information gathering;
- advanced event Service resource notification;
- stakeholder meetings;
- nomination of commander and development of the commander's intent (see Fundamentals of Command);
- counter-terrorism security coordinator (CT SecCo) plan request if required (see s. 18.1.1: 'Planning considerations for public and other events' of this Manual); and
- complexity and size of the event;

(b) analysis of the event information specific to the threats or risks involved. This assists the planner in identifying key vulnerabilities and appropriate mitigation/treatment options to enable the development of a proportionate Service response to plan the event. This is conducted through:

- available intelligence and information;
- reviewing current counter-terrorism security environment and relevant national threat assessments (ASIO); and
- event risk assessment—event planning risk assessment method (EPRAM) (see section titled 'Event planning risk assessment method (EPRAM)' below);

(c) resourcing of capabilities and logistics, through:

- identification and requesting of Service capabilities;
- establishing the command structure;
- development of an operational plan; and
- consideration of whether staff should be rostered and/or special services (see s. 10.2: 'Determining if an event is ordinary business or special service' of the MSM);

(d) test and dissemination of operational plans. This is conducted through:

- discussion exercises, peer review or informal discussion; and
- dissemination of the operational plan;

(ii) **event phase** is the execution of the event operation order and involves:

(a) coordination of administration and logistics;

(b) pre-site inspection;

(c) briefing (see s. 1.5.2 of this chapter); and

(d) operational deployment; and

(iii) **post-event phase**, which involves the review of the event operational planning and deployment, conducted through:

(a) hot debrief;

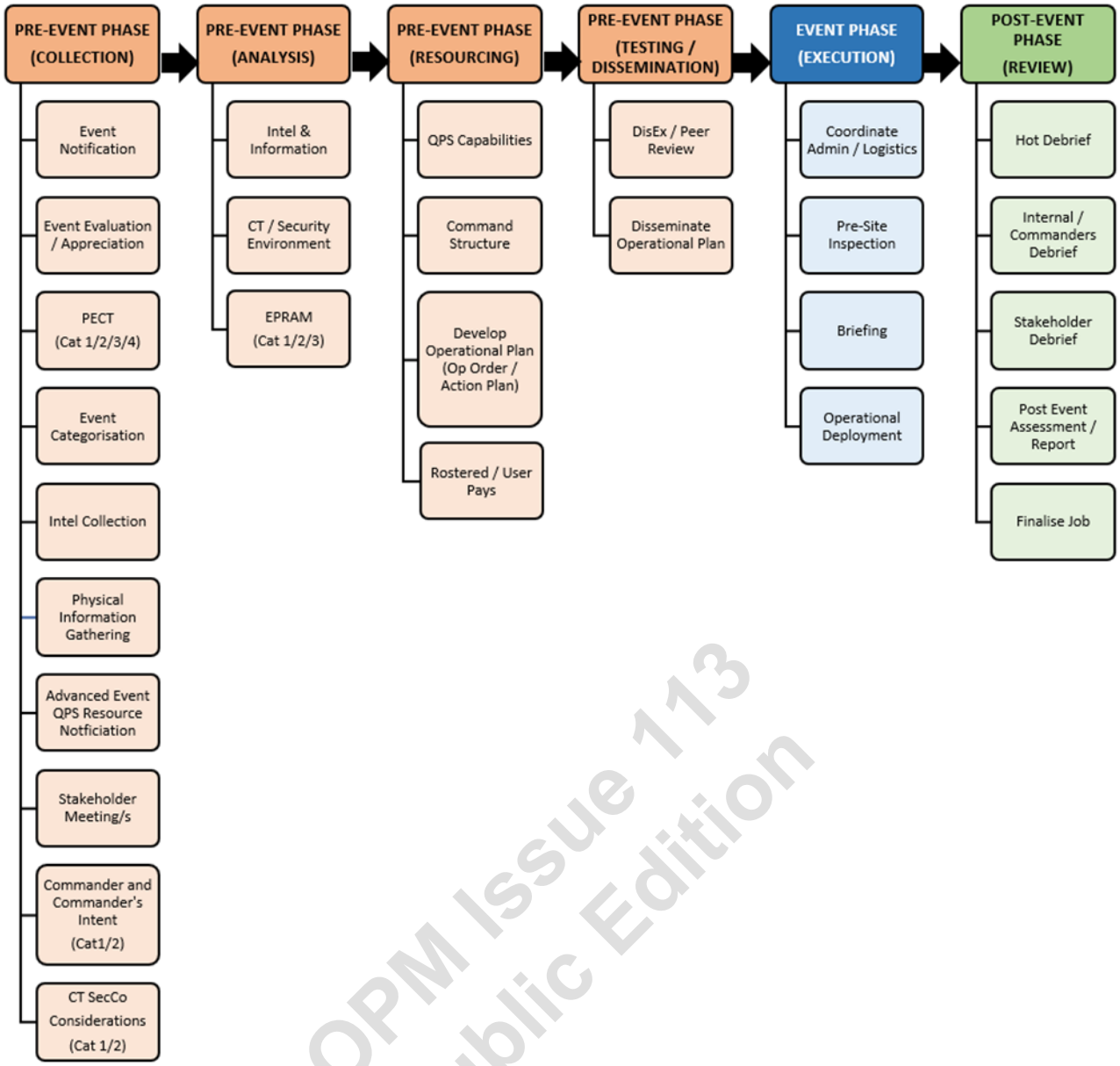
(b) commander's internal debrief (see s. 1.5.2 of this chapter);

(c) stakeholder debriefs;

(d) post event assessment report; and

(e) job finalisation.

OPM Issue 113 Public Edition



OPM Issue 113 Public Edition

Preliminary event categorisation tool (PECT)

Where an OIC is aware of any planned events occurring in their area of responsibility they or a delegate should conduct a preliminary event assessment utilising the PECT process (see QLD Major Events Teams SharePoint page for PECT template and user guide).

The PECT has been developed to categorise events based on expected event factors and attractiveness ratings. The categorisation of events develops a foundation for a consistent operational response.

It should be noted that a small event is not necessarily risk free, and a large event is not always a high-risk proposition.

Once an initial event assessment (PECT) has been conducted the event can be categorised (see 'Event categorisation' below) which will assist with the informing of the type of policing response and resources to be considered, if any, that should be planned for.

Event categorisation

After an OIC or delegate has conducted a preliminary event assessment they should categorise the event which will assist in informing the resources and policing response to be considered as well as the level of consultation and planning required.

The categorises of event are:

(i) a category four event. This is a planned event that:

(a) generates no or a very low level of concern for the safety and security of the community, attending dignitaries or event patrons; and

(b) does not require a dedicated policing response;

(ii) a category three event. This is a planned event where:

(a) multiple factors are present that generates a medium level of concern for:

- the safety and security of the community; or
- attending dignitaries or event patrons; and

(b) some planning and limited policing resources are required.

The events will usually:

(a) be a localised public event that attract small to medium sized crowds;

(b) having a reduced community interest i.e. local or regional profile, little impact outside the region/local community; and

(c) require staff from the hosting division only;

(iii) a category two event. This is a planned event where:

(a) multiple factors are present that generate a higher level of concern for:

- the safety and security of the community; or
- attending dignitaries or event patrons; and

(b) detailed planning and the allocation of a moderate level of policing resources are required.

These events will usually:

(a) occur in iconic or well-known venues or locations;

(b) attract medium or near-capacity crowds;

(c) require some road closures;

(d) have a national/state significance/audience; and

(e) may require staff from outside the hosting division/district and specialist resources; and

(iv) a category one extreme event. This is a planned event where:

(a) multiple factors are present that generates the highest level of concern for:

- the safety and security of the community; and
- attending dignitaries or event patrons; and

(b) complex and protracted planning and allocation of significant policing resources is required.

These events will usually:

(a) be high-profile or highly symbolic;

(b) occur in iconic locations;

(c) attract large or capacity crowds;

(d) require multiple road closures;

(e) have an international significance/audience; and

(f) require staff from outside the hosting district/region and specialist resources.

Event planning risk assessment method (EPRAM)

The EPRAM provides Service planners with:

(i) a method of rating and treating risks relating to the policing response for events;

(ii) a consistent and scalable method of assessing risks to events across the state; and

(iii) a mechanism for engaging with event owners to develop an appropriate policing response based on risk.

The EPRAM template and user guide (available on the QLD Major Events Teams SharePoint page) provide a single point to collate the risk context for an event, analyse and treat risks. There are three main steps in the EPRAM:

(i) establish the context;

(ii) risk identification; and

(iii) complete the risk management plan.

The EPRAM is to be:

(i) undertaken for event categorised by PECT as:

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(a) category one event; and

(b) category two event; and

(ii) considered to be undertaken for events categorised by PECT as category three event.

1.6 Management of operational information

1.6.1 Recording initial demand

When receiving and recording initial demand / call for service information officers, are to use the NOTICES (see Appendix 1.1: 'NOTICES' of this Manual) information collection methodology to assist in gathering sufficient details to allow the effective application of the SOLVE Demand Management Framework (see Appendix 1.2: 'SOLVE' of this Manual) to determine prioritisation of Service response (see s. 14.24: 'Priority codes' of this Manual).

NOTICES

NOTICES is a methodology designed to assist members in collecting required information in a logical sequence when recording a call for service.

The use of NOTICES will enable the SOLVE Demand Management Framework to be applied effectively and the correct priority code to be assigned to each call for service.

Information obtained in accordance with NOTICES should:

(i) accurately reflect the details that have been received by the member;

(ii) be recorded in a way that allows for the application of the SOLVE Demand Management Framework; and

(iii) be recorded in a timely manner.

SOLVE—Demand Management Framework

The SOLVE Demand Management Framework is a risk-based decision-making framework to enable consistent triaging of calls for service across the state.

The framework is intended to:

(i) increase consistency and validity when prioritising calls for service though the application of evidence-based decision making;

(ii) assist in the identification and categorisation of types of demand for service that could be better managed through alternate strategies other than police attendance; (see s. 14.24.3: 'Alternate resolutions' of this Manual)

(iii) assist in the identification and categorisation of types of demand for service that can be managed through an alternate service provider or where no police response is required.

When information is received from any source requires police action, the member receiving that information is to:

(i) obtain as much information about the matter as possible from the information source and record information through the application of NOTICES:

(a) Nature of incident,

(b) Offender status,

(c) Threats,

(d) Identifiers,

(e) Checks,

(f) External agencies,

(g) Supplementary information.

(see Appendix 1.1: 'NOTICES' of this Manual)

(ii) ascertain if human life is directly threatened and/or in immediate danger and apply the relevant priority code in accordance with s. 14.24: 'Priority Codes' of this Manual.

(iii) after obtaining information using NOTICES, members are to apply the SOLVE Demand Management Framework to determine the appropriate police response:

(a) Severity,

(b) Opportunity,

(c) Likelihood,

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(d) Vulnerability,

(e) Expectation.

(see Appendix 1.2: 'SOLVE' of this Manual)

(iv) after recording NOTICES and applying SOLVE assign the relevant priority code in accordance with s. 14.24: 'Priority Codes' of this Manual; and

(v) cause the details of the request to be recorded on the relevant job recording system (i.e. QCAD, LCAD or Policelink systems).

If the matter is life threatening or time critical and there is only access to LCAD at a station, the details are to be provided to the relevant agency via triple zero (000) or via police radio if immediate police response is required.

If the matter is of a non-urgent nature that requires the completion of a QPRIME occurrence and the member receiving information is at a station or establishment where they can deal with the matter, this does not need to be recorded on job recording systems but should be recorded on the member's shift activity log (see s. 1.6.2: 'Activity logs' of this Manual).

Transfer of general information

It is imperative that messages received by members are acted upon in a timely manner and that appropriate outcomes are achieved. Members who receive messages, either personally or by telephone, should ensure particulars of the message are forwarded to the relevant person by Service email or another means.

Where police action is required and the member to whom the message is directed cannot be contacted, the member receiving the message are to ensure that necessary action is taken as required.

1.6.2 Activity logs

Activity logs are used to record policing activities undertaken during a shift. The type and extent of the information recorded on these systems will depend on the nature of duties undertaken by the relevant officers. They should only contain a brief summary of the event (i.e. date, time, place) and outcomes of police action. Activity logs should be completed in accordance with s. 9.1: 'Written reporting' of the MSM.

Only primary tasks or jobs associated with core service delivery, both proactive and allocated by police communications should be recorded, examples include:

(i) traffic enforcement;

(ii) disturbances;

(iii) patrols;

(iv) community assistance; and

(v) arrests.

Secondary or incidental tasks such as:

(i) telephone calls;

(ii) correspondence;

(iii) maintenance; and

(iv) training,

should be recorded, if appropriate, in other record-keeping mechanisms such as official police notebooks or diaries (see also s. 2.3.6: 'Official police notebooks and diaries' of the MSM).

There are two types of activity logs for use by members:

(i) ITAS activity log; and

(ii) plain clothes IMAC occurrence log.

Responsibility for completion of activity logs

ORDER

Where two or more officers are performing the same operational duty together, the senior officer is responsible for ensuring completion of the activity log (see s. 2.3AA: 'Responsibility for command' of the PSAA).

If during a shift a change in staffing arrangements is made, details of that change are to be included on the log.

ITAS activity logs

ITAS activity logs are to be used to record activities by officers performing:

(i) general duties;

OPM Issue 113 Public Edition

(ii) general duties (bike squad);

(iii) general duties (tactical crime squad);

(iv) community beat;

(v) inquiry;

(vi) dog handler; or

(vii) road policing,

functions.

Other operational officers may be directed by the OIC of the region or command for their area of responsibility to use ITAS to record activities.

Traffic related outcomes

ORDER

ITAS activity logs are to be used to record all traffic related outcomes that contribute towards the completion of the ITAS statistical report such as:

(i) traffic infringement notices;

(ii) random breath tests; and

(iii) random drug tests.

Business continuity plans

OICs of stations and establishments are to ensure business continuity plans include manual processes to be used for recording of police activities, collation of traffic statistics and other associated functionalities adopted within ITAS, including rostering and planning (see s. 3.5: 'Business continuity planning' of the MSM).

Occurrence sheets

Information from activity logs should not be duplicated in full on occurrence sheets. Where an OIC considers it necessary to maintain a summary of significant items (other than significant events reported in accordance with s. 1.18.1: 'Significant event messaging system' of this chapter) from the logs for referral to district or regional level, then that summary should be limited only to significant items of which the district or regional office need to be informed. Details of routine events e.g. property offence reports and traffic infringement notices issued, should not be duplicated on an occurrence sheet.

OPM Issue 113 Public Edition

1.6.3 QPRIME armed person caution

When a person is found to be unlawfully in possession of a weapon or has engaged in unlawful or threatening conduct with a weapon, reporting officers are to ensure a QPRIME armed person caution is recorded against the person in the occurrence.

Recording a person's conduct with a weapon will assist officer safety and increase community safety by allowing informed decision making, risk assessments and responses to subsequent incidents involving the person.

Supervisors are to ensure reporting officers enter a QPRIME armed person caution by end of shift or at the earliest opportunity after responding to an incident involving an armed person's conduct or unlawful possession of a weapon.

1.6.4 Weapons licensing related tasks

The Service is responsible for administering Queensland's weapons licensing scheme and managing the firearms and other weapons held under licences. Part of this responsibility is ensuring a timely response and strict adherence to established timeframes (detailed below) to ensure public safety.

Tasks relating to these responsibilities include:

(i) deceased estate weapon collection;

(ii) general suspension or revocation of a licence;

(iii) expired licence weapon collection; and

(iv) expired safekeeping weapon collections.

ORDER

Where a weapons or weapons licence collection task in QPRIME or otherwise is:

(i) allocated to a station or establishment, the OIC is to ensure that the task is actioned within seven days of initiation of the task;

(ii) assigned to an officer, they are to complete the action required of the task within seven days of initiation of the task;

(iii) related to significant behavioural or mental health concerns, the action is to be completed within two days;

(iv) related to domestic and family violence matters involving actual or threatened serious violence or self-harm, the action is to be completed within one day.

The above timeframes do not preclude the use of emergent powers under the PPRA to seize a weapon in various circumstances (such as s. 609(4)(d): 'Entry of place to prevent offence, injury or domestic violence' of the PPRA).

Regional assistant commissioners are briefed on adherence to these timeframes on a monthly basis.

1.6.5 Response to firearm related calls for service and intelligence

The Service response to firearm related calls for service, including reports of 'shots fired', threats involving firearms and firearm intelligence, is supported by informed decision making and risk assessment processes. These processes are intended to improve both community and officer safety.

For the purpose of this section firearm related offences include allegations of 'shots fired', threats involving firearms, and firearm intelligence.

Appropriate reporting, attendance, investigation, and escalation through the chain of command will enhance the Service capability to monitor, review, and disrupt firearm related risks through:

(i) first response investigation and reporting requirements;

(ii) daily review and supervision of firearm related weapons offences and intelligence;

(iii) investigation taskings;

(iv) monthly Firearms Intelligence Assessments;

(v) quarterly Firearms Intelligence Assessments;

(vi) Weapons Licensing Group audits and operations; and

(vii) district operations and tactical actions targeting firearm offences.

Receipt of firearm related offence information

Whenever a member of the Service becomes aware of information regarding a firearm related offence, including allegations of 'shots fired' or threats involving firearms, that member is to ensure the matter is recorded on Service systems, investigated at the first opportunity, and escalated through the chain of command (see ss. 1.6.1: 'Recording initial demand' and 2.5.1: 'Commencement and conduct of investigations' of this Manual.

Where operationally practicable, members are to complete required reporting and intelligence processes contemporaneously. Members may use approved Service systems, including QLiTE, to complete relevant reporting and intelligence submissions while operating in the field.

ORDER

Officers are not to record firearm related offences in a street check.

Receipt of 'shots fired' and other firearm offence information from QCAD, QTASKS or LCAD

Officers tasked with a job code '303—Shots fired', or any other firearm related offence, whether received, managed or actioned through QCAD, QTASKS or LCAD, are to attend and investigate the report in line with the Service community safety responsibilities.

Officers are to:

(i) where, after initial investigation, a 'shots fired' incident or other firearm related offence is confirmed to have occurred, enter a QPRIME 'Weapons Act 1990' [3130] occurrence for subsequent investigation in accordance with s. 1.11.2: 'Recording an offence in QPRIME' of this Manual. Where operationally practicable, this occurrence may be created through QLiTE;

(ii) determine whether a 'shots fired' incident is a lawful occurrence (e.g. stock control or animal euthanasia). If so, enter a QPRIME 'Weapons Act 1990' [3130] occurrence and finalise it as unfounded. Where operationally practicable, this may be completed through QLiTE;

(iii) where, after investigation, a job code '303—Shots fired' incident or other firearm related offence cannot be established, record an intelligence submission listing the geographic location, place or locality for potential officer safety and risk assessment purposes (see s. 2.10.2: 'Intelligence submissions' of this Manual). Where operationally practicable, this intelligence submission may be completed through QLiTE;

(iv) where a 'shots fired' incident is determined not to have occurred (e.g. fireworks or vehicle backfiring), record the investigative outcome on the relevant tasking or dispatch system, including QCAD, QTASKS or LCAD, as applicable;

OPM Issue 113 Public Edition

(v) ensure that where a matter is not initially assigned a job code '303—Shots fired', but investigation indicates a reasonable suspicion of a firearm discharge, the relevant system is updated to reflect job code '303—Shots fired' and the appropriate QPRIME reporting procedures are completed; and

(vi) provide the collated information to the shift supervisor for briefing of specialist groups, as required.

Receipt of 'shots fired' and other firearm offence information at stations or elsewhere

Where information relating to the discharge of a firearm, or threats involving firearms, is received other than via a QCAD, QTASKS or LCAD job, officers are to record the information received on Service systems and investigate the matter at the first opportunity.

Members are to:

(i) assess whether an immediate response is required to the information and to complete an LCAD tasking containing particulars for attendance and investigation. The matter is then to be processed in accordance with the procedures for information received through QCAD, QTASKS or LCAD information above;

(ii) where after an initial investigation, a 'shots fired' incident or other firearm related offence can be confirmed to have occurred, enter a QPRIME 'Weapons Act 1990' [3130] occurrence for subsequent investigation in accordance with s. 1.11.2 of this Manual. Where operationally practicable, this occurrence may be created through QLiTE;

(iii) where a 'shots fired' incident is identified as a lawful occurrence (e.g. stock control or animal euthanasia), enter a QPRIME 'Weapons Act 1990' [3130] occurrence and finalise as unfounded. Where operationally practicable, this occurrence may be created through QLiTE;

(iv) enter an intelligence submission listing the geographic location, place or locality for potential officer safety and risk assessment purposes, if after an investigation has occurred, a 'shots fired' incident or other firearm related offence cannot be confirmed as having occurred (see s. 2.10.2 of this Manual). Where operationally practicable, this occurrence may be created through QLiTE; and

(v) provide the collated information to the shift supervisor for briefing of specialist groups, as required.

Receipt of other firearm intelligence

Whenever a member of the Service receives any intelligence about firearms, including but not limited to information concerning violence or criminal activity, suicidality or mental ill-health of a weapons licence holder, an intelligence submission is to be completed (see s. 1.15.4: 'Receipt of criminal information at stations or establishments' of this Manual). Where operationally practicable, members are to complete the intelligence submission contemporaneously and may do so through QLiTE.

Members are to:

(i) create a detailed intelligence submission and forward a task to the relevant district intelligence unit (DIU);

(ii) forward a task to Weapons Licensing Group where the intelligence concerns the weapons licence holder's fitness to hold a licence (see s. 1.6.4: 'Weapons licensing related tasks' of this Manual);

(iii) ensure an armed person caution is recorded against the person in QPRIME (see s. 1.6.3: 'QPRIME armed person caution' of this Manual); and

(iv) provide the collated information to the shift supervisor for the briefing of specialist groups, as required.

Storage and dissemination of 'shots fired' information and other firearm intelligence

QPRIME will remain the central recording facility for all information including intelligence related products, daily intelligence, monthly and quarterly intelligence products. Intelligence products will be uploaded to the Queensland Register of Intelligence Products (QRIP) to assist in the collation and storage of relevant intelligence products.

Daily firearm intelligence review and report

To ensure matters are appropriately reported, attended, investigated, and any emerging firearm related risks identified, all firearm related offences and intelligence are to be collated and reviewed at a district level daily.

District officers are to appoint a 'designated position' (e.g. tactician or district tasking coordinator) to coordinate the daily review and initiate any follow-up taskings required.

Roles and responsibilities in the daily review of firearm information

District intelligence units are to:

(i) conduct a daily review (or each day of business operation) of firearm related offences including job code '303—Shots fired', QPRIME weapons occurrences and firearm related intelligence submissions for the relevant district;

(ii) share the outcome of this review electronically, including identified exceptions or a nil return, with the person in the designated position, the district patrol group inspector (PGI) and district detective inspector (DI);

(iii) ensure any matters requiring immediate attention are actioned through the district tasking process; and

OPM Issue 113 Public Edition

(iv) ensure a task is forwarded to Weapons Licensing Group for any person identified as a weapons holder through the review, where such a task has not already been created.

Designated position

The person in the designated position is responsible for:

(i) reviewing the daily firearm intelligence provided by the DIU;

(ii) ensuring matters are tasked for further investigation where required;

(iii) forwarding matters requiring further investigation to the relevant station for the attention of the OIC as well as the relevant PGI and DI in accordance with s. 2.5.1 of this Manual;

(iv) collating the outcome of those investigations; and

(v) maintaining a record of tasked exceptions to ensure they are finalised.

Officer in charge

OIC is:

(i) responsible for expediting investigations as required (see s. 1.6.4 of this Manual); and

(ii) to return the investigation outcomes to the relevant PGI and the person in the designated position for collation.

Patrol group inspector and detective inspector

The PGI and DI are responsible for:

(i) oversight of the daily firearm intelligence report; and

(ii) receiving and reviewing investigative outcomes relating to exceptions within their patrol group or district.

District crime managers

District crime managers are responsible for reviewing and tasking firearm related weapon occurrences for further investigation and ensuring that 'Firearm Seizure Reports' and 'Firearm Theft Reports' have been completed.

Monthly firearm intelligence assessment (MFIA)

The purpose of the MFIA is to assist district management to monitor, review and disrupt identified or emerging firearms related risks. The DIU is responsible for completing the MFIA to summarise all firearm related intelligence in the monthly reporting period. This summary is to be shared electronically for the information of the PGI, DI and RCC. The DI, in collaboration with the PGI, will review, monitor and escalate investigations into exceptions identified.

Quarterly firearms intelligence assessment (QFIA)

The purpose of the QFIA is to identify opportunities to address any necessary policy, procedures, legislative or other changes to enhance community safety. A QFIA is to be produced at the regional intelligence level to provide a strategic overview of firearm related trends and risks, shared electronically for the information of the RCC and Crime Command. The RCC will review district trends and risks, connections to organised crime, and collaborate with Crime Command when necessary.

Statewide overview of firearm intelligence

The Intelligence Directorate, Policy and Insight Division is to maintain a statewide overview of firearm related intelligence and will engage with internal (e.g. Weapons Licensing Group) and external stakeholders including other law enforcement agencies and intelligence agencies relating to firearms. The Intelligence Directorate will complete relevant strategic assessments on identified trends or on identified issues as required.

Weapons Licensing firearms audits and operations

Districts are to participate in statewide firearm audit operations as necessary. District officers are to ensure ongoing regular auditing processes are implemented to ensure weapon security standards are maintained to reduce the risk of firearm thefts (see s. 2.6.15: 'Firearm offences' of this Manual).

District operations and tactical actions targeting firearms

An annual regional firearms operation is to be created on the Queensland Operations Register and QPRIME to oversee regional firearms activities. The district DI, with the assistance of the district tacticians (or designated group or person responsible for taskings) will lead operational and tactical responses targeting firearms. The scope of activities will be determined by resource availability.

1.6.6 Deleted

1.6.7 Deleted

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OPM Issue 113 Public Edition

1.6.9 Deleted

1.6.10 Street checks

A street check should be used for recording:

(i) field conversations;

(ii) suspect motor vehicles;

(iii) the movements/activities of suspect persons; and

(iv) potential witnesses,

to assist in solving offences and indicate current crime trends.

A street check should not be entered when an occurrence is recorded in QPRIME for action against the subject person (e.g. drug diversion).

Protective services officers (PSO) are not to enter a street check unless it is associated with their functions and duties (see ss. 5.23: 'Functions of protective services officers' and 5.24: 'Duties of protective services officers' of the PSAA).

Responsibilities of members

Members (see ss. 2.2: 'Membership of Service' and 2.5: 'Administration of staff members' of the PSAA) completing a street check can:

(i) use an official police notebook or diary and subsequently create a street check in QPRIME; or

(ii) enter the information directly into QPRIME via a QLiTE device.

A member entering a street check should:

(i) complete the description of intercepted persons and vehicles as accurately as possible;

(ii) list reason(s) for completing the street check; and

(iii) conduct a QPRIME check to ascertain if the person(s) is wanted or has a criminal history. If wanted, outline the action taken.

When a person does not wish to answer questions about their identity or activities relating to a street check, the member should complete a street check as accurately as possible, including:

(i) a detailed description of the person;

(ii) a detailed description of other persons in company of that person; and

(iii) other information including motor vehicle(s) and activities.

Responsibilities of OICs of stations/establishments

It is the responsibility of the OIC of the station or establishment to ensure all information relevant to each street check is accurately entered in QPRIME.

Members are to refer to 'Street Checks' of the QPRIME User Guide on how to enter street checks in QPRIME.

Mental ill-health street checks

A mental ill-health street check should be used for recording:

(i) interactions with persons who are displaying indicators of general concern such as:

(a) irrational conversation or behaviour;

(b) confusion;

(c) disorientation; and

(d) poor physical presentation;

(ii) intervention and prevention strategies such as Acute Management Plans (AMPs), or Police Advice and Intervention Plans (PAIPs);

(iii) intelligence or information received from an external agency relating to (i) or (ii); and

(iv) circumstances whereby QAS are completing the EEA documentation and transport of a person,

to assist in case management, or the referral of that person into appropriate care pathways.

PSOs are to only enter a mental ill-health street check for interactions with persons who are displaying indicators of general concern. PSOs are not to enter a mental ill-health street check unless it is associated with their functions and duties (see ss. 5.23 and 5.24 of the PSAA).

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A mental ill-health street check should not be entered when an occurrence is recorded in QPRIME when officers are responsible for completing the EEA documentation. In accordance with the Queensland Interagency Agreement for the Safe Transport of People Accessing Mental Health Assessment, Treatment and Care 2019, QAS are considered the least restrictive and least intrusive method of transport for a person subject of an EEA.

Responsibilities of members

Members completing a mental ill-health street check can:

(i) use an official police notebook or diary, and subsequently create a street check in QPRIME; or

(ii) enter the information directly into QPRIME via a QLiTE device.

A member entering a mental ill-health street check should:

(i) complete the description of subject persons and the relevant indicators of general concern as accurately as possible;

(ii) list the reasons for completing the street check;

(iii) conduct a QPRIME check to ascertain if the person(s) is known to Queensland Health or subject to any warning or caution flags in relation to past behaviours; and

(iv) undertake a referral to the appropriate government, or non-government agency.

An officer is to create a QPRIME caution for the person when they attend and QAS complete the EEA and transport the person. Caution type is to be mental ill-health and description is to be EEA (see s. 6.6.2: 'Emergency examination authority (EEA)' of this Manual).

An officer is to create a 'suicidal' caution for any person who the officer believes has expressed concerning suicidality (e.g. ideation, plans, gestures or attempts) by ticking the 'suicidal' check box and providing additional information to explain the caution in the 'remarks' field.

Officers reporting and recording mental ill-health street checks are to tick the:

(i) health check box;

(ii) mental ill-health check box; and

(iii) QAS Transport check box where QAS are completing the EEA documentation and transport of a person, after completing (i) and (ii) above.

When a person does not wish to answer questions about their identity or activities relating to a mental ill-health street check, the member should complete a mental ill-health street check as accurately as possible, including:

(i) a detailed description of subject person;

(ii) a detailed description of other persons in company of that person; and

(iii) the relevant indicators of general concern.

OPM Issue 113 Public Edition

Responsibilities of OICs of stations/establishments

The OIC may delegate a district mental ill-health intervention coordinator (MHIC) to review the mental ill-health street checks and ensure all appropriate actions and referrals have been undertaken.

It is the responsibility of the OIC of the station or establishment to ensure all information relevant to each street check is accurately entered in QPRIME.

All members are to refer to 'Street Checks' of the QPRIME User Guide on how to enter street checks in QPRIME (see also s. 1.6.11: 'Updating operational information in QPRIME' of this chapter).

1.6.11 Updating operational information in QPRIME

Members, whilst in the performance of their duties, including:

(i) an arrest, detention or commencement of a prosecution;

(ii) the taking of identifying particulars, e.g. fingerprints and photographs;

(iii) executing or satisfying of warrants;

(iv) the completion of street checks;

(v) recording and making investigations or inquiries in relation to a QPRIME occurrence;

(vi) taking applications made for criminal history checks and weapons licences;

(vii) recording of bail reportees or reporting by sexual offenders;

(viii) issuing of infringement notices; or

(ix) watch-house duties,

who become aware of relevant information relating to a person, businesses/organisations (including gangs), vehicles and addresses, are to where practicable, ensure the information is entered in QPRIME. Note—when updating records in QPRIME, always open the record from the relevant task of an occurrence, a street check or submission and make the required updates from there.

Information relevant to the person may include:

(i) the full name and date of birth, including any aliases of the person;

(ii) current address;

(iii) general description;

(iv) any known health conditions of the person, e.g. heart disease, diabetes, epilepsy, including if medication is used or required;

(v) any high-risk infectious diseases, e.g. hepatitis B, hepatitis C and HIV;

(vi) any illegal drug use history;

(vii) any general tendency toward violent or suicidal behaviour, including self-mutilation, violence towards police or other persons;

(viii) the use or possession of weapons;

(ix) specific security risks relating to the person, e.g. previous escapee, requires special escort considerations, may be target of other prisoners whilst held in custody;

(x) any other information which could assist police in their duties such as distinguishing features, contact numbers, employment details, next of kin, school attended;

(xi) any incident of spitting or biting, either directed at persons or otherwise whilst in police custody including in watch-house cells, police vehicles or establishments, and

(xii) the source of such information.

Where a member establishes that information in QPRIME is incorrect or incomplete, the member is to ensure the information is appropriate, checked for accuracy, and entered or updated in QPRIME as soon as practicable thereafter.

Where a need for a correction to, or merging of, one or more QPRIME person record is identified, members are to ensure a task is forwarded to the Data Investigation Team, using the QPS IU Investigation workflow. Where other QPRIME records corrections (such as addresses linking of persons to occurrences etc.) are required, members are to task the Data Investigation Team [3270] through the QPS Request correction to record(s) workflow (see the QPRIME User Guide).

Members are to refer to Chapter 4: 'Information security' of the Information Management Manual on the appropriate use of Service computer systems.

Members are to refer to the QPRIME User Guide for adding and updating entities in QPRIME and creating, modifying and ending flags and cautions.

OPM Issue 113 Public Edition

1.7 Community based policing strategies

1.7.1 Deleted

1.7.2 Crime prevention (statewide initiatives and supporting programs)

The Service supports a problem-solving approach for the prevention of crime and has available a number of crime prevention initiatives and supporting programs outlined on the Crime Prevention Programs Unit (CPPU) SharePoint page.

Other non-CPPU programs and initiatives include:

(i) Crime Stoppers (see s. 1.15: 'Crime Stoppers' of this chapter);

(ii) Driver Reviver Program (see s. 14.6: 'Driver Reviver Program' of the Traffic Manual);

(iii) Queensland Blue Light Association Incorporated (see s. 1.7.4: 'Queensland Blue Light Association Incorporated' of this chapter); and

(iv) Queensland Police Citizens Youth Welfare Association (see s. 1.7.5: 'Queensland Police Citizens Youth Welfare Associations' of this chapter).

1.7.3 Neighbourhood Watch

Neighbourhood Watch is a community-based policing initiative that promotes partnerships between the Service and local communities to encourage interaction and a shared sense of a responsibility between individuals and neighbours to prevent crime and enhance personal safety.

The role, function and objectives of the Neighbourhood Watch are outlined on the program's webpage on the Service Intranet.

POLICY

The Service provides professional expertise and support to Neighbourhood Watch by assisting the community to organise themselves for the purpose of reducing crime and enhancing safety.

District crime prevention officers, officers in charge of police stations and station community crime reduction officers should assist Neighbourhood Watch groups within their area of responsibility.

Officers in charge of Neighbourhood Watch Police Liaison Officers should allow adequate time and resources for the officers to perform their appointed role, wherever possible, within the officer's rostered shift.

The policies and procedures in relation to the management and operation of Neighbourhood Watch, as contained on the program's webpage on the Service Intranet are to be read as an appendix to this Manual.

1.7.4 Queensland Blue Light Association Incorporated

The Queensland Blue Light Association Incorporated (Queensland Blue Light) is a not-for-profit organisation offering evidence based early intervention and primary prevention programs designed to educate, empower, and support young people.

The Service partners with Queensland Blue Light to promote and deliver approved programs and activities statewide. Members work with Queensland Blue Light volunteers to mentor young people to make healthy life choices, form positive relationships, reach their potential, and live a life free of crime.

See the Queensland Blue Light webpage of the Service Intranet for the Mission, Values, Vision and opportunities for Service members to participate.

1.7.5 Queensland Police-Citizens Youth Welfare Associations

The Queensland Police-Citizens Youth Welfare Association is a community-based policing initiative aimed at promoting and enhancing the personal development of young people. The association also provides community activities at its affiliated branches throughout Queensland.

The Queensland Police-Citizens Youth Welfare Association is an incorporated association which is managed by a board of directors.

The role, function and objectives of the Queensland Police-Citizens Youth Welfare Association are outlined on the Association's webpage on the Service Intranet.

1.7.6 Youth programs

Introduction

The Youth Programs Coordination Team (YPCT) responsibility is to:

(i) identify opportunities for improvement by conducting research and contribute to the development of policy, procedures, strategies, practices, and provide sound advice regarding youth programs to multi-disciplinary teams within the Service;

(ii) establish, coordinate and maintain a Service intranet page cataloguing all approved youth programs for delivery by members (or external departments or agencies with Service member involvement);

(iii) ensure all Service approved and evaluated youth programs are delivered consistently statewide;

(iv) review and update current youth programs; and

(v) assess new youth programs submitted by Service members.

Youth programs are proactive and promote, assist, inspire and support disengaged or vulnerable youth to realise their full potential and become productive members of the community. Fostering positive encounters, mentoring and encouraging youth gives them the opportunity to learn skills and develop relationships with peers and the Service.

All youth programs are to comply with the procedures located on the Youth Programs intranet page and receive approval in writing from the Inspector, Youth Programs Unit prior to delivery.

If the youth program is not approved by the Inspector, Youth Programs Unit, the relevant District Officer has the discretion to approve delivery.

OPM Issue 113 Public Edition

Service youth program criteria

All youth programs will:

(i) target participants (aged five to eighteen years old);

(ii) address community need based on factual information and data;

(iii) have clear objectives and be goal based;

(iv) list the learning experiences and activities to be undertaken by participants;

(v) have a completed risk assessment; and

(vi) be evaluated (an assessment of the outcomes, program activities, participant engagement, and feedback from participants, families and other key stakeholders).

All forms and processes required for a program to receive approval can be located on the Youth Programs intranet page.

The YPCT will assess the application and advise if the program has been approved.

Approved youth programs

Approved Service youth programs are listed on the Youth Program Register intranet page.

Service members can deliver approved youth programs upon approval from the YPCT.

Privacy

QPRIME searches on youth program participants history is not to be conducted prior to providing their details to, and receiving approval from, YPCT.

When deemed necessary by the YPCT, they will consult with the Privacy Unit during the development phase of new youth programs, and complete a Privacy Impact Assessment if required, to ensure programs align with the Service's statutory privacy obligations under the *Information Privacy Act*.

OPM Issue 113 Public Edition

1.7.7 Party Safe

Members of the public may register a party in person at a police station, by telephone through Policelink, or online at the Queensland Police Service website (www.police.qld.gov.au/initiatives/party-safe).

Parties registered with the Service, provide information regarding the proposed party and contact details for the host, which will assist officers who may be required to deal with any public disorder issues arising from the party.

Party Safe information, promotion and party resources are available from the Drug and Alcohol Coordination Unit (DACU) SharePoint page.

Members receiving a request from a member of the public to register a party in person are to:

(i) complete a QP 0525: 'Party Safe registration form', where it has not been completed by the requesting person;

(ii) provide the person with 'Party Safe' wristbands, 'Registered Party' poster and a Party safe booklet (as required); and

(iii) forward the original, completed form to their officer in charge.

Members receiving a request from a member of the public to register a party by telephone or email, should advise the person to register their party:

(i) in person at a local police station;

(ii) by telephone through Policelink; or

(iii) online via the Service 'Party Safe' website at www.police.qld.gov.au/initiatives/party-safe.

Where a party has been registered either online or through Policelink, members of the public will be asked to attend a police station if they wish to collect Service 'Party Safe' resources.

Officers in charge of stations are to provide a copy of the form to the shift supervisor when the party is held and ensure that patrols of the registered party are included on ITAS as a shift objective for the relevant shift.

1.7.8 Police in schools

School Based Policing Program

The School Based Policing Program is a joint initiative between the Service and Department of Education, which aims to establish a positive relationship between police and the secondary school community to contribute to a safe and supportive learning environment.

ORDER

Officers appointed as school-based police officers (SBPO) are to carry all accoutrements including firearms when performing duties within a school. Officers are to ensure they are OST qualified in accordance with s. 14.3.10: 'Operational Skills and Tactics (OST) Training' of this Manual.

Where it is impracticable to wear Service accoutrements during school activities e.g. school camps, officers are to obtain approval from their relevant assistant commissioner (see s. 14.4: 'Service-issued weapons' of this Manual).

The policies and procedures for the management and operation of the School Based Policing Program and SBPO, as contained on the Crime Prevention Programs Unit (CPPU) SharePoint page, are to be read as an appendix to this section and complied with.

Training of school-based police officers

ORDER

All permanently appointed SBPOs are to complete the online learning product QC1356_02: 'School Based Policing Program' (OLP) prior to, or as soon as possible after commencing the role.

Officers performing the role of SBPO in a relieving or secondment position should complete the OLP prior to, or as soon as possible after commencing the role.

The OIC of a SBPO is to ensure relevant officers complete the OLP for their tenure.

Adopt-a-Cop Program

The Adopt-a-Cop Program seeks to build positive relationships between the Service and members of the school community through the voluntary appointment of Adopt-a-Cops to schools and other relevant organisations.

Where a school wishes to take part in the Adopt-a-Cop Program, the OIC of the station or establishment where the school is located is to appoint an appropriate officer to perform the role.

The OIC of an Adopt-a-Cop officer should allow adequate time and resources for the officer to perform their appointed role, where possible, within the officer's rostered shift.

The Adopt-a-Cop Program:

(i) role description;

(ii) function;

(iii) objectives; and

(iv) policies and procedures for management and operation,

are contained on the CPPU SharePoint page and are to be read as an appendix to this section.

Adopt-a-School Program

The Adopt-a-School Program seeks to enhance the service delivery to school communities by:

(i) implementing a framework to:

(a) build positive relationships between local police and educational facilities; and

(b) facilitate the identification and resolution of police-related issues; and

(ii) coordinating the local implementation of the Adopt-a-Cop Program, including:

(a) the appointment of an Adopt-a-Cop to every school wishing to participate (subject to operational capability); and

(b) the ongoing supervision and support of Adopt-a-Cops.

The role, function and objectives of the Adopt-a-School Program are outlined on the CPPU SharePoint page.

District officers should:

(i) provide strategic direction and support to address policing issues impacting school communities across their area of their responsibility;

(ii) hold regular meetings, at least annually, with OICs of stations and establishments to identify and respond to issues impacting school communities; and

(iii) support the implementation and operation of the Adopt-a-Cop and Adopt-a-School Programs and ensure OICs discharge their responsibilities under this policy.

The OIC of a station or establishment should engage with schools by:

(i) holding regular meetings, at least annually, with school principals and other relevant stakeholders;

(ii) engaging in informal consultation with schools as necessary; and

OPM Issue 113 Public Edition

(iii) supporting the ongoing operation of the Adopt-a-Cop Program.

The policies and procedures in relation to the management and operation of the Adopt-a-School Program, as contained on the CPPU SharePoint page are to be read as an appendix to this section.

1.7.9 Station community crime reduction officers

Station community crime reduction officers are responsible for identifying and employing crime prevention and reduction strategies in response to crime trends identified through intelligence holdings and as reported by the public.

The role, function and objectives of the station community crime reduction officers are outlined on the Crime Prevention Programs Unit (CPPU) SharePoint page.

POLICY

The officer in charge of a police station is to appoint an officer to perform the role of station community crime reduction officer.

The station community crime reductions officer should liaise closely with relevant internal and external stakeholders including:

(i) division and district intelligence officers;

(ii) officers performing school-based policing activities;

(iii) officers and police liaison officers from the division and neighbouring divisions;

(iv) district crime prevention officers;

(v) Victim Assist Queensland police liaison officer;

(vi) local Neighbourhood Watch groups; and

(vii) members of the community and other relevant stakeholders,

to tailor and deliver crime prevention and reduction strategies.

The officer in charge of the police station or establishment is responsible for the performance and supervision of the station community crime reduction officer and should allow adequate time and resources for the officer to perform their appointed duties.

The policies and procedures in relation to the management and operation of station community crime reduction officers, as outlined on the CPPU SharePoint page are to be read as an appendix to this Manual.

1.7.10 Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual plus Liaison Program

The Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual plus (LGBTQIA+) Liaison Program was developed to establish and maintain effective liaison between police and LGBTQIA+ communities. It also enables appropriate policies and strategies to be developed to ensure the delivery of an equitable service across the state.

The LGBTQIA+ Liaison Program is structured with state, regional and district coordinators and liaison officers working with local communities. The roles, responsibilities and function of the LGBTQIA+ Liaison Program are outlined on the LGBTQIA+ Liaison Program webpage on the Service Intranet and should be read in conjunction with this policy and the 'Policing for people from LGBTQIA+ communities' guidelines. See the LGBTQIA+ Liaison Program SharePoint page for further resources and online learning products to assist officers.

Regional coordinator, LGBTQIA+ Liaison Program

ORDER

The OIC of a region or command is to appoint a regional coordinator, LGBTQIA+ Liaison Program. The regional coordinator is to work in cooperation with the State Coordinator, LGBTQIA+ Liaison Program to provide a regional police response to LGBTQIA+ communities. This response is to complement regional objectives and strategies.

District coordinator, LGBTQIA+ Liaison Program

ORDER

The OIC of a district is to appoint a district coordinator, LGBTQIA+ Liaison Program. The district coordinator is to work in cooperation with the regional coordinator to provide a district response to LGBTQIA+ communities. This response is to complement district objectives and strategies.

District LGBTQIA+ liaison officers

District officers may appoint district LGBTQIA+ liaison officers based on the operational requirements of the district. The duties associated with the position may be conducted in addition to the officer's normal functions. District officers are to ensure, subject to operational requirements, adequate time and resources are allocated to district LGBTQIA+ liaison officers to perform tasks associated with the LGBTQIA+ Liaison Program.

OPM Issue 113 Public Edition

Assistance to investigations by district LGBTQIA+ liaison officers

The rapport between district LGBTQIA+ liaison officers and LGBTQIA+ communities may assist an investigation by removing barriers between police and community members.

Where an officer is conducting an investigation that impacts upon or involves an LGBTQIA+ community member and the person may:

(i) benefit from additional support;

(ii) be willing to engage with a LGBTQIA+ liaison officer; and

(iii) consents to the person's contact details being provided to a LGBTQIA+ liaison officer,

the officer is to:

(i) record the person's contact details, including, where provided, an email and telephone number; and

(ii) as soon as reasonably practicable, send an email to the relevant district LGBTQIA+ business account with the following information:

(a) where applicable, the relevant QPRIME occurrence number;

(b) a brief statement of facts in relation to the investigation and the interactions with the person; and

(c) any other information which may assist the LGBTQIA+ liaison officer.

Where:

(i) an LGBTQIA+ community member is a victim of crime; and

(ii) the offence being investigating includes circumstances of sexuality, sex characteristics or gender identity vilification,

the investigating officer is to offer the person a Police Referral in accordance with s. 6.3.14: 'Police Referrals' of this Manual.

See also ss. 2.12.1: 'Victims' Commissioner and Sexual Violence Review Board Act and Victims of Crime Assistance Act' and 13.26: 'Racial, religious, sexuality, sex characteristics or gender identify vilification (Anti-Discrimination Act)' of this Manual.

The OIC of a station or establishment is to ensure crime reports are not detailed to district LGBTQIA+ liaison officers solely on the basis of their position.

Policing responses to 'beats'

A 'beat' is a public area, e.g. a street, park, toilet or beach (but not limited to), predominantly used by men to negotiate and engage in sexual activity or social interactions with other men.

Wherever practicable, when patrolling 'beats' uniformed officers should be used in preference to plain-clothes officers.

Officers investigating offences occurring at or near 'beats' in which persons have been targeted or victimised because of their use or perceived use of the 'beat' are, as part of their investigation, to advise the district LGBTQIA+ Liaison Program coordinator as soon as practicable.

Disclosure of gender identity, sexuality or sex characteristics

LGBTQIA+ community members may not disclose their sexuality, sex characteristics or gender identity for a range of reasons, including fear of becoming a target for harassment, discrimination or vilification.

ORDER

Members are to use discretion when engaging with the LGBTQIA+ community to ensure privacy and confidentiality is maintained. Members are to be mindful that some individuals may not have disclosed their gender identity, sexuality or sex characteristics to their family, friends, employer or others, and should refrain from doing so without consent.

Policing for people from LGBTQIA+ communities

The Service has, in conjunction with members of the LGBTQIA+ community, compiled the 'Policing for people from LGBTQIA+ communities' guidelines. The guidelines provide best practice for respectful, ethical, equitable, and fair engagement with the LGBTQIA+ community and Service members.

1.7.11 When a member of the Service is exempt from holding a blue card

The object of the *Working with Children Check Act* (WCCA) is to promote and protect the rights, interests and well-being of children and to ensure persons employed in particular employment or carrying on particular businesses, undergo screening.

Screening of persons involved in regulated employment and regulated businesses, involves assessment of the relevant employee by the Chief Executive (Employment Screening), Department of Justice and the issuing of a prescribed notice. The notice issued is either a positive notice (blue card) or a negative notice.

OPM Issue 113 Public Edition

Exemption (performing function of the Service)

Persons engaged in employment for the Service are exempt from the requirement to obtain a positive notice and blue card for any activity performed involving children, if the activity:

(i) is outside the definition of regulated employment (see s. 156: 'Regulated employment' of the WCCA) or a regulated business (see s. 157: 'Regulated businesses' of the WCCA); or

(ii) is one where an exemption under s. 26: 'Person engaged in employment for the police service' of Schedule 1: 'Regulated employment and businesses for employment screening' of the WCCA applies.

Persons listed in s. 5AA.3: 'Meaning of *engaged by the service*' of the PSAA, namely:

(i) an officer;

(ii) a staff member;

(iii) a recruit;

(iv) a special constable;

(v) an external service provider;

(vi) a person performing functions at a station or establishment under a contract for services; and

(vii) a person working in the Service as a volunteer under section 10.5(6) or as a student on work experience,

are not required to hold a blue card when employed in regulated employment when that employment involves the person performing a function of the Service (see s. 2.3: 'Functions of service' of the PSAA) in a Service-approved activity.

Persons engaged by the Service, to perform a function of the Service, must be able to show a direct connection or link between an activity performed and a function of the Service.

Service-approved activities or programs which have a direct link to a function of the Service, relating to children and usually come within the definition of regulated employment or a regulated business include:

(i) adopt-a-cop;

(ii) party safe;

(iii) personal safety strategies;

(iv) protective behaviours;

(v) school based policing;

(vi) Queensland Blue Light Association Inc.;

(vii) Queensland Police-Youth Citizen Welfare Association; and

(viii) volunteers in policing.

It is irrelevant whether the employment is paid or voluntary, part of rostered duty or not or whether an officer is in uniform or not, providing the employment involves performing a function of the Service.

Requirement to hold a blue card

An officer who undertakes regulated employment or runs a regulated business outside their Service functions, is required to hold an exemption notice (see Chapter 7 Part 4: Division 3: 'Requirement for working with children exemption for police officers and registered teachers' of the WCCA).

A member, other than an officer, who undertakes regulated employment or runs a regulated business outside their Service functions, is required to hold a blue card. For instance, if a member intends to coach a soccer team from their neighbourhood and was not coaching in a capacity linked to the Service, they would be required to hold a blue card.

See subsection 'Exemption (performing function of the Service)' of this section.

1.7.12 Security assessments

The Service conducts security assessments on request to support community, local/state government and business/commercial entities to prevent and disrupt crime. Community members, businesses and other government agencies may request the Service provide advice or assessments of critical infrastructure, priority sites and crowded places.

This policy provides a consistent framework to determine the type of security assessment required and the course of action in responding to requests for assessments.

Security assessments are generally completed upon the receipt of specific threats to locations or occupants, major structural changes to relevant buildings or other concerns. Annual physical security inspections of Service controlled facilities are a separate process and are to be completed by OICs in accordance with s. 1.4.3: 'Responsibilities of OIC

OPM Issue 113 Public Edition

of regions/commands and the Crime and Corruption Commission Police Group' of this Manual and s. 2.11: 'Station and establishment security' of the MSM.

Under the Queensland Protective Security Framework (QPSF), the Service is required to maintain a holistic approach to the provision of security advice. This is achieved by work units and capabilities complementing each other and using approved procedures to ensure the advice and support is provided by the appropriate capability. For the purpose of this policy, there are seven types of security assessments that are assigned one of four response levels.

Response level	Security assessment type
Level 1	**a. Home Security Assessment:** Conducted in a residential setting using the layered security approach. *Example:* A victim of crime requests an assessment of their home to assist with security measures. **b. Business Security Assessment:** Conducted in business/small-scale commercial setting using the layered security approach. *Example:* A service station requests an assessment of their premises due to repeat fuel drive off offences. Only to be used for community members, groups, entities or victims of crime seeking general security advice. **c. Place and Case Based Assessment:** An assessment based on Crime Prevention Through Environmental Design (CPTED) principles on an identified crime issue to determine a policing response. *Example:* Tactician requests an assessment of local park due to an increase in anti-social behaviour. Note: conducted for internal reporting purposes only. All requests that do not meet the Level 1 threshold are to be submitted to Protective Security Advisory Team (PSAT), SCTFSC, via the request portal (SCTFSC Security Assessment Request).
Level 2	**d. CPTED Audit:** A comprehensive review of a built environment in accordance with CPTED design principles and provides recommendations or mitigation strategies. *Example:* CPTED audit requested by local government area of local parklands due to concerns of increased crime. **e. Safety Audit:** A qualitative process that records subjective feelings and perceptions as a means of identifying community safety issues and possible solutions, utilising CPTED design principles. Community led process which involves police participation (not led) upon request. *Example:* Invitation from local community group to participate in an audit and provide feedback on a particular area causing community concern in terms of crime and vulnerability.
Level 3	**f. Baseline Protective Security Assessment:** Security assessments of places, facilities, assets exceeding the Level 1 & 2 threshold, applying approved QPS protective security methodologies. *Example*: Request to conduct assessment on public office holders, electoral office or minor police establishment.
Level 4	**g. Vulnerability Assessments and Protective Security Advice:** State or local government critical infrastructure, QPS priority sites, crowded places, large scale complex or sensitive sites. *Example:* QPS Priority Sites.

OPM Issue 113 Public Edition

Submitting assessment requests

Members who receive a request for any security assessment are to refer to the above table and allocate a response level, then:

(i) for all Level 1 requests, use local procedures to complete the request, ensuring the correct reports and templates are used. Management of all associated reports and recommendations remain the responsibility of and under control of the relevant district. For assistance, contact the relevant district crime prevention coordinator.

If the request requires reassignment to Level 2 or higher, refer to (ii).

(ii) for Level 2, 3 and 4 requests, submit the information to PSAT, SCTFSC, via the request portal (SCTFSC Security Assessment Request). PSAT will assess each request, and where relevant, submit the task through the relevant District Protective Security Point of Contact (DPSPOC) for allocation and completion whilst maintaining a support role as required. Where tasks are retained by PSAT, completion, including all associated reporting and recommendations, remains the responsibility of PSAT.

For further advice about this process, see the Security Assessment Response Matrix (QPS Security Assessments).

Training requirements

The following table outlines the minimum training required for members to undertake security assessments.

Response level	Training requirements
Level 1	Layered security assessment (LSA) training (QPS Security Assessments).
Level 2	Familiarity with the Qld CPTED guidelines and Crime Advisory Brief template
Level 3	Baseline Protective Security (BPS) training—provided by SCTFSC
Level 4	ANZCTC Counter-Terrorism Security Advisor (CTSA) training—provided by SCTFSC

For further information, see the QPS Security Assessments or PSAT sites.

ORDER

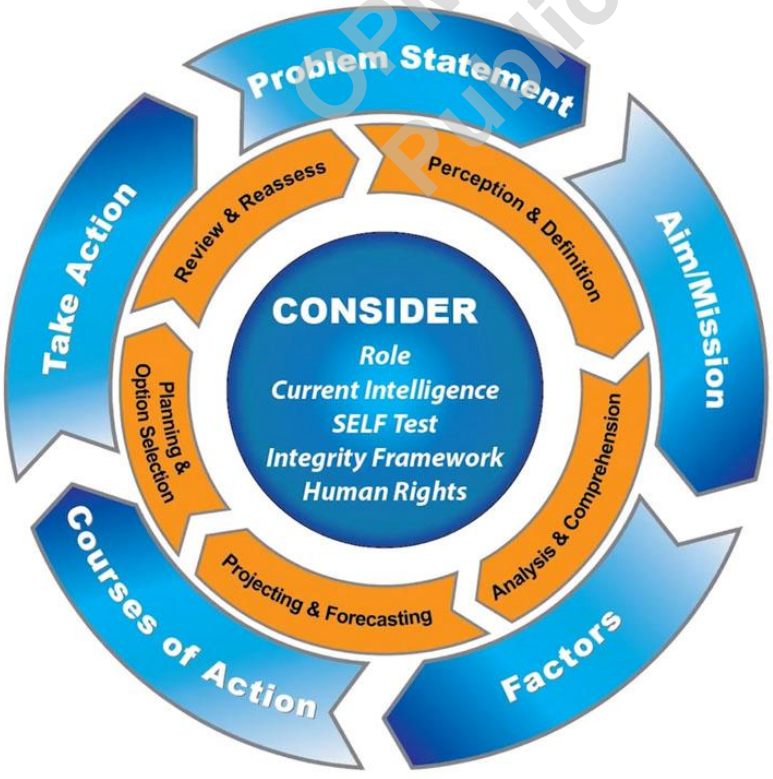
To mitigate risk to the Service, Level 1 assessments are only to be undertaken when the safety and security information is provided as a general guideline only and that the Service, in providing the information, makes no representation nor gives any warranty or guarantee concerning the safety of persons or properties. The Service does not provide endorsement of specific providers or services. To ensure compliance, members are to follow the mandatory reporting requirements in the response matrix (QPS Security Assessments). Written records of all discussed issues and any recommendations relating to Level 1 assessments are to be recorded on approved templates (QPS Security Assessments).

The referral of persons or entities seeking a comprehensive assessment (i.e. Level 2 or higher) (QPS Security Assessments) is to be made via an assessment request to PSAT through the request portal (SCTFSC Security Assessment Request).

1.8 Situational Decision Model

The Service recognises the delivery of policing services to the community is complex, often impacted by significant uncertainty with requirements to make decisions on limited information, competing priorities and significant time pressures. Members will be required to make those decisions using sound judgement, adaptivity and flexibility while complying with Service values, legislation, policies and procedures.

The Service has endorsed the Situational Decision Model as a guide to members on a decision model consistent with optimal decision making theory. This model is designed to support the recording of members decision making in an articulate manner to withstand scrutiny in investigations, inquiries, reviews and inquests.



Situational Decision Making

Decision State - **Problem Statement**
- Is there a problem?
- What is it?
- What is my role?

Decision Phase - **Perception & Definition**
- Develop the Mission/Intent/Desired End State

Decision State - **Aim/Mission/Goal**
- Command Intent
- What is important now?

Decision Phase - **Analysis & Comprehension**
- Obtain/clarify additional, mission relevant information

Decision State - **Factors**
- Threats, vulnerabilities resources, POP
- Expectations - Community, Govt, organisation

Decision Phase - **Projection & Forecasting**
- What is the potential impact of these factors?

Decision State - **Courses of Action**
- Options and consequences
- Contingencies and dependencies

Decision Phase - **Planning**
- Compare and select option – decision making
- Risk assess actions, outcomes and consequences
- Priority of plans

Decision State - **Take Action**
- Implement the plan, deliver orders, SMEAC
- Observe response to actions taken

Decision Phase - **Review, Adapt, Reassess**
- How did it go?
- Is there any new information?
- Does this require use of the process again?

The Situational Decision Model provides a foundation for:

(i) making decisions;

(ii) recording decisions;

OPM Issue 113 Public Edition

(iii) articulating decisions;

(iv) review of decisions;

(v) after action reviews;

(vi) briefings; and

(vii) meetings.

The Situational Decision Model is comprised of:

(i) considerations;

(ii) five decision phases; and

(iii) five decision states.

Considerations

Located at the centre of the Situational Decision Model and reiterating Service core principles are considerations members should apply at all stages, namely:

(i) understanding of role;

(ii) continual review of current intelligence and information;

(iii) application of the SELF test;

(iv) application of the QPS Integrity Framework; and

(v) consideration of Human Rights.

Decision states

The five decision states of the outer circle are steps to guide the decision maker through the process, namely:

(i) problem statement:

(a) is there a problem?

(b) what is it? and

(c) what is my role?

(ii) aim/mission:

(a) in relation to the problem and my role in resolving it;

(b) what are my responsibilities?

(c) what do I want to achieve?

(d) what is my goal? and

(e) what is important now (WIN)?

(iii) factors:

(a) what information do I have relevant to the problem?

(b) what information do I need?

(c) do I have time to get more information before I act? or

(d) do I need to act now on what I know (POP)?

(iv) courses of action:

(a) based on the factors;

(b) what could happen?

(c) what can I do about it?

(d) what options do I have? and

(e) what might happen after I take action?

(v) take action:

(a) develop a plan and implement it;

(b) deliver orders (SMEAC);

(c) observe what happens after I take action;

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(d) do I need to apply the process again? and

(e) continuously review and act on new information.

Decision phases

The five decision phases of the inner circle provide guidance on the thought processes the decision maker uses to move between the states/steps. These are:

(i) perception and definition: develop the mission, intent, desired outcome or end state;

(ii) analysis and comprehension: obtain, clarify additional aim/mission relevant information;

(iii) projection and forecasting: what are the potential impacts of these factors;

(iv) planning and option selection:

(a) compare and select option;

(b) risk assess actions;

(c) outcomes and consequences; and

(d) priority of plans; and

(v) review, adapt, reassess:

(a) how did it go?

(b) is there any new information? and

(c) does this require use of the process again?

The Situational Decision Model benefits

The model has been designed to be suitable for all members at all levels and roles; and

(i) assists members in their selection of an appropriate course of action;

(ii) assists when time or availability and reliability of information is limited or unknown;

(iii) acknowledges that all the factors may not be known, or all potential courses of action be identified;

(iv) allows the decision maker the ability to describe what was known to them at the time;

(v) can be applied regardless of limitations that impact decision making;

(vi) assists members in making a decision and committing to a course of action;

(vii) gives members a logical, operationally and tactically tested system to organise incoming information;

(viii) may reduce the stress on members working memory;

(ix) is used as a framework for capture of information relevant to a decision;

(x) assists members in articulating their rationale for a decision;

(xi) provides a structure/system for the review of decisions;

(xii) is not intended to be limited to operational matters only; and

(xiii) has application to delivery of briefings and design of briefing templates.

Members should familiarise themselves with the Situational Decision Model which is available on the Disaster and Emergency Management SharePoint page on the Service Intranet. Further information including a 5MiLE video, detailed explanation of the theory and application of the model are also available.

1.9 Confidentiality of information related to victims, witnesses and other vulnerable persons

Definition

For the purpose of this section:

Document

as defined in Schedule 3 of the *Evidence Act* (including embedded data in photographs, videos and other digital files).

All members, including:

(i) officers;

OPM Issue 113 Public Edition

(ii) watch-house officers;

(iii) protective services officers;

(iv) counter service officers;

(v) Policelink operators;

(vi) police prosecutors;

(vii) brief checkers; and

(viii) supervisors,

are to ensure that the contact details or location data (see below) of a victim, witness or other vulnerable person are not disclosed:

(i) verbally;

(ii) in writing;

(iii) electronically; or

(iv) by any other means,

unless the disclosure is explicitly required by law or the information is required to prove the particulars of the offence. Members should also refer to the following sections of this Manual:

(i) s. 9.1.1: 'Confidentiality of an aggrieved, named persons and respondent to be protected';

(ii) s. 3.4.13: 'Supply of copies of court brief (QP9), particulars, statements and reports';

(iii) s. 3.7.2: 'Documentation at first appearance';

(iv) s. 3.7.5: 'Checking of court briefs (QP9)';

(v) s. 3.8.15: 'Checking briefs of evidence'; and

(vi) s. 3.14.7: 'Disclosure of witness contact details in a relevant proceeding'.

Further, members are to ensure all documents including court documents, applications, bench charge sheets, QP9, statements of witnesses, cautions (adult and juvenile), evidentiary documentation that they:

(i) draft;

(ii) check;

(iii) review;

(iv) serve; or

(v) supply,

to others, including court registries, do not contain the contact details or location data of a victim, witness or other vulnerable person. The exception is where the inclusion of contact details is explicitly required by law or the information is required to prove the particulars of the offence.

Contact details and location data include, but are not limited to:

(i) home address;

(ii) work address;

(iii) any locations that a person regularly attends;

(iv) mobile phone number;

(v) work phone number;

(vi) home phone number;

(vii) email address; and

(viii) any social media identifier.

1.10 Deleted

OPM Issue 113 Public Edition

1.11 QPRIME occurrences

A QPRIME occurrence is to be created in respect of the commission or suspected commission of any indictable offence, simple offence of a serious nature or any regulatory offence. The member who receives the complaint or detects an offence is responsible for ensuring the QPRIME occurrence is created.

Where required, members are to consider the provisions of ss. 12: 'Application of Code as to offences wholly or partially committed in Queensland', 13: 'Offences enabled, aided, procured or counselled by persons out of Queensland' and 14: 'Offences procured in Queensland to be committed out of Queensland' of the CC and the *Crimes at Sea Act* (Cwlth) to establish whether an offence has occurred in Queensland.

Receiving reports of non-urgent matters

Where a person attends a police station to report the commission or suspected commission of an offence, members are to ensure a report is taken at that time. After taking the report, members are to advise the person of the Policelink reporting options for future reference, with an emphasis on referral to QPS online reporting page services where applicable.

Where a person seeks to report:

(i) a bicycle stealing;

(ii) graffiti;

(iii) lost property;

(iv) unlawful entry of a motor vehicle; or

(v) wilful damage,

members should re-direct the person to the QPS internet page (police.qld.gov.au) to submit a report, except where:

(i) the person may be a vulnerable person (see ss. 6.3.1: 'Circumstances which constitute a vulnerability, disability or cultural need' and 6.3.2: 'Establishing whether a person is vulnerable, disabled or has a cultural need' of this Manual);

(ii) the member reasonably suspects that domestic violence may have been committed (see s. 9.2.5: 'Holistic investigation of DFV' of this Manual) or the offence is a domestic violence offence (see s. 1: 'Definitions' of the CC).

When a person telephones a member of the Service to report a non-urgent matter, the person is to be advised of the option for reporting the matter by:

(i) submitting a report by using the 'Online reporting and updates' page on the QPS internet from a computer, mobile telephone or other mobile device; or

(ii) telephoning Policelink non-urgent telephone number 131 444; or

(iii) reporting the matter to an appropriate member of the Service.

Cybercrime reporting

Where an officer receives a report of cybercrime (see SMD) including:

(i) online scams and fraud;

(ii) identity theft;

(iii) attacks on computer systems;

(iv) illegal or prohibited online content; and

(v) online bullying,

including foreign and interstate cybercrime, the victim is instead to be referred to the ReportCyber (cyber.gov.au/acsc/report) website to self-report.

Reports relating to online child exploitation are not to be referred to ReportCyber (see s. 7.11: 'Suspected child exploitation material' of this Manual).

When necessary, a member may enter a cybercrime complaint directly into ReportCyber on behalf of the complainant, using the hyperlink on the Service Intranet (see also s. 2.5.12: 'Cybercrime reporting and investigation' of this Manual).

Victims of cybercrime are to be provided with appropriate ReportCyber advice including an advisory brochure (see also ReportCyber—online on the Service Intranet).

No requirement exists for cybercrime to be initially recorded in QPRIME.

OPM Issue 113 Public Edition

1.11.1 Policelink entered occurrences

Public reporting of non-urgent matters to Policelink

Policelink deal with a range of non-urgent matters directly from members of the public using the:

(i) 'Online reporting and updates' page on the QPS internet website; or

(ii) telephone.

The range of matters includes:

(i) reporting and updating:

(a) select property offences, namely:

- damage to property offences, excluding:
  - arson; and
  - wilfully kill, maim, wound animals including stock;
- stealing offences, excluding fraud offences;
- unlawful entry offences, excluding where violence or threats are used; and
- unlawful use of motor vehicle offences;

(b) sexual assault; and

(c) lost property;

(ii) police related inquiries, e.g. crime prevention, simple weapons licensing inquiries;

(iii) special event and incident telephone numbers;

(iv) Service support for disaster management;

(v) having client service reports entered on members;

(vi) entering publicly submitted information e.g. Party Safe registrations, requests for police attendance; and

(vii) receiving online documentation from offenders following police enforcement e.g. applications for early release of impounded motor vehicles, banning notice appeals.

When a member of the public reports a non-urgent property offence to Policelink, the client service officer will complete the initial occurrence report and forward a request for police attendance via the appropriate police communications centre if:

(i) there is a risk to the community (including consideration around the vulnerability of the victim); or

(ii) there is a risk to the reputation of the Service.

See also s. 1.11.3: 'Amendments/updates of Policelink entered occurrences (supplementary reports)' of this chapter.

Reporting to Policelink

QPRIME occurrences, which are to be reported to Policelink by members, are created by:

(i) submitting the information through the Police Intranet Reporting (PIR2) interface on the Service intranet (see 'PIR2 available occurrence types' of the PIR2 User Guide); or

(ii) telephoning the information to Policelink.

A Policelink entered QPRIME occurrence is to be created in relation to the following non-criminal matters:

(i) move-on directions given under the PPRA (officers have the option of recording move-on directions through PIR2) (see s. 13.23: 'Move-on power' of this Manual);

(ii) use of force reporting (see s. 14.3.9: 'Use of force reporting' of this Manual);

(iii) first report of stalking;

(iv) allegations of child harm, which does not relate to a criminal offence committed upon the child and leads the officer to have serious concerns for the well-being of the child (see 'Non-criminal child harm report' of s. 7.3.1: 'Initial action for reports of child harm' of this Manual);

(v) any child under the age of criminal responsibility who is officially counselled for what would otherwise constitute an offence, (see ss. 5.2.3: 'Children under 10 years of age' and 5.2.4: 'Children under 14 years of age' of this Manual); and

(vi) a child intoxicated in a public place.

OPM Issue 113 Public Edition

ORDER

Officers are not to enter any Policelink reportable occurrences directly into QPRIME. All Policelink reportable occurrences other than those listed in 'PIR2 available occurrence types' of the PIR2 User Guide are to be reported via Policelink.

Obtaining Policelink audio recording

Incoming telephone calls from members of the public to Policelink are recorded. Policelink also maintains a record of all contact made by members of the public through email and online forms.

Where a member requires a copy of a Policelink contact from a member of the public, the member is to:

(i) seek authorisation from their OIC to obtain a copy of the recording or contact document; and

(ii) complete a 'Request for Contacts' form located on the Policelink webpage on the Service Intranet. A down time version of this form is available on Forms Select (QP 0853). Policelink contact requests are managed by Policelink Quality Assurance.

If a statement from a Policelink staff member is required, a statement task is to be created in QPRIME and assigned to Policelink Operations org unit [1227] (see the QPRIME User Guide for further information).

1.11.2 Recording an offence in QPRIME

Offence reported to a member

ORDER

A member required to record an offence (see s. 1.11: 'QPRIME occurrences' of this chapter) in QPRIME is to:

(i) legibly record particulars of the offence in the officer's official police notebook when receiving the complaint;

(ii) record the offence in QPRIME as soon as practicable and, in any event, within 4 hours of receiving the complaint (see s. 1.11.1 of this chapter); and

(iii) provide the QPRIME occurrence number to the complainant or informant.

Offences allegedly committed by a member of the Service

ORDER

A complaint against a member of the Service is, in the first instance, to be recorded in the Police Integrity and Professional Standards (PIPS) System pursuant to the Complaint Resolution Guidelines.

Where a member of the Service is subject to an arrest; commencement of criminal proceedings are imminent, or there is a requirement to make a QPRIME entry to fulfil the functions of the Service (e.g. domestic violence, child protection, emergency examination assessment, search warrants) the incident is to be recorded in QPRIME.

Where proceedings are commenced against a member of the Service, Internal Investigations Group ESC, is to be notified in accordance with the ESC On-Call Quick Reference Guide.

Interstate offences

Where a member receives a complaint of an offence or suspected offence:

(i) that occurred outside Queensland;

(ii) to which s. 1.11.1 of this chapter does not apply;

(iii) that is not an offence against the Commonwealth; and

(iv) that cannot be reported online or by telephone by the complainant to the relevant police service/force,

the member is to advise the complainant that, although the offence is outside the jurisdiction of the Service, the matter may still be reported at a Queensland police station. When an interstate offence is reported at a police station, the member taking the report is to:

(i) record the details of the complaint in member's official police notebook;

(ii) obtain a signed statement from the complainant containing sufficient detail to enable the relevant interstate investigators to conduct inquiries into the offence; and

(iii) submit the printed QPRIME report and signed statement to a commissioned officer for forwarding to the relevant interstate police station in the jurisdiction where the incident occurred.

If the offence relates to a fraud, or a matter requiring further investigation to determine whether the offence occurred interstate, the offence may be entered into QPRIME using the complainant's home address as the offence address. Hard copies may then be forwarded to the relevant interstate police station for inquiries to establish where the offence occurred.

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Where a complaint or report relates to a major investigation concerning an offence recently committed outside Queensland (i.e. serious sexual assaults, murder, robberies), officers should notify the regional duty officer or district duty officer and the relevant interstate agency of the details of the report or complaint and provide appropriate assistance.

Reporting lost property

The Service may accept reports of lost property irrespective of whether the property was lost in Queensland, interstate or overseas. Complainants are to be referred to the QPS reporting lost property webpage to lodge a self-report.

First Nations identification

The Service records victim and offender information in QPRIME relating to First Nations peoples to support government assessment of policies and programmes aimed at reducing the over-representation of First Nations peoples in the criminal justice system.

Members are to ask the question 'Are you a First Nations person?' and, if the person responds affirmatively, subsequently ask 'Do you identify as Aboriginal or Torres Strait Islander origin, or both?' These questions are to be asked in all cases where a member:

(i) obtains particulars of an offence or suspected offence from a victim in person;

(ii) commences a proceeding against a person for an offence by way of notice to appear, complaint and summons, or arrest; or

(iii) issues an infringement notice for a public nuisance or associated offence.

Members should:

(i) ask the question regardless of the person's appearance;

(ii) ask the question in a tactful and unobtrusive manner and, where necessary, explain why the information is being sought; and

(iii) record the person's response in their official police notebook, QPRIME or other appropriate information system, as applicable.

For the purposes of this policy, a person's identification as a First Nations person is to be based on self-identification, irrespective of appearance.

Policelink data entry

A Policelink client service officer is to record occurrences in QPRIME in accordance with the Policelink Procedures Manual.

Where possible officers are to generate a QPRIME occurrence through police intranet reporting (PIR2).

ORDER

Members are not to enter, modify or delete any information within a QPRIME occurrence while it is being recorded by a Policelink client service officer.

Contravention of domestic violence order, release conditions or police protection notice

ORDER

Members receiving a complaint or report of a contravention of a domestic violence order (DVO), release conditions, police protection direction (PPD) or police protection notice (PPN) from:

(i) a party to the order;

(ii) a prescribed entity (see s. 169C: 'Definitions for part' of the DFVPA); or

(iii) a specialist DFV service provider,

are to ensure a Domestic Violence (Breach of DFVPA) [1371] occurrence is recorded in QPRIME. Officers are to refer to s. 9.3.2: 'Contravention of DVO, release conditions, PPD or PPN' of this Manual when third party reports of contravention of DVO, release conditions or PPN are received.

Theft or loss of firearm

Members receiving a complaint of a theft or reported loss of a firearm are to ensure the following details are recorded in a general report within the initial report task of QPRIME occurrence:

(i) make, model, serial number, type (e.g. rifle, shotgun, handgun or other) and calibre;

(ii) identifiable marks, peculiarities, physical alterations including machining of the trigger mechanism, scratches, inscriptions and colours of the firearm, such as the barrel and stock;

(iii) whether the firearm was operable and if not, what alterations are needed to make it operable (i.e. parts, expertise such as a gunsmith);

OPM Issue 113 Public Edition

(iv) full name of the registered owner and their respective weapons licence number;

(v) details of any ammunition and firearm accessories such as magazine(s), soft or hard gun carry case, telescopic sights, bayonet, scabbard or shoulder strap that have also been lost or stolen; and

(vi) complete the QPRIME firearms theft report.

Additionally, members receiving such complaints are to make inquiries to establish whether:

(i) the firearm was entered in the firearm register (if applicable) for the registered owner of the firearm;

(ii) the person last in possession of the firearm had lawful possession;

(iii) the theft or loss was reported immediately the person became aware of the loss or theft in accordance with s. 60A: 'Lost or stolen weapons' of the *Weapons Act* (WA);

(iv) the firearm was stored in accordance with the provisions of s. 60: 'Secure storage of weapons' of the WA; and

(v) any conditions or orders under the *Domestic and Family Violence Protection Act* exist in relation to the person last in possession of the firearm.

Where a breach of the WA is identified (e.g. unlawful possession of weapons, fail to secure weapons), a separate QPRIME occurrence is to be created for the identified offence and prosecution commenced where appropriate (see s. 3.4: 'General prosecution policy' of this Manual). Any additional QPRIME occurrences are to be linked to the occurrence relating to the reported lost or stolen firearm.

When members receive a complaint of the theft or loss of a firearm, the OIC of the relevant CIB is to be notified (see s. 2.6.15: 'Firearm offences' of this Manual).

Stolen motor vehicles and other vehicles of interest

Members receiving a complaint of a stolen vehicle should:

(i) check QPRIME for towed vehicles and appropriately advise the complainant if the vehicle is recorded;

(ii) where required, arrange for the vehicle particulars to be immediately broadcast over the police radio network;

(iii) where it is not possible to immediately enter the details into QPRIME, ensure a flag is created against the stolen vehicle entry in QPRIME;

(iv) ask the complainant whether authority is given for police to tow the vehicle if it is located and requires removal; and

(v) generate a QPRIME occurrence through police intranet reporting (PIR2) inclusive of the towing authority flag.

Where appropriate, an entry should be made in the reporting member's notebook recording whether authority to tow has been given. The wording of the authority to tow should be:

'I hereby authorise the police to tow away my (describe vehicle) if located and I acknowledge that I will be responsible for the payment of all fees and charges associated with any such towing.

Signature
(Print Name)'

ORDER

For an interstate registered vehicle where the registration number is known, the reporting member is to make all reasonable inquiries to establish the full vehicle description, including the engine number and VIN, and ensure that information is recorded in QPRIME.

Policelink client service officers who receive a report containing incomplete details of an interstate registered vehicle are to forward a task to a team leader for an ACIC database search (see s. 7.2.2: 'ACIC databases (systems for the national exchange of police information)' of the MSM). Policelink team leaders are to then update the QPRIME occurrence.

Local intelligence officers (see SMD) are to:

(i) conduct regular audits of interstate registered motor vehicles reported stolen within their relevant area to ensure the vehicle's VIN and engine number are recorded in the QPRIME occurrence; and

(ii) update the relevant occurrence where the details are missing.

Where a stolen vehicle is registered interstate, the details can be obtained through the National Vehicles of Interest (NVOI)/National Exchange of Vehicle and Driver Information System (NEVDIS). NVOI is accessed through ACIC databases.

To obtain access to ACIC databases see s. 7.2.2 of the MSM.

OPM Issue 113 Public Edition

If a motor vehicle is reported stolen and is not registered or the registration number is unknown, the reporting member should obtain, as far as possible, particulars of the year, make, model, body type, major/minor colours, engine number, vehicle identification number (VIN)/chassis number and label number.

Theft of telecommunication devices

Where a complainant reports the theft of a telecommunication device, members are to advise the complainant that, where appropriate, the matter may be reported through the Service's online reporting facility.

It is the responsibility of the complainant to notify their telecommunications carrier that the device has been stolen, and to provide any identifying numbers or features to investigators. Members should also advise complainants that internet-based services may be available through the carrier or device provider to report the theft, suspend the service, or assist in locating, locking or disabling the device.

Mobile telephones are identified by a serial number known as:

(i) International Mobile Equipment Identifier (IMEI), consisting of 15 digits; or

(ii) Mobile Equipment Identifier (MEID), consisting of 14 digits.

IMEI or MEID codes are unique to each telephone and are the most important identifiers for law enforcement purposes.

To aid identification of property, where applicable, members should ensure the following details are recorded in a general report within the relevant QPRIME occurrence:

(i) make;

(ii) model;

(iii) IMEI or MEID identifier in the serial field;

(iv) other serial numbers in the inscription field;

(v) device cover (e.g. black leather zip case);

(vi) mobile telephone number; and

(vii) any other descriptive features that would distinguish it from a similar device (colour, engraving, SIM card number, etc.) in the description field.

Where complainants are unable to supply the information, this should be noted in the general report.

Unlawful stalking

Where a complaint of unlawful stalking is received, officers should query QPRIME to determine whether any previous conduct has been reported.

Officers should be aware a complaint of stalking may consist of one or more occasions where the suspect has engaged in conduct directed at the complainant (ss. 359A–359F of the Criminal Code). Where a complaint of unlawful stalking is received, officers are to supply Policelink with details that identify whether the conduct complained of was:

(i) protracted conduct engaged in on any occasion (offence committed); or

(ii) not protracted. If the conduct was not protracted, state whether the suspect engaged in the conduct directed at the complainant on:

(a) one occasion only (further information to be supplied to establish whether offence committed); or

(b) more than one occasion (offence committed).

If the suspect engaged in conduct directed at the complainant on one occasion only (for this complaint), indicate whether this was:

(i) the first occasion the suspect has engaged in conduct directed at the complainant (no offence committed, provided it was not protracted conduct); or

(ii) a subsequent occasion the suspect had engaged in conduct directed at the complainant (offence committed).

Where a complaint of unlawful stalking is received, officers should establish whether a relevant relationship (see s. 13: 'Meaning of *relevant relationship*' of the DFVPA) exists and comply with s. 9.2.6: 'Initial DFV investigative action' of this Manual.

Linking an offence to alcohol and/or drug use

When recording an offence occurrence in QPRIME, members are to ensure an indication is made in the QPRIME occurrence as to whether the victim or offender was affected by alcohol or drugs.

Notation in official police notebook

A notebook entry should be made containing relevant details of the offence.

OPM Issue 113 Public Edition

Reporting member to check accuracy of details of occurrences entered in QPRIME

A member who has reported an offence to Policelink by:

(i) telephone, prior to termination of duty; or

(ii) submitting a police intranet reporting (PIR2) entry, at the commencement of their next shift,

is to check the relevant QPRIME occurrence, and its associated tasks to verify the accuracy of the information recorded.

ORDER

Members who need to correct an occurrence/task/record in QPRIME are to ensure a correction is requested via a 'QPS Request correction to record(s)' task workflow.

Attendance of specialist squads at the scene

When a member telephones offence particulars to Policelink, it is the responsibility of that member to advise the Policelink client service officer whether Forensic Services Group officers or specialist staff are required to attend.

ORDER

A Policelink client service officer receiving a request from a member for a specialist officer or squad to attend the scene of an offence or other place associated with that offence is to generate a task from the occurrence and assign it to the office of the relevant specialist squad.

Statements or other attachments

Original statements or other attachments taken as part of the reporting of an offence should be attached to the relevant printed QPRIME Occurrence Summary Report. Statements completed external to QPRIME should be scanned and attached to the relevant QPRIME occurrence.

Cheques, which are exhibits, are to be lodged at a property point (see s. 4.2.6: 'Retention of exhibits' of this Manual). If relevant, the cheques can be scanned and attached to the QPRIME occurrence.

The location of any original statements or other attachments should be recorded in a general/supplementary report within the relevant QPRIME occurrence.

A member who takes a statement as part of the reporting of an offence should attach it to the relevant printed QPRIME Occurrence Summary Report and QPRIME occurrence.

An OIC of a station or establishment who receives an original statement or attachment taken in connection with the recording of an offence should:

(i) keep that statement or attachment with the printed QPRIME Occurrence Summary Report relating to the offence unless it is otherwise required for the investigative or prosecution process;

(ii) retain a copy of the statement with the printed QPRIME Occurrence Summary Report should the original be required for prosecution purposes; and

(iii) ensure an electronic copy of the statement or other attachment is attached to the relevant QPRIME occurrence.

OPM Issue 113 Public Edition

Exhibits or anything seized as evidence

Refer to Chapter 4: 'Property' of this Manual for procedures on handling exhibits.

A member who takes possession of any property or exhibits in relation to a QPRIME occurrence is to create a record for each individual item within the occurrence. It is the responsibility of the reporting officer to record the lodging of the property at a property point/drop safe.

Drug details

The ability to distinguish the specific characteristics of drugs can be a valuable intelligence and law enforcement tool. When members are creating or updating a QPRIME occurrence, the standardised drug descriptors (see s. 4.2.3: 'Property standardised descriptors' of this Manual) are to be used to describe drugs coming into police possession.

If any member becomes aware, whether through drug analysis or other means, that the drug type and/or measurable quantity in the relevant occurrence is now known, or may have originally been incorrect, then they are required to execute a QPS Request correction to record(s) task workflow in QPRIME.

Linking QPRIME occurrences to related QPRIME operation occurrences

Where a QPRIME Policelink entered occurrence is created as a result of an operation (e.g. a drug arrest during an operation closure), that occurrence is to be linked to the relevant QPRIME operation occurrence. The operation name is to be recorded in the 'Occurrence Misc. ID' field of each occurrence linked to the operation.

1.11.3 Amendments/updates of Policelink entered occurrences (supplementary reports)

ORDER

When a member receives information or takes action which amends or updates a Policelink entered occurrence, the member is to ensure the QPRIME occurrence is updated before terminating duty.

Officers may record investigative activities in QPRIME occurrences in the Occurrence Enquiry Log (e.g. attempts to contact a person, neighbourhood inquiries). Supplementary reports should be used when taking action or adding information to an occurrence, or in circumstances where a supplementary report is expressly required.

When attending non-urgent property incidents reported to Policelink, officers are to ensure the QPRIME occurrence is updated advising of their attendance and any additional information or action taken.

Members of the public may contact Policelink by telephone or online submission to provide:

(i) additional information in relation to an offence; and/or

(ii) details of stolen or damaged property in the relevant occurrence.

Where a member has taken the initial crime report from a member of the public, any further information other than property stolen or damaged, should be updated on the QPRIME occurrence by the reporting member.

Reporting to Policelink

Policelink entered supplementary reports are to be submitted through the Police Intranet Reporting (PIR2) portal on the Service intranet.

Supplementary reports which affect:

(i) the status of an occurrence, person, vehicle or property; or

(ii) the occurrence Offence/count statistics (e.g. solved, withdrawn, cancelled, unfounded),

are to be submitted using the PIR2 portal on the Service intranet. Other supplementary reports can be directly entered by members into the relevant occurrence.

A member who has updated a Policelink entered occurrence by submitting a PIR2 supplementary report, is to check the relevant QPRIME occurrence at the commencement of their next shift.

ORDER

Members who need to correct an occurrence/task/record in QPRIME are to ensure a correction is requested via a 'QPS Request correction to record(s)' task workflow.

Located stolen or unlawfully used motor vehicle

When a stolen or unlawfully used motor vehicle is located, the reporting member should:

(i) ensure the relevant QPRIME occurrence is updated;

(ii) take any other action as outlined in Chapter 2: 'Investigative Process' of this Manual;

(iii) where authority by the owner to tow the vehicle exists, seek permission to tow the vehicle; and

(iv) where motor vehicles are stolen interstate and located in Queensland, the reporting member should ensure a QPRIME occurrence is created and:

(a) assign a task to the Police Communications Centre, Brisbane, requesting the State or Territory police from where the vehicle was stolen to be advised; or

(b) contact the appropriate police directly.

In most instances, the appropriate offence would be a breach of s. 25: 'Use of vehicles' of the *Summary Offences Act* (see Guideline 13: 'Summary Charges' of the Director of Public Prosecution (State) Guidelines). Other offences which may be indicated by specific circumstances include:

(i) s. 408A: 'Unlawful use or possession of motor vehicles, aircraft or vessels' of the Criminal Code;

(ii) s. 406: 'Bringing stolen goods into Queensland' of the Criminal Code;

(iii) s. 398: 'Punishment of stealing' of the Criminal Code;

(iv) s. 135(1): 'Unlawfully interfering with, or detaining, vehicles etc.' of the *Transport Operations (Road Use Management) Act*; or

(v) s. 252(1): 'Possession etc. of property suspected of being tainted property' of the *Criminal Proceeds Confiscation Act*.

OPM Issue 113 Public Edition

ORDER

When a stolen or unlawfully used motor vehicle is located, the reporting member is to, before terminating duty, ensure the relevant QPRIME occurrence is updated/created including the location of the vehicle and other relevant details, and if necessary, the attendance of any specialist officer or squad or the need for such attendance.

Recording of property obtained during covert operations in QPRIME

The provisions of s. 4.3.6: 'Property from covert operations' of this Manual apply with respect to matters contained in this chapter relating to the recording of additional or recovered stolen property, or located stolen or unlawfully used motor vehicles in QPRIME.

1.11.4 Assigning Policelink and Missing Persons Unit entered occurrences

QPRIME has a semi-automated screening process. Occurrences not screened out are either:

(i) electronically assigned for review and action by a crime manager to determine necessary investigation; or

(ii) tasked to an individual as a reminder that further action is required (e.g. an arresting officer needs to complete a QP9).

The crime manager

ORDER

A crime manager is to:

(i) check the organisational unit's 'Active unit task' tab within QPRIME at the commencement of and periodically during the shift and;

(ii) action 'Review' tasks;

(iii) perform occurrence checks to:

(a) ensure new occurrences contain information required for the investigation to commence; and

(b) determine further action required;

(iv) assign 'Case officer' tasks to a station or establishment within their area of responsibility; or

(v) reassign any 'Review' tasks to another crime manager where an investigation should be conducted by that other district; and

(vi) check the details of screened out occurrences by performing a search within QPRIME periodically during a shift and, if an occurrence requires investigation, assign a 'Case officer' task to the relevant station or establishment.

The officer in charge

An OIC of a station or establishment is responsible for ensuring the assignment of occurrences detailed to the organisational unit by the crime manager. A senior sergeant OIC may delegate the task assignment function to an appropriate sergeant in accordance with station or establishment instructions but always retains responsibility.

ORDER

OIC of stations or establishments are to ensure:

(i) checks of their organisational unit's 'Active unit tasks' tab are conducted at the commencement of each shift and periodically during that shift; and

(ii) assignment of 'Case officer' tasks in the unit's 'Active unit tasks' tab to themselves or officers under their control.

The investigating officer

'Case officer' tasks are assigned to an officer through that officer's active tasks list within QPRIME.

ORDER

Officers are to check their task list in the electronic in tray during each shift.

1.11.5 Quality of occurrences recorded in QPRIME

It is essential that accurate and relevant information be recorded in QPRIME for the crime screening and investigative process.

POLICY

Officers in charge and shift supervisors are responsible for supervising the quality of occurrences recorded in QPRIME by members under their control.

OPM Issue 113 Public Edition

An officer in charge of a station or establishment assigned an occurrence for further action is responsible for monitoring the quality of information that updates or finalises that occurrence.

PROCEDURE

Shift supervisors should supervise the quality of occurrences recorded by members under their control to achieve and maintain the required standard.

A crime manager assigned an occurrence should check the quality of information contained in that record. Where the information in the occurrence is insufficient, inaccurate, irrelevant or is otherwise unsatisfactory, the crime manager should assign a task to the relevant officer in charge of the reporting member for the purpose of having it amended.

Officers in charge of a station or establishment are to monitor the quality of information contained in occurrences:

(i) submitted by members under their control; or

(ii) assigned for investigation, further action or finalisation by a member under their control.

If the officer in charge is not satisfied with the quality of any particular entry, they should ensure the relevant member amends the occurrence or rework the case officer task until the occurrence is updated accordingly.

1.11.6 Follow up investigations

Officers assigned a case officer task to investigate an offence should:

(i) commence the investigation as soon as practical on being assigned the task;

(ii) advise the victim/informant that they are investigating the offence and periodically inform the victim/informant of the current stage of investigations (see s. 2.12: 'Victims of crime' of this Manual);

(iii) regularly update the occurrence with the progress of the investigation by creating an Occurrence Enquiry Log entry to record all inquiries made in relation to the investigation;

(iv) where more time to complete the work is required, request a due date extension for the task; and

(v) when further investigation is required by another station/establishment;

(a) update the occurrence with the results of the investigation to date and assign a work request task to that other station/establishment; and

(b) review the outcome of the requested action and, where appropriate, approve the initiated task or return it for rework.

Officers assigned a QPRIME occurrence to investigate, upon finalisation of the investigation, are to submit the QPRIME case officer task to their OIC for review and approval. A senior sergeant OIC may delegate the function of reviewing and approval of a case officer task to an appropriate sergeant in accordance with station or establishment instructions but always retains responsibility.

An OIC of a station or establishment or a delegated sergeant (as stated above) who receives a completed case officer task for review and approval should, if:

(i) satisfied that no further action is required, file the task by approving it;

(ii) not satisfied that the investigation is complete, return the case officer task to the investigating officer or another officer for rework; or

(iii) considered that the investigation should be forwarded to another station or establishment, submit a QPRIME task to the crime manager with that recommendation.

Where a crime manager considers an occurrence requires further investigation, the crime manager should assign a task to:

(i) the appropriate OIC for attention where investigations have to be made within the crime manager's area of responsibility; or

(ii) if the occurrence should be managed by a unit in another district, the relevant crime manager of that district.

Statements

An officer who takes a statement as part of the investigative process should:

(i) add the witness statement to the occurrence;

(ii) link the record of person providing the statement to the occurrence; and

(iii) record any other pertinent details such as the location of the original statement in a general report or supplementary report within the occurrence.

An officer who takes possession of an exhibit as part of the investigative process is to link the exhibit to the occurrence and complete a supplementary report including all relevant information.

OPM Issue 113 Public Edition

1.11.7 Prosecution of offender

Members should record accurate details of offenders/suspects to ensure the information recorded in QPRIME is useful.

Whenever a prosecution has been commenced against an offender, the arresting officer is to give details to Policelink within four hours:

(i) where a QPRIME occurrence exists, a Police Intranet Reporting (PIR2) submission should be submitted to update the occurrence and include the offender's details; or

(ii) where a QPRIME occurrence does not exist, a QPRIME occurrence is to be created in accordance with s. 1.11.1: 'Policelink entered occurrences' of this chapter including the offender's details.

A member who has created or updated an offence following the arrest of an offender to Policelink by:

(i) telephone, prior to termination of duty; or

(ii) submitting a Police Intranet Reporting (PIR2) entry, at the commencement of their next shift,

is to check the relevant QPRIME occurrence, and its associated tasks to verify the accuracy of the information recorded.

Other action taken in relation to an offender/suspect

ORDER

An officer who takes action in relation to an offender/suspect, whether the subject of an existing occurrence or not, is to submit a PIR2 detailing the action taken before termination of duty.

An officer who takes action in relation to an offender/suspect should update the relevant QPRIME occurrence by submitting a PIR2 as soon as practicable. The action taken may include cautioning the offender, interviewing the nominated suspect and eliminating that person as being responsible for the offence or not, obtaining sufficient evidence to support a prosecution, etc.

1.11.8 Monitoring of occurrences requiring investigation

Regional crime coordinators (RCC), crime managers and OICs are to monitor and control the quality of QPRIME investigative tasks including all domestic and family violence occurrences.

Regional crime coordinator

A RCC should scrutinise a sample of completed case officer tasks on a regular basis to ensure that members are complying with procedures.

The crime manager

A crime manager should monitor case officer tasks to ensure that occurrences are investigated to an acceptable standard and finalised as soon as possible.

Overdue tasks

Crime managers should:

(i) bring up a list of overdue work request tasks (e.g. case officer tasks) within QPRIME periodically; and

(ii) contact the OIC of any investigating officer assigned a work request task that has not been completed before the due date to ascertain the reason for the delay. The crime manager should be satisfied that any reasons given are valid.

OICs should monitor occurrences within their area of responsibility to ensure they are investigated to an acceptable standard and finalised as soon as possible. A senior sergeant OIC may delegate the monitoring of occurrences to an appropriate sergeant in accordance with station or establishment instructions but always retains responsibility.

OICs of a station or establishment should ensure:

(i) checks are conducted of overdue work request tasks (e.g. case officer tasks) at least weekly; and

(ii) any investigating officer assigned an overdue work request task are contacted to ascertain the reason for the delay. The OIC or a delegated sergeant (as stated above) should be satisfied that any reasons given are valid.

1.11.9 QPRIME unavailable

POLICY

If QPRIME is unavailable, the QPRIME business continuity procedures are to be followed (see 'QPRIME unavailable' on the QPRIME webpage on the Service intranet).

1.11.10 Use of notification flags on Service employee QPRIME records

QPRIME includes the ability to apply notification flags to various records within the system and, where applicable, the ability to apply an Access Control List (ACL) on those flags.

OPM Issue 113 Public Edition

Definitions

For the purposes of this section:

Nominated person

is the person responsible for:

(i) the creation of a notification flag in QPRIME;

(ii) linking themselves as the 'person to be notified' in the event a flag is triggered;

(iii) managing and taking appropriate action of any trips of the notification flag; and

(iv) finalising the notification flag when it is no longer required.

Notification flag

means a 'Search Hit' notification flag, which includes 'Open Hit', 'Search Returned' and 'Searched All except ACL restricted' flags.

Service employee QPRIME records

include:

(i) employee's names;

(ii) residential and/or business addresses service employees are associated with; and

(iii) any vehicles owned or used by the Service employees.

Notification flags

This policy relates to adding notification flags to Service employee QPRIME records.

Notification flags are used to monitor QPRIME records. Once applied, QPRIME will automatically generate and assign a task to the designated officer(s) or unit(s).

ORDER

Notification flags are not to be applied to Service employee QPRIME records except as provided by this section.

This policy does not apply to ESC investigations when conforming to ESC Regional Instructions.

Circumstances when the application of a notification flag on Service employee QPRIME records is authorised

A district officer or equivalent can approve the application of a notification flag on a Service employee's QPRIME record for the purpose of:

(i) monitoring tactical risks (e.g. threats against members, see s. 2.33: 'Security, Counter-Terrorism and Forensic Services Command' of this Manual);

(ii) internal investigations (other than those subject to full ESC ACL restriction); or

(iii) assuring compliance with:

(a) the Information Management Manual; and

(b) s. 10: 'Information and resources (All Members)' of the Standard of Professional Practice, ESC.

A district or command Professional Practice Manager (PPM) can approve the application of a notification flag on a Service employee's QPRIME record for the purpose of an internal investigation (other than those subject to full ESC ACL restriction).

The district officer or equivalent officer or district or command PPM is to identify the nominated person (see 'Definitions' of this section) responsible for the creation and management of the notification flag.

Covert flags—application of an Access Control List (ACL) on notification flags

A covert notification flag is created by applying an ACL to restrict the view of the flag.

Except for ESC, the QPS ACL Manager attached to Business Engagement, Frontline and Digital Division is the only ACL manager authorised to restrict the visibility of QPRIME notification flags on a Service employee's QPRIME records upon the request of a district officer or equivalent or a district or command PPM.

Where the application for a covert flag has been approved by a district officer or equivalent or a district or command PPM, an email is to be sent to the 'QPRIME ACL Manager' email group requesting the application of an ACL and contain all of the following details:

(i) name, rank/position and employee number of the person requesting the application of the ACL;

(ii) name, rank/position and employee number of the person authorising the ACL request;

OPM Issue 113 Public Edition

(iii) name and employee number of the nominated person who is responsible for the management of the notification flag;

(iv) details of the QPRIME record(s) the notification flag is to be applied to;

(v) the expected duration of the flag to be applied to the record (if known); and

(vi) name of the officer(s) authorised to:

(a) request the addition and removal of persons authorised to view the ACL record;

(b) change the nominated person; and

(c) approve the removal of the ACL and nomination flag.

Business Engagement, Frontline and Digital Division

Business Engagement, Frontline and Digital Division will conduct both routine and random audits to determine where notification flags have been applied to Service employee's QPRIME records. Unless requested, audits will not include notification flags set by ESC or the Crime and Corruption Commission. The results of completed audits will be provided to ESC.

Ethical Standards Command

ESC will vet the results of the flag audit provided to them by Business Engagement, Frontline and Digital Division. The vetting will determine which notification flags require further investigation either by ESC or the relevant PPM.

Where appropriate, ESC will provide the relevant PPM with flag audit results and/or an internal investigation file.

Where an investigation has revealed that a notification flag has been placed against a Service employee's QPRIME record without authorisation, the ESC may commence action pursuant to 'Complaint Management' of the ESC Policies.

Professional Practice Manager

On receipt of notification flag audit results or an internal investigation file, the relevant PPM will cause the application of notification flags to be investigated, expire all unauthorised flags immediately and report back to the ESC with their findings, recommendations or actions taken.

1.11.11 QPRIME offender action status type and requirements

For QPRIME occurrences to be solved or cleared, an offender action status type needs to be applied in the Incident/count stats tab of the occurrence. This section contains a list of offender action status types and the requirements for them to be applied to QPRIME occurrences.

Arrested

The action status type 'arrested' is to be used when an offender has been:

(i) arrested and charged;

(ii) arrested by virtue of a warrant; or

(iii) charged from the bench,

but excludes:

(i) arrested for questioning and released/unarrested; or

(ii) to be arrested at a future time.

Notice to appear

The action status type 'notice to appear' is to be used when an adult or juvenile has been given a notice to appear requiring their appearance before a court.

Summons served

The action status type 'summons served' is to be used when an adult has been served with a complaint and summons to appear in court. When a complaint and summons is mailed to an offender it is classed as served and the occurrence can be solved.

Warrant issued

The action status type 'warrant issued' is to be used when a warrant has been issued for the apprehension or arrest of an offender. When the offender is arrested on the warrant, the occurrence status type is modified to 'arrested'.

Infringement notice issued

The action status type 'infringement notice issued' is to be used when an offender is issued an infringement notice but only when the occurrence type procedure for the offence allows Policelink to enter it. For a list of all the offence types

OPM Issue 113 Public Edition

when an infringement notice can be issued refer to the relevant Penalty Infringement Notice Codes available from the Operational Policy and Improvement SharePoint page.

Caution adult

The action status type 'caution adult' is to be used when an offender over the age of 17 years has been dealt with by way of caution, see s. 3.2: 'Cautioning adults' of this Manual.

Caution juvenile

The action status type 'caution juvenile' is to be used when an offender of 17 years of age or younger has been dealt with by way of caution, see s. 5.5: 'Cautioning process' of this Manual.

Behavioural counselling

The action status type 'behavioural counselling' is to be used when a child under the age of 14 years has been behaviourally counselled by officers, see ss. 5.2.3: 'Children under 10 years of age' and 5.2.4: 'Children under 14 years of age' of this Manual.

Community conference

The action status type 'community conference' is to be used when:

(i) for a youth, a restorative justice process, such as:

(a) a restorative justice conference; or

(b) an alternative diversion program,

has been completed successfully (see s. 5.6: 'Restorative justice process'); or

(ii) for an adult:

(a) a restorative justice conference has been completed; and

(b) the matter has been finalised.

(see ss. 3.3.6: 'Finalisation of an adult restorative justice conferencing referral' and 3.4.4: 'Withdrawal of charges' of this Manual).

Drug Diversion Assessment Program

The action status type 'drug diversion' is to be used when the offender is being offered a Drug Diversion Assessment Program for a minor drugs offence (see s. 2.22: 'Police Drug Diversion Program' of this Manual).

Drug diversion warning

The action status type 'drug diversion warning' is to be used when the offender is being issued with a drug diversion warning for a minor drugs offence, see s. 2.22 of this Manual.

Offender died

The action status type 'offender died' is to be used when the investigating officer has determined and documented in the occurrence that there is sufficient evidence the offender committed the offence but died before proceedings could be commenced.

Offender psychiatric committal

The action status type 'offender psychiatric committal' is to be used when the investigating officer has determined and documented in the occurrence that there is sufficient evidence the offender committed the offence but will not be charged as the offender has been committed to a psychiatric facility.

Offender diplomatic immunity

The action status type 'offender diplomatic immunity' is to be used when the investigating officer has determined and documented in the occurrence that there is sufficient evidence the offender committed the offence but will not be charged as the offender has diplomatic immunity.

Offender currently in imprisonment

The action status type 'offender currently in imprisonment' is to be used when the investigating officer has determined and documented in the occurrence that there is sufficient evidence the offender committed the offence but will not be charged as the offender is serving a term of imprisonment and no useful purpose would be served by a prosecution.

Offender is a juvenile no action taken

The action status type 'offender is a juvenile no action taken' is to be used when the investigating officer has determined and documented in the occurrence that there is sufficient evidence the offender committed the offence but will not be charged as the offender is a juvenile and no further action will be taken, in accordance with s. 11: 'Police officer to consider alternatives to proceeding against child' of the *Youth Justice Act*.

OPM Issue 113 Public Edition

Statutory bar to prosecution

The action status type 'statutory bar to prosecution' is to be used when the investigating officer has determined and documented in the occurrence that there is sufficient evidence the offender committed the offence but will not be charged as there is a bar to prosecution (e.g. s. 16: 'Person not to be punished twice for same offence' of the Criminal Code and defences and exculpations under the Criminal Code or other Queensland statutes).

When an officer has made investigations in relation to an occurrence and there is sufficient evidence the offender committed the offence but will not be charged as there is a bar to prosecution, the officer should:

(i) record in a general or supplementary report within the occurrence:

(a) the particulars of the offending act or omission; and

(b) the reason why there is a bar to prosecution; and

(ii) submit a task for review and approval by their OIC or delegate.

When an OIC or delegate reviews an occurrence where it is asserted there is a bar to prosecution and they:

(i) are satisfied with that conclusion, the OIC or delegate should approve the task; or

(ii) decide that further investigation of an occurrence is necessary, they should:

(a) return the task to the investigating officer for rework or reassign it to another suitable officer for investigation; and

(b) ensure that a supplementary report is completed by the investigating officer.

Offender dealt with by another agency

The action status type 'offender dealt with by another agency' is to be used when the investigating officer has determined and documented in the occurrence that there is sufficient evidence the offender committed the offence but will not be charged as the offender is being investigated and dealt with by another agency i.e. RSPCA, or other Queensland Government department.

Offender not in public interest

The action status type 'offender not in public interest' is to be used when the investigating officer has determined and documented in the occurrence that there is sufficient evidence the offender committed the offence but will not be charged as it is not in the public interest (see s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual).

When an officer has made investigations in relation to an occurrence and there is sufficient evidence the offender committed the offence but will not be charged as it is not in the public interest, the officer should:

(i) record in a general or supplementary report within the occurrence:

(a) the particulars of the offending act or omission; and

(b) the reason why proceedings should not be commenced; and

(ii) submit a task for review and approval by their OIC or delegate.

When an OIC or delegate reviews an occurrence where it is asserted, that it is not in the public interest to proceed, and they:

(i) are satisfied with that conclusion, the OIC or delegate should approve the task; or

(ii) decide that further investigation of an occurrence is necessary, they should:

(a) return the task to the investigating officer for rework or reassign it to another suitable officer for investigation; and

(b) ensure that a supplementary report is completed by the investigating officer.

Juvenile victim—offences cannot be particularised

The action status type 'juvenile victim—offences cannot be particularised' is to be used when the investigating officer has determined and documented in the occurrence that there is sufficient evidence the offender committed the offence but will not be charged as an offence cannot be sufficiently particularised.

Juvenile victim—too young without corroboration

The action status type 'juvenile victim—too young without corroboration' is to be used when the investigating officer has determined and documented in the occurrence that there is sufficient evidence the offender committed the offence but will not be charged as the victim is too young to proceed without sufficient corroboration to support their testimony.

Juvenile victim—offence not disclosed at interview

The action status type 'juvenile victim—offence not disclosed at interview' is to be used when the investigating officer has determined and documented in the occurrence that there is sufficient evidence the offender committed the offence

OPM Issue 113 Public Edition

but will not be charged as the information was received from a third party that an offence was committed against a child but when the child was interviewed, they did not sufficiently disclose the abuse and without other evidence the case cannot proceed.

Death of victim/essential witness

The action status type 'death of victim/essential witness' is to be used when the investigating officer has determined and documented in the occurrence that there is sufficient evidence the offender committed the offence but will not be charged due to the victim or an essential witness dying prior to the offender being charged.

Victim withdraws complaint

The action status type 'victim withdraws complaint' is to be used when the investigating officer has determined and documented in the occurrence that there is sufficient evidence that an offence has been committed but the victim does not wish to make a complaint or the victim has formally withdrawn the complaint as detailed below.

A withdrawal of complaint or a wish not to make a complaint is to be instigated by the victim and not coerced, recommended or suggested by a member. The decision is to be of the victim's own free will and not solicited or induced by a member.

A complaint cannot be withdrawn by the victim if a prosecution has commenced (see s. 3.4.4: 'Withdrawal of charges' of this Manual).

An officer may take a withdrawal of complaint from a victim in person:

(i) by completing:

(a) a QP 0458: 'Withdrawal of Complaint' in the QPRIME occurrence;

(b) an entry in their official police note book/diary; or

(c) audio or video recording of the request to withdraw,

and if applicable uploading a scanned copy to the QPRIME occurrence;

(ii) forwarding a task to their OIC or delegate advising of the withdrawal; and

(iii) complete a PIR2 to withdraw the complaint.

A victim may also contact Policelink by telephone or complete and submit a 'Queensland Police Service withdrawal of complaint form' located on the Policelink internet webpage to withdraw their complaint.

Where a Policelink operator receives a public initiated withdrawal of complaint where a person is involved on the QPRIME occurrence with one or more of the following classifications:

(i) a suspect;

(ii) an offender;

(iii) a suspect interviewed; or

(iv) a named person (except for fuel drive off offences),

they are to record the withdrawal and task the organisational unit for the owning station with a request to withdraw.

When an investigating officer receives a withdrawal of complaint from a victim or a task advising that a victim has withdrawn their complaint before the commencement of any prosecution action, they should notify their OIC or delegate of the details of the complainant's withdrawal. When an OIC or delegate receives a task for review and approval where the complainant has withdrawn the complaint before the commencement of a prosecution, the officer should consider Service policy as outlined in Chapter 3: 'Prosecution process' of this Manual and decide whether further investigations will proceed or not. An OIC or delegate who decides that further investigations of an occurrence are necessary following a withdrawal of complaint by the complainant, should:

(i) assign a case officer task to the investigating officer for further investigation or assign the task to another suitable officer for investigation; and

(ii) ensure that a supplementary report is completed within QPRIME by the investigating officer.

Evidence indicates offence did not occur

The action status type 'evidence indicates offence did not occur' is to be used when the investigating officer has determined and documented in the occurrence that there is sufficient evidence to reasonably suspect the offence did not occur. The Occurrence Report is to clearly state the actions of the investigating officer and the evidence relied on to conclude that the offence did not occur.

Where an officer has made investigations in relation to an occurrence and believes there is sufficient evidence the offence did not occur, the officer should:

(i) record in a general or supplementary report within the occurrence:

OPM Issue 113 Public Edition

(a) their actions; and

(b) the evidence relied on to conclude that the offence did not occur; and

(ii) submit a task for review and approval to their OIC or delegate for approval.

When an OIC or delegate reviews an occurrence where it is asserted, that the offence did not occur, and they:

(i) are satisfied with that conclusion, the OIC or delegate should approve the task; or

(ii) decide that further investigation of an occurrence is necessary, they should:

(a) return the task to the investigating officer for rework or reassign it to another suitable officer for investigation; and

(b) ensure that a supplementary report is completed by the investigating officer.

Offence a civil matter

The action status type 'offence a civil matter' is to be used when the investigating officer has determined and documented in the occurrence that the matter is deemed to be civil rather than criminal in nature and a criminal offence did not occur.

When an officer has made investigations in relation to an occurrence and believes there is sufficient evidence the matter is civil, and no criminal offence has occurred, the officer should:

(i) record in a general or supplementary report within the occurrence:

(a) their actions; and

(b) the evidence relied on to conclude that it is deemed to be civil rather than criminal; and

(ii) submit a task for review and approval to their OIC or delegate for approval.

When an OIC or delegate reviews an occurrence where it is asserted, that it is civil rather than criminal, and they:

(i) are satisfied with that conclusion, the OIC or delegate should approve the task; or

(ii) decide that further investigation of an occurrence is necessary, they should:

(a) return the task to the investigating officer for rework or reassign it to another suitable officer for investigation; and

(b) ensure that a supplementary report is completed by the investigating officer.

Crime cancelled

The action status type 'crime cancelled' is to be used when the investigating officer has determined and documented in the occurrence that the report was:

(i) created in error as the offence should not have been recorded in QPRIME; or

(ii) created but the matter is now being investigated by another policing jurisdiction e.g. Australian Federal Police.

Crime lapsed

The action status type 'crime lapsed' is to be used when the investigating officer has determined and documented in the occurrence that the limitation of proceedings has lapsed. Proceedings for:

(i) most simple offences must be commenced within one year from the time the matter of complaint arose in accordance with s. 52: 'Limitation of proceedings' of the *Justices Act*, (e.g. breach of DV [simpliciter], weapons offences etc); and

(ii) some traffic matters can be commenced within two years after the offence. See s. 123V: 'Proceedings for offences' of the TO(RUM)A for details.

Graffiti diversion

The action status type 'graffiti diversion' is to be used when the investigating officer has determined and documented in the occurrence that a juvenile between the ages of 12–17 years should be dealt with by way of graffiti diversion and has completed the program (see s. 5.7: 'Graffiti removal program' of this Manual).

1.12 Incident command

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

OPM Issue 113 Public Edition

1.12.1 Police commander/emergency commander/TE commander/CBRE commander

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

1.12.2 Police operations centre

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

1.12.3 Police forward commander

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

1.12.4 Police forward command post

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

1.12.5 Incident management team

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

1.12.6 Support functions and roles

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

1.12.7 Incident action plans

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

1.12.8 Operational planning tool for incident command

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

1.13 Operational Legal Advice

POLICY

Officers who require advice on complex or unusual legal issues associated with operational matters may seek such advice from Operational Legal Advice (OLA), Prosecution Services, Legal Division.

PROCEDURE

Officers requiring legal advice should first review relevant legislation, Service Manuals and online legal resources (e.g. Criminal Law Bulletins, Prosecution Services Reference Notes, Prosecutor's Handbook, etc., available on the Prosecution Services webpage on the Service Intranet). Officers should also perform a search of the OLA Legal Discussion Forum (available on the Operational Legal Advice webpage on the Service Intranet) to ascertain if their or a similar inquiry has been previously answered.

The following officers should be contacted before seeking advice from OLA in relation to complex or unusual legal issues arising out of operational matters:

(i) their immediate supervisor (e.g. shift supervisor, DDO, etc.);

(ii) the officer in charge of their station or establishment;

(iii) their district or establishment education and training officer;

(iv) their district brief manager; or

(v) their local police prosecution corps.

Officers unable to find the answer to their inquiry through alternative research options or from the above list, are to post their questions to the OLA Legal Discussion Forum, ensuring forum rules are followed.

Officers requiring validation of policy or training materials or asking questions regarding sensitive topics are able to email 'Legal Advice (Operational)', with the authority of their officer in charge.

OPM Issue 113 Public Edition

ORDER

Only commissioned officers and officers in charge who are unable to resolve legal issues locally are permitted to telephone OLA.

Officers who require written advice from OLA are to make their request in writing to their supervising commissioned officer through the chain of command. Written requests for advice are to clearly identify the advice sought and provide copies of all relevant information (e.g. the full brief of evidence), advice and correspondence already obtained pertaining to the matter.

Commissioned officers receiving requests are to ensure local resources have been exhausted and the nature of the inquiry is unusual or complex prior to forwarding the requests to OLA.

Officers are not to contact, or attempt to contact, magistrates, judges of the District Court or judges of the Supreme Court for the purpose of obtaining legal advice.

Members are not to contact OLA in relation to:

(i) personal legal issues;

(ii) academic study (including internal development courses); or

(iii) disciplinary procedures where the officer is not the assigned investigator.

POLICY

Speculative inquiries in relation to hypothetical scenarios should only proceed to OLA as a request for written advice through the member's relevant commissioned officer.

Dissemination of advice

Advice provided by OLA is for the exclusive use of members of the Service. Individuals or entities outside the Service should be directed to seek independent legal advice from a qualified legal practitioner.

ORDER

The distribution of advice to persons or entities outside the Service is only authorised with the express permission of the Inspector in Charge, Operational Legal Advice.

1.14 Deleted

1.15 Crime Stoppers

The Crime Stoppers Program is a community based, not for profit charity run by Crime Stoppers Queensland Limited. Members of the public can provide anonymous information about criminal activity:

(i) on the toll free Crime Stoppers telephone number; or

(ii) by electronic submission on the Crime Stoppers Queensland website.

The QPS Crime Stoppers Unit, Road Policing Group manages the receipt of Crime Stoppers information in partnership with Crime Stoppers Queensland Limited.

The role and function of Crime Stoppers can be viewed on their SharePoint page.

Confidentiality of callers

ORDER

Confidentiality of callers is the fundamental principle of the Crime Stoppers Programme. Investigating officers are not to reveal to suspects that they are acting upon information received from Crime Stoppers. Officers are to consider s. 119: 'Protection of informers' of the *Drugs Misuse Act* and s. 2.9.2: 'Human Source Management' of this Manual where applicable.

Where any member becomes aware of the identity of a caller the caller's identity is not to be made known, directly or indirectly, to the suspect or any other person, unless required by law. This is vital to protect the welfare of the caller and to maintain the credibility of the Crime Stoppers program.

Members are not to take action which may identify callers, including linking informant's details to the QPRIME Crime Stoppers report. If a member becomes aware of a caller's identity, that information is not to be disclosed without the permission of the caller, or in accordance with the law.

OPM Issue 113 Public Edition

1.15.1 Receipt, investigation and finalisation of Crime Stoppers submissions

Crime Stoppers submissions

A Crime Stoppers submission is an electronic record generated from information provided by any member of the public (the informant) via the Crime Stoppers Queensland Contact Centre or police officer from the Crime Stoppers Unit and entered into QPRIME. The record includes any other external documents relating to the subject matter for investigation.

Receipt and investigation of Crime Stoppers submissions

POLICY

Officers at the Crime Stoppers Unit who assess information from the public suitable for investigation or crime intelligence are to record a submission and task it to the relevant district or local regional intelligence and strategy officer for investigation.

Local intelligence offices who receive a task relating to a Crime Stoppers submission are to:

(i) review the submission and finalise the task where it is determined that no further action is required; or

(ii) assign the submission to an intelligence officer for analysis, dissemination and further tasking as required.

The intelligence officer is to take appropriate action as required on the submission and either:

(i) complete the task with appropriate comments to the officer in charge of the local intelligence office; or

(ii) create and assign an investigative task to an officer of the relevant organisational unit for investigation or further inquiries to be made.

PROCEDURE

Upon receipt of an investigative tasking associated with a Crime Stoppers submission, the investigating officer is to conduct an investigation based on the information required of the task.

Where further information is required from the caller, the investigating officer is to review the report and identify if the caller has provided their details. If the caller has left their details the investigator is to make contact with the Crime Stoppers Unit via email requesting provision of the caller's contact details.

Investigating officer's action at conclusion of any investigations resulting from Crime Stoppers submissions

To assist Crime Stoppers Queensland in evaluating and determining reward payments to callers, every arrest made as a result of information provided is to be linked to the relevant Crime Stoppers submission.

PROCEDURE

When the investigating officer has completed the investigation in relation to a Crime Stoppers submission, and an arrest has been made as a result, the officer is to:

(i) link any related arrest occurrences to the relevant Crime Stoppers submission and change the status to 'Complete—arrest made';

(ii) link the submission to the relevant occurrence in QPRIME through either the 'related' tab of the submission or the occurrence; Where there is more than one task referring to the offence, officers are to ensure that the occurrence is linked to all relevant Crime Stoppers submissions. Where more than one task referring to an offence exists, the code number on the task which contributed to the arrest should be noted on any other relevant submission;

(iii) finalise the investigative task associated with the Crime Stoppers submission; and

(iv) forward a 'FYI task' through the submission to the Crime Stoppers Unit advising of the results of the investigation on or prior to the due date listed.

Where the investigating officer has completed the investigation in relation to a Crime Stoppers submission and:

(i) does not make an arrest as a result of Crime Stoppers information, they are to update the status in the relevant submission to 'Complete—no arrest';

(ii) considers the Crime Stoppers information is of no value, false or malicious in nature, they are to update the status in the submission to 'Reviewed—no value'; or

(iii) arrests a suspect recorded on the submission or another person, without reference to the Crime Stoppers information, they are to update the status in the relevant submission to 'Complete—indirect arrest'.

In such instances, the investigating officer is to finalise the investigative tasking and forward a 'FYI task' through the QPRIME submission to the Crime Stoppers Unit advising of the results of the investigation on or prior to the due date listed.

OPM Issue 113 Public Edition

Reply dates and extensions

Reply due dates for Crime Stoppers tasks are set to allow approximately eight weeks for an investigation to take place. Overdue replies on tasks associated with submissions reflect adversely on the Crime Stoppers program and may result in loss of useful information in the future.

POLICY

Investigating officers are to forward the completed Crime Stoppers submissions to the Crime Stoppers Unit (0852), on or prior to the due date listed.

Where additional time is required to investigate Crime Stoppers information, the investigating officer is to re-submit the relevant task(s) to their designated supervisor or officer in charge outlining:

(i) the expected completion date; and

(ii) any further information required.

The supervisor or officer in charge is to supply a new reply date to the investigating officer.

1.15.2 Crime Command investigations

Where appropriate, Crime Stoppers Unit staff are to assign an appropriate task to State Intelligence Group, Crime Command for review and reassigning to the Command for investigation. It is the responsibility of the Crime Command to establish procedures to compare information available in their area, against Crime Stoppers information.

When a Crime Command investigator recognises Crime Stoppers information relates to current investigations, if necessary that officer should liaise with the relevant district intelligence officer. When considered appropriate, in accordance with Appendix 2.3: 'Indicative list of responsibilities for criminal investigations' of this Manual, Crime Command will assist in or control an investigation.

1.15.3 Media releases including comfits

POLICY

Where a media release is considered necessary to assist an investigation, investigating officers are to comply with the provisions of ss. 5.6.11: 'Information sought by the media for public broadcast' and 5.6.12: 'Information released by police seeking public assistance in the investigation of incidents and crimes' of the Management Support Manual.

Police station or investigation centre telephone numbers should not be used in conjunction with the Crime Stoppers toll free telephone number and website, unless considered appropriate in the circumstances. Investigating officers should consult the Crime Stoppers Unit in these circumstances.

Release of comfits should be with the cooperation of Media and Public Affairs Group.

1.15.4 Receipt of criminal information at stations or establishments

POLICY

Where members of the public contact officers at stations or establishments with useful criminal information, members should record an intelligence submission in QPRIME and forward a task to their respective station or district intelligence officer (see the QPRIME User Guide).

The member of the public should not be advised to contact Crime Stoppers with the information, unless it is considered appropriate in the circumstances.

1.15.5 Release of information

Where Crime Stoppers information should be investigated by another law enforcement agency, the Officer in Charge, Crime Stoppers is to forward the information through the Chief Superintendent, Road Policing Group, to the relevant law enforcement agency.

The Officer in Charge, Crime Stoppers may release non-identifiable official Service statistics and administrative information to the directors of Crime Stoppers Queensland Limited and representatives of area committees (see s. 5.6.13: 'Requests for statistical information' of the Management Support Manual).

1.16 Fatalities or serious injuries resulting from incidents involving members (police related incidents)

Definitions

For the purpose of this section:

Police related incidents

are incidents resulting in death or serious injury that involve:

OPM Issue 113 Public Edition

(i) an officer acting in the course of that officer's duty;

(ii) an off duty officer;

(iii) staff members includes protective services officers, members (employees and volunteers) of Marine Resue Queensland (MRQ) and State Emergency Service (SES) or police recruits, whilst performing duty or otherwise; or

(iv) Service property, e.g. Service firearms, vehicles, watch-houses, stations or establishments.

Police related incidents which result in fatalities will often include deaths in custody or deaths which happened in the course of or as a result of police operations. Such deaths are defined as reportable deaths in ss. 8(3)(g) and 8(3)(h) of the *Coroners Act*.

Examples of police operations provided in the *Coroners Act* are:

(i) a police motor vehicle pursuit for the purpose of apprehending a person; and

(ii) an evacuation.

1.16.1 First response procedures

First response officers attending police related incidents are to:

(i) assume command and control at the incident scene (see s. 2.4.1: 'First response procedure at an incident scene' of this Manual;

(ii) make an immediate assessment of the situation and inquire as to the circumstances surrounding the incident;

(iii) immediately notify the shift supervisor and the relevant RDO or DDO in the region where the incident has occurred, advising whether the member is an officer, or staff member performing duties (employee or volunteer);

(iv) notify the appropriate police communications centre;

(v) contain and preserve the scene (see s. 2.4.6: 'Preservation of incident scenes' of this Manual);

(vi) take possession of, or safeguard exhibits;

(vii) detain offenders;

(viii) wherever practicable, ensure that:

(a) members involved in the incident:

- are able to speak to other involved members to check on their welfare and provide support, however, members are not to discuss details of the incident and must have consideration of s. 1.16.6: 'Integrity of investigation' of this chapter; and
- are removed from the incident scene as soon as practicable and taken to a police establishment, or similar facility, where they have access to amenities and support services; and

(b) members involved in the incident, or who are witnesses to the incident:

- do not undertake, or continue to perform duties associated with the investigative process, or other duties at the scene; and
- are available for interview by officers assigned to investigate the incident (see s. 1.16.6: 'Integrity of investigation' of this chapter).

In the case of police related incidents resulting in death:

(i) see also ss. 8.3.1: 'First response actions (deaths)' and 8.6: 'Death of a member of the Service' of this Manual; and

(ii) if the incident involves a death in police custody, see the additional first response procedures outlined in s. 16.23.2: 'Additional first response procedures for deaths in police custody' of this Manual.

1.16.2 Regional duty officer or district duty officer responsibilities

The RDO or DDO who is notified or who becomes aware of a police related incident is to:

(i) attend the scene, make an immediate assessment of the situation and make brief inquiries with persons at the scene, including members directly involved in the incident or who may be witnesses to the incident, as to the circumstances surrounding the incident;

(ii) assume command and control of the situation pending the arrival or involvement of officers designated to investigate the incident;

(iii) ensure that the scene is secured;

(iv) wherever practicable, ensure that:

OPM Issue 113 Public Edition

(a) members involved in the incident are removed from the incident scene as soon as practicable and taken to a police establishment, or similar facility, where they have access to amenities and support services; and

(b) members involved in the incident, or who are witnesses to the incident:

- do not undertake, or continue to perform duties associated with the investigative process, or other duties at the scene; and
- are available for interview by officers assigned to investigate the incident;

(see s. 1.16.6: 'Integrity of investigation' of this Manual);

(v) cause the following officers or units to be immediately notified:

(a) the regional crime coordinator or chief officer SES or MRQ;

(b) the Forensic Coordinator;

(c) the district officer;

(d) the assistant commissioner in charge of the region in which the incident occurred;

(e) the Assistant Commissioner, Ethical Standards Command;

(f) the duty officer, Crime and Corruption Commission;

(g) if a death has occurred, the State Coroner's Assistant, OIC, Coronial Support Unit;

(h) the Brisbane Police Communications Centre;

(i) the Police Media and Public Affairs;

(j) the relevant deputy commissioner or after hours, the duty deputy commissioner; and

(k) if the incident involves a member whilst performing duty:

- Safety and Wellbeing Group;
- the appropriate workplace health and safety officer or representative within the region or command or corporate services division of the member involved;
- the appropriate regional employee union representative where the incident involves an officer or appropriate union for staff members; and
- if the incident involves a death, the nearest Workplace Health and Safety Queensland office (see SMCD), Department of Justice. See also 'Incident/Injury Notification and Reporting System' available on the Safety and Wellbeing Incident Reporting and Incident Investigation SharePoint page;
- where the incident involves a death of a SES or MRQ member (employee or volunteer), advise the relevant agency's chief officer (see SMCD) for information on whether the next of kin has been advised. Where the next of kin has not been advised, arrange a priority next of kin notification to be completed in accordance with s. 8.3.5 'Advising next of kin' of this chapter;

(vi) ensure a significant event message is completed and submitted in accordance with s. 1.4.6: 'Responsibilities of regional duty officer, district duty officer and shift supervisor' of this Manual;

(vii) ensure where necessary the immediate provision of 'Psychological First Aid' (PFA) is applied, as per the 'Guidelines for Psychological First Aid' available on the Safety and Wellbeing Policies SharePoint page. Where possible, deploy dedicated PFA resources to provide PFA:

(a) following a critical incident, as defined under s. 5A.2: 'Definitions for pt 5A' of the PSAA; or

(b) where deemed necessary following a 'potentially traumatic event' (see Appendix 1: 'Deployment of a dedicated PFA resource at an incident / event by RDO / DDO / PFC' of the Guidelines for Psychological First Aid' available on the Safety and Wellbeing Policies SharePoint page.

(viii) representatives from the Queensland Police Union of Employees, Queensland Police Commissioned Officers Union, Together Union or legal officers for the involved parties are to be provided ready access to the members where and when practicable ensuring the integrity of the incident scene and the preservation of any evidence. The contact is to be away from the incident scene wherever possible; and

(ix) until the appointed family liaison officer arrives (see s. 8.1.3: 'Family liaison officer (FLO)' of this Manual), the identified family and next of kin at the scene are to be treated appropriately outside the outer cordon and as soon as possible provided with as much information as can be released to them without compromising the investigation (see s. 2.12: 'Victims of crime' of this Manual).

The incident commander should ensure that any liaison between the union or legal representative and any members directly involved in the major investigation, is to occur in the outer cordon. If access to the incident scene is required by

OPM Issue 113 Public Edition

the incident commander with a member or other person directly involved in the incident (e.g. 'walk-through' of the crime scene), such access is to be given under strict conditions regarding crime scene preservation (refer ss. 168: 'Restricting access to crime scene' and 177: 'Powers of direction etc. at crime scene' of the PPRA).

1.16.3 Responsibility for investigation

ORDER

In the event of a death arising from a police related incident, the incident is to be investigated by ESC, subject to the Crime and Corruption Commission (CCC) exercising its power to assume responsibility for the investigation (see s. 1.16.4: 'Police related incidents involving fatalities' of this chapter).

Other police related incidents that do not involve fatalities, are to be investigated by or under the direction of:

(i) the regional crime coordinator; or

(ii) where SES or MRQ members or operations are involved, the chief officer SES or MRQ unless otherwise directed by the Commissioner; or

(iii) a deputy commissioner,

unless responsibility for the investigation is assumed by the Internal Investigations Group, ESC or the CCC (see s. 1.16.5: 'Police related incidents not involving fatalities' of this chapter).

1.16.4 Police related incidents involving fatalities

ORDER

When notified of a death arising from a police related incident, the Assistant Commissioner, ESC is to take full responsibility for the subsequent management of the investigation in consultation with the State Coroner and Crime and Corruption Commission (CCC).

Where the incident is to be investigated by ESC, the Assistant Commissioner in consultation with the State Coroner and CCC is to:

(i) determine and arrange for suitable members and specialist units to attend the scene and to assist in the investigation;

(ii) appoint a senior investigator with sufficient criminal investigation background to carry out the investigation. In making any such appointments, consideration should be given to:

(a) the rank of the officers, or the level of seniority of the members who are directly involved in the incident (as opposed to witnesses); and

(b) impartiality and the appearance of impartiality, in the conduct of the investigation, including any relationship between the investigating officer and the parties involved in the incident which may give rise to an actual or apparent conflict of interest; and

(iii) ensure investigations of deaths arising from police related incidents are conducted expeditiously with due regard to the psychological welfare of individuals involved.

OPM Issue 113 Public Edition

1.16.5 Police related incidents not involving fatalities

ORDER

When notified of a police related incident which does not involve a fatality, the regional crime coordinator (RCC) or for incidents involving the SES or MRQ the chief officer is to:

(i) be directly responsible for the investigation of the incident, unless otherwise directed by the Commissioner, or a deputy commissioner, or unless responsibility for the investigation is assumed by the Internal Investigation Group (IIG), ESC or the Crime and Corruption Commission (CCC);

(ii) conduct the investigation or appoint investigators with sufficient criminal investigation background to carry out investigations. In making any such appointments, consideration should be given to:

(a) the rank of the officers, or the level of seniority of the members who are directly involved in the incident (as opposed to witnesses);

(b) impartiality and the appearance of impartiality, in the conduct of the investigation, including any relationship between the investigating officer and the parties involved in the incident which may give rise to an actual or apparent conflict of interest. For example, an investigator must be appointed from a police establishment other than from where the incident occurred, or where the officers or members directly involved in the incident are stationed; and

(c) if the incident exceeds the capability of the SES or MRQ, the chief officer should liaise with the RCC responsible for the area in which the incident has occurred, to seek investigative assistance.

(iii) liaise with officers from the CCC and IIG, ESC to facilitate a free flow of information between all parties concerned and to minimise duplication of investigations;

(iv) ensure that members directly involved in the incident or who are witnesses to the incident are interviewed as soon as practicable and it is highly desirable that interviews occur prior to any critical incident stress debriefing, including any defusing (see s. 1.16.6: 'Integrity of investigation' of this Manual);

(v) ensure investigations of police related incidents are conducted expeditiously with due regard to the psychological welfare of individuals involved; and

(vi) liaise with the Forensic Manager to ensure that an appropriate forensic response is provided.

Role of Investigation Teams, ESC

ORDER

When notified of a police related incident which does not involve a fatality, an officer representing the Internal Investigation Teams (IIT), IIG, ESC is to:

(i) liaise with the RCC and officers from the CCC;

(ii) make an immediate assessment of the incident in conjunction with the RCC and CCC officers; and

(iii) in conjunction with the CCC officers, overview the investigation and provide appropriate advice and assistance to the RCC.

For deaths in custody, an investigator from IIG, ESC will be appointed to perform the role of family liaison officer (see s. 8.1.3: 'Family liaison officer (FLO)' of this Manual).

If, in the opinion of the officer representing the IIT, IPG, ESC, proper investigational or procedural matters are not being adhered to, or there are matters which may adversely affect an impartial investigation, that member should confer with the RCC and officers from the CCC in an endeavour to resolve the issue.

If an issue cannot be resolved, the officer representing the IIT, IPG, ESC is to advise the Chief Superintendent, ESC, who should consult with the Assistant Commissioner, ESC and if necessary discuss the issues with the Deputy Commissioner, Specialist Operations or the on-call deputy commissioner. The relevant deputy commissioner may consult with the Director, Complaints Services, CCC and the relevant regional assistant commissioner to resolve the issue.

The Commissioner, Deputy Commissioner, Specialist Operations or duty deputy commissioner may direct that the Superintendent, IIG, ESC assume responsibility for the investigation of a police related incident. Following any such direction or as a result of the IIG, ESC assuming responsibility for an investigation, the RCC and the appropriate assistant commissioner are to provide all reasonable assistance.

OPM Issue 113 Public Edition

1.16.6 Integrity of investigation

Officers involved in the investigation of any police related incident are to:

(i) consider impartiality and the perception of impartiality in the conduct of the investigation at all times (see the Standard of Professional Practice available on the ESC Knowledge Hub SharePoint page); and

(ii) disclose to the OIC of the investigation, any relationship with any parties involved in the incident which may give rise to an actual or apparent conflict of interest.

First response officers, RDO or DDO, and investigating officers should ensure that the integrity of independent versions of members directly involved and members who are witnesses to a police related incident is preserved as far as practicable.

In this regard, members directly involved in the incident or who are witnesses to an incident should be interviewed separately and as soon as practicable following the incident. If psychological first aid (PFA) is provided, it is imperative that the incident specifics are not discussed prior to the investigation process.

Members directly involved in the incident or who are witnesses to an incident should not discuss the incident amongst themselves prior to being interviewed, unless there are justifiable reasons for doing so. Discussing an incident with other witnesses may influence a person's independent recollection of an event and any perception of collusion between witnesses may diminish the credibility of any evidence given.

In determining whether it is appropriate to discuss an incident prior to being interviewed, officers should apply the 'SELF Test' (see 'SELF Test' decision making model and Standard of Professional Practice available on the ESC Knowledge Hub SharePoint page, and s. 3.10.9: 'Witnesses not to discuss evidence and to remain outside of court' of this Manual).

1.17 Significant event reviews

Definitions

For the purposes of this section:

Police related incident

is an incident resulting in death or serious injury (see definition below) that involves:

(i) an officer acting in the course of that officer's duty;

(ii) an off duty officer;

(iii) staff members or police recruits, whilst performing duty or otherwise; or

(iv) Service property, e.g. Service firearms, vehicles, watch-houses, stations or establishments,

see s. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (police related incidents)' of this chapter.

Serious injury

means:

(i) grievous bodily harm (see s. 1: 'Definitions' of the CC);

(ii) an injury caused by the discharge of a firearm; or

(iii) any injury or illness which significantly affects the physical health or condition of any person; and

(iv) includes any physical condition which requires the person to be admitted to hospital or receive ongoing treatment by a medical practitioner beyond initial examination and diagnosis.

Examples of serious injuries/illnesses include:

(i) broken or fractured jaw, arm, ribs or leg;

(ii) blood borne viruses, e.g. hepatitis C, HIV;

(iii) exposure to extreme temperatures causing hyperthermia/hypothermia; and

(iv) loss of consciousness and concussion.

The term injury does not include psychological or psychiatric injury.

Significant event review matter

is an incident involving a member of the Service which by reason of its nature, seriousness, or frequency of occurrence, warrants further consideration.

Where an incident has been categorised as a significant event review matter a review is to be conducted at the district/group level. The assistant commissioner and district officer (see SMD) maintain full discretion and may direct a review of any matter at any time.

OPM Issue 113 Public Edition

1.17.1 District/group significant event review matter

Matters that are to be reviewed without exception

The following matters are required to be reviewed without exception:

(i) a police related incident (as defined above);

(ii) use of a Service firearm (see s. 14.7: 'Use of firearms' of this Manual);

(iii) deployment of a Taser (see s. 14.23.1: 'Definitions' of this Manual);

(iv) pursuits (see s. 15.5: 'Pursuits' of this Manual);

(v) high risk situations (see SMD) and tactically dangerous situations (see s. 17.3.7: 'Tactically dangerous situations' of this Manual);

(vi) deployment of a tyre deflation device (TDD) (see definition for TDD use in s. 14.30: 'Use of tyre deflation devices' of this Manual); and

(vii) boxing in techniques against an occupied vehicle of interest, whether stationary or mobile (see s. 15.1.5: 'Use of Service vehicles to employ boxing in techniques against an occupied stationary vehicle VOI' of this Manual).

Matters which may be reviewed by exception

The following matters are not required to be reviewed unless a failure to do so exposes the Service to significant risk or due to the nature, seriousness, or frequency of occurrence, warrants further consideration. Such a matter may involve non-compliance with Service policy or procedures, a high degree of risk to the Service in terms of operational policing or safety issues or a concerning trend is identified in relation to the matter and/or member(s) including:

(i) use of force of such a nature that by exception as described in this part should be referred to the Business Management Meeting (BMM) (see s. 2.1: Business management meetings' of the MSM) (threshold to be determined by the district officer);

(ii) minor matters not ordinarily required to be referred including where there is a concerning course of conduct relating to a member;

(iii) crashes involving a Service vehicle or vessel;

(iv) camera detected offences;

(v) urgent duty driving in response to priority code 1 and 2 tasks; and

(vi) minor injuries in custody.

1.17.2 Purpose of a significant event review

The purpose of a significant event review is to critically analyse:

(i) police actions during a significant event (see s. 1.18: 'Significant events' of this chapter);

(ii) actions that may expose the Service to significant risk due to non-compliance with Service policy or procedures;

(iii) any degree of risk to the Service in terms of operational policing or safety issues; or

(iv) concerning trends identified in relation to a particular matter and/or Service members.

This will provide opportunities for learning and improvements at the individual, work unit, district or whole-of-Service level. Specifically, significant event reviews should:

(i) identify good and/or inappropriate practices;

(ii) identify issues, causal factors and potential trends in behaviour and practice;

(iii) recommend action to address the cause of inappropriate practice or reduce its effect; and

(iv) promote good practice and a culture of continual improvement.

As part of district and command performance reviews, discussions will include any significant event review and use of force related issues, causal factors and trends in behaviour or practices, as well as what actions addressed the causes of each issue or reduced their effect. Districts and commands should discuss how a culture of continual improvement and good practices were promoted.

The general intent of a significant event review is to consider matters by exception (excluding 'Matters that are to be reviewed without exception' contained in s. 1.17.1: 'District/group significant event review matter' of this chapter). A significant event review is not required for matters that are minor in nature, policy compliant or already dealt with through other avenues, forums or review mechanisms. Only matters reviewed should be recorded in accordance with s. 2.5: 'Information management' of the MSM.

It is not intended for a review to apportion blame to individuals and it is not part of the disciplinary process. However, if during a significant event review a ground for disciplinary action is identified, the matter is to be immediately reported in accordance with s. 6A.1: 'Duty concerning misconduct and other grounds for disciplinary action' of the PSAA (see also the Complaint Resolution Guidelines available on the ESC SharePoint page).

When a reviewable matter is under investigation by the Internal Investigation Group (IIG), ESC, the matter must be referred, in the first instance, to the relevant professional practice manager to determine the investigation status before conducting the review. To avoid duplication of effort, it is not necessary to review a matter which has already been similarly reviewed through other avenues, forums or review mechanisms.

1.17.3 The establishment of a significant event review capability

A significant event review capability is to be established at district level and within Road Policing Group, Emergency Response and Coordination Command (ERCC). It is at the discretion of the relevant assistant commissioner of ERCC and Crime Command to delegate the portfolio to a group level.

For other corporate areas and commands, the establishment of a significant event review capability is at the discretion of the relevant assistant commissioner or executive director where there is a demonstrated need.

1.17.4 Jurisdiction of significant event reviews

Significant event review matters are to be reviewed by the district or command to which the officers involved in the significant event review matter are attached, or 'centrally functioned' to.

Where a significant event review matter involves members of more than one district, command or division, the district in which the event occurred should complete the review.

Where a significant event review matter involves members from other districts or commands, consultation is to occur with the commissioned officer responsible for the member to obtain the necessary information for the review.

The State Dog Bite Committee is the primary forum in which significant use of force incidents involving a police dog are addressed. The State Dog Bite Committee is chaired by the Superintendent, Specialist Services Group and is

OPM Issue 113 Public Edition

responsible for reviewing Category 1 incidents, including the reporting requirements to the Significant Event Review Panel, ERCC (SERP ERCC) i.e. finalising matters for information, or referring matters unable to be dealt with to SERP ERCC (see Police Dog Capability Manual).

1.17.5 Conducting significant event reviews

Significant event reviews are to be managed as a portfolio at district/group level and within existing business arrangements.

The **portfolio manager** means an officer nominated by the district officer or equivalent to consider and evaluate significant events in their area.

The general intent of a significant event review is to analyse matters by exception (excluding 'Matters that are to be reviewed without exception' contained in s. 1.17.1: 'District/group significant event review matter' of this chapter). A detailed analysis of an event is not required if a matter is deemed to be unremarkable in nature, policy compliant or already dealt with via other assurance activities. Significant event reviews are to be conducted independently of any criminal, coronial, internal or workplace health and safety investigation which is being conducted in relation to an incident. However, the findings of such investigations may be used as a source of information.

It is the responsibility of the portfolio manager to consider and evaluate all operational policing activities that have occurred in their area to determine if they require detailed analysis. The process includes:

(i) consideration of all operational policing activities that have occurred for the period;

(ii) categorising each activity as either:

(a) an event that is to be reviewed without exception; or

(b) an event that may be reviewed by exception;

(iii) evaluation of the events that may be reviewed by exception to determine if they meet the definition of a 'significant event review matter', i.e., by reason of its nature, seriousness, or frequency of occurrence the event is likely to expose the Service to significant risk and requires detailed analysis; and

(iv) evaluation of each 'significant event review matter', to determine if:

(a) the event:

- is minor in nature, policy compliant or already dealt with through other avenues; and
- requires no further analysis; or

(b) requires detailed analysis.

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In most instances reviews may be completed by the individual portfolio manager 'on the papers', in so far as the review will only need to consider information that is already documented. Sources of information may include reports generated from an incident debriefing, shift and occurrence logs, significant event messages, dog bite incident reports, QPRIME 'Use of Force Reports', relevant QPRIME occurrences and any other documents produced from the subsequent criminal, coronial, disciplinary and/or workplace health and safety investigation.

Where necessary, subject matter experts should be called upon to assist with the review. Depending on the nature of the incident, advice or assistance may also be sought from the OIC of the member involved in the incident, and members from specialised units or with a specific skill set for example, a qualified OST instructor for use of force matters.

1.17.6 Significant event review considerations

Significant event reviews should consider any issues arising from an incident which highlights deficiencies or which necessitate a need to develop or improve systems, practices, policies, equipment or infrastructure at the individual, work unit and whole-of-Service level. Examples of good practice should also be identified.

The level of analysis or review conducted for each significant event review matter should be commensurate with the seriousness of the incident.

In addition to the general points outlined in s. 1.17.2: 'Purpose of a significant event review' of this chapter, when examining significant event review matters, the following guidelines should be considered:

Police related incidents

A comprehensive review should be undertaken of any incidents involving death or serious injury occurring within their area of responsibility. The factors to be considered for such incidents will vary depending on the nature or circumstances of the incident. However, in completing a review the appointed portfolio manager should:

(i) if available, consider the findings of any investigation made into the incident;

(ii) assess the outcomes of the formal debriefing of the incident;

(iii) when considering the causal factors of the police actions, pay particular attention to issues associated with:

(a) training;

(b) equipment;

(c) existing policies and procedures;

(d) situational awareness;

(e) command and communication; and

(f) access to support; and

(iv) develop and make recommendations for improvements to systems, policies, processes, practices and training if appropriate.

Pursuits

When reviewing pursuits, the appointed portfolio manager should consider:

(i) any relevant history including driver licence and traffic history concerning the drivers of the Service vehicles involved in the pursuit e.g. driver training courses attended and any previous traffic crashes, or camera detected and traffic offences recorded);

(ii) the type of Service vehicle involved and the capabilities of the vehicle;

(iii) whether or not the pursuit was conducted in accordance with Service policy (see s. 15.5: 'Pursuits' of this Manual). In particular:

(a) did the reason for the pursuit fall within the justification for a pursuable matter;

(b) was an appropriate risk assessment conducted. What factors were considered;

(c) were the reasons for and the risks involved continually reassessed during the pursuit;

(d) did the pursuit expose the police, public or occupants of the pursued vehicle to unjustifiable risk;

(e) if appropriate, was the pursuit abandoned (see s. 15.5.11: 'Abandoning a pursuit' of this Manual);

(f) was a debrief of the officers involved in the pursuit conducted (see s. 15.5.13: 'Conclusion of a pursuit' of this Manual); and

(g) in the case of a high-performance police vehicle involved in a pursuit, was the driver authorised to drive such a vehicle in urgent duty driving situations (see s. 15.3.5: 'Use of high-powered vehicles for urgent duty driving' of this Manual);

(iv) any fluctuations or trends associated with pursuits (e.g. significant increases or decreases in number and type) and the underlying causes of such fluctuations or trends; and

(v) any areas of concern involving particular officers and/or work units.

The use of a firearm, conducted energy weapon (Taser) or OC spray

When reviewing incidents involving the use of firearms, Tasers or OC spray, the appointed portfolio manager should consider:

(i) the threat assessment conducted (i.e. the POP—'person', 'object', 'place' process);

(ii) the use of force options available and employed (bearing in mind the Situational Use of Force Model 2016 and the QPS philosophy—COPS: Consider all Options and Practice Safety);

(iii) how the firearm, Taser or OC spray was used (i.e. presented only, deployed etc.);

(iv) whether each firearm, Taser or OC spray use was:

(a) authorised (i.e. was the use in accordance with Service policy);

(b) justified;

(c) reasonable/proportionate/appropriate;

(d) legally defensible; and

(e) tactically sound and effective;

(v) was the officer qualified to use the firearm, Taser or OC spray (i.e. completed the initial training course and was OST qualified to use a Taser or OC spray see s. 14.3.10: 'Operational Skills and Tactics (OST) Training' of the Manual); and

(vi) was an overview of the incident conducted by the OIC of the station or establishment in accordance with s. 14.21.4: 'Reporting the use of Oleoresin Capsicum spray' of this Manual or s. 14.23.8: 'Reporting the use of a Taser' of this Manual, and if so was any action taken (i.e. grounds for discipline reported).

OPM Issue 113 Public Edition

TDD Use

When reviewing TDD use, the extent of the review will depend on the nature and seriousness of the incident, however at a minimum the review should include:

(i) current TDD training qualification of involved officers;

(ii) related TDD QPRIME occurrence;

(iii) body worn camera footage of the involved officers; and

(iv) whether the involved officers demonstrated any at-risk behaviour (see 'Definitions' of s. 14.30: 'Use of tyre deflation devices' of this Manual) during the TDD use including:

(a) deploying a TDD without any officer cover (refer 'Definitions' of s. 14.30: 'Use of tyre deflation devices' of this Manual);

(b) deploying a TDD with officer cover that is not policy compliant; or

(c) breaching their officer cover or unnecessarily entering a roadway during the deployment process.

Crashes involving a Service vehicle or vessel

When reviewing crashes involving Service vehicles or vessels, the appointed portfolio manager should consider:

(i) any relevant history including driver licence and traffic history concerning the drivers of Service vehicles or vessels involved in the incident (e.g. marine or driver training courses attended and any previous traffic crashes, or camera detected and traffic offences recorded);

(ii) the findings of any investigation conducted in relation to the incident (see s. 5.13: 'Investigation of traffic crashes involving Service vehicles' of the TM);

(iii) any fluctuations or trends associated with crashes involving Service vehicles or vessels (e.g. significant increases or decreases in number and type) and the underlying causes of such fluctuations or trends; and

(iv) any areas of concern involving particular officers and/or work units.

Camera detected and other traffic breaches involving a Service vehicle or vessel

When reviewing camera detected or other traffic breaches involving Service vehicles or vessels, the appointed portfolio manager should consider:

(i) any relevant history including driver licence and traffic history concerning the drivers of Service vehicles or vessels involved in the incident (e.g. marine or driver training courses attended and any previous traffic crashes, or camera detected and traffic offences recorded);

(ii) the findings of any investigation conducted in relation to the incident. See s. 15.10: 'Traffic breaches committed by drivers of police vehicles' of this Manual;

(iii) any trends which may identify underlying cause of such occurrences;

(iv) any areas of concern involving particular officers and/or work units.

Urgent duty driving in response to priority code 1 and 2 tasks

While it is acknowledged that statistics relating to priority code 1 and 2 tasks are considered during the Operational Performance Review process, the Road Policing Group significant event review should examine on a bi-annual basis issues and trends relating to priority code 1 and 2 tasks within their area of responsibility. This review should include consideration of any concerns about the inappropriate allocation of priority codes.

High-risk missing persons

The significant event reviews are to overview all high-risk missing person (defined in s. 12.1: 'Introduction' of this Manual) investigations for a minimum period of 6 months from the date the missing person investigation commenced. Where appropriate this may extend past 6 months and until deemed no longer necessary.

1.17.7 Recording and reporting findings and recommendations

ORDER

Significant event reviews are to be conducted, recorded and reported in the Investigation Management and Control application (IMAC) utilising user guide instructions provided by the Integrity and Performance Group, and in such a manner that opportunities for learning and improvements may be identified at the individual, work unit, district and whole-of-Service levels. Specific findings and recommendations are to be tabled for discussion at monthly business management meetings (see s. 2.1: 'Business management meetings' of the MSM) as the appropriate authorising environment.

The chair of the business management meeting is responsible for ensuring that all significant event review findings, recommendations and outcomes are recorded in the meeting minutes and in IMAC.

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Any local remedial action that has been approved should be initiated as soon as practicable. If a recommendation has application on a whole-of-Service level, it is to be forwarded to the Operational Review Unit, ESC for consideration by the Critical Incident Review Sub-Committee (CIRS).

Where appropriate, the district officer will provide constructive comments to the members involved, relating to both good practices and/or areas of practice that could be improved. This feedback may be provided formally or informally.

1.17.8 Critical incident review

A **critical incident** means:

(i) an incident in which it was necessary for an officer on duty to discharge a firearm in circumstances that caused or could have caused injury to a person;

(ii) a death of a person in custody; or

(iii) either of the following in which a person dies or because of which a person is admitted to hospital for treatment of injuries:

(a) a vehicle pursuit;

(b) a workplace incident at a station or establishment; or

(c) a police-related incident involving an officer acting in the course of that officer's duty.

Critical incident review matter

A critical incident event review matter is an incident involving a member of the Service which due to its nature or seriousness warrants further consideration by the Operational Review Unit (ORU), ESC.

A critical incident review matter includes:

(i) a critical incident (as defined above) for which the Internal Investigation Group, ESC has deployed; and

(ii) any significant event matter as directed by the Commissioner or their delegate.

Purpose of a critical incident review

The review and analysis of critical incidents provides the opportunity to:

(i) identify areas for improvement in processes and practices that will enhance the response to future situations;

(ii) communicate relevant information concerning the incident and the subsequent findings to all members to enhance their response to future incidents; and

(iii) provide recommendations to the Critical Incident Review Sub-Committee (CIRS) concerning resources, training, policy, procedure and legislation implications.

This will provide opportunities for learning and growth at the individual, work unit, district and whole-of-Service level. In each case specific findings and recommendations are considered in 3 areas:

(i) processes and practices relative to the incident including tactics and decision making;

(ii) policy, procedure, training and legislation applicable to the situation; and

(iii) use of force employed during the incident (if applicable).

It is not the purpose of a critical incident review to apportion blame to individuals and is not part of the disciplinary process.

ORDER

Critical incident review matters are conducted independently of other relevant criminal, coronial, internal/workplace or workplace health and safety investigations. However, the findings of these investigations may be used as an information source.

Jurisdiction of the Operational Review Unit

The ORU operates under the delegated authority of the Commissioner and extends across all functional areas of the Service.

Throughout the review, the ORU will identify and maintain regular contact with a liaison officer from the respective region, command or division.

Where a review matter involves a specialist area (e.g. SERT), the specialist area will be invited to provide a subject matter expert to assist with the review.

Conducting a critical incident review

Each time that a critical incident review matter occurs, the ORU will conduct a review on behalf of the Service.

On occasion, the Commissioner may also initiate a review of a significant event matter.

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To assist the review, all findings and documentation from any relevant criminal, coronial, internal/workplace or workplace health and safety investigation will be provided to the ORU.

Recording and reporting review outcomes

The ORU will conduct, record and report reviews in such a manner that opportunities for learning and improvements are identified at the individual, work unit and whole-of-Service levels. Specific findings and recommendations will be referred to the CIRS for consideration.

The Inspector, Integrity and Corruption Prevention, ESC is responsible for ensuring that a record of all review matters, including findings and recommendations, are documented in accordance with s. 2.5: 'Information management' of the MSM.

Any remedial action identified following the review should be initiated as soon as practicable. In all instances the result of the review, including findings and recommendations, are to be forwarded to the chair of the CIRS for consideration. Where appropriate, the review should make recommendations to acknowledge and have good work and professional practice formally recognised.

Critical Incident Review Sub-Committee

The CIRS is an advisory and decision-making committee established to strategically manage the findings and recommendations of critical incident review matters, plus other matters as required, and where appropriate take action consistent with the Service's continual improvement philosophy and in accordance with its workplace health and safety obligations to employees and members of the public.

The objectives of the CIRS are to:

(i) identify trends and causal factors in relation to incidents reviewed;

(ii) guide the Service in the implementation of measures to address adverse trends and causal factors in relation to incidents reviewed;

(iii) guide the Service in the implementation of any recommendations to policy, procedures or practices; and

(iv) promote good practice and a culture of continual improvement on a Service-wide basis.

The CIRS reports to the Deputy Commissioner, Specialist Operations. The CIRS is to, where appropriate, act in response to findings and recommendations, consistent with the Service's continual improvement philosophy.

The Senior Sergeant, ORU maintains all secretariat responsibilities consistent with the CIRS role.

1.18 Significant events

A **'significant event'** includes any:

(i) incident involving injuries sustained by Service members on duty or travelling to and from work, which required medical treatment;

(ii) vehicle pursuit. Additional information required in relation to pursuits is contained in s. 15.5.15: 'Investigation of offences committed during pursuits' of this Manual;

(iii) ramming of an emergency service vehicle, including circumstances where a driver of any vehicle uses that vehicle to make forcible contact with an emergency service vehicle where injury or damage occurs (e.g. colliding with, brake checking, and any manoeuvre likely to cause a traffic crash);

(iv) incident resulting in death or serious injury of any person (see SMD for definition of 'serious injury');

(v) incident involving the use or discharge of a firearm by an officer other than for the lawful destruction of an injured or sick animal, during firearms training or other activity authorised pursuant to s. 2(1)(m): 'Application of Act' of the *Weapons Act* (see also s. 14.7: 'Use of firearms' of this Manual);

(vi) incident involving the use of a Taser as contained in s. 14.23.8: 'Reporting the use of a Taser' of this Manual by exception only;

(vii) incident which may impact on the reputation of the Service or the Queensland Government;

(viii) incident which is designated as a major investigation in accordance with s. 2.4.2: 'Evaluation of incident' of this Manual;

(ix) case of a death in custody as outlined in s. 16.23: 'Deaths in police custody' of this Manual;

(x) case of a person in custody attempting suicide or becoming seriously ill or seriously injured;

(xi) case of a child in custody: who attempts self-harm; is assaulted; or becomes ill or injured and requires medical treatment;

(xii) incident where a declaration is made under the *Public Safety Preservation Act*;

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(xiii) incident which instigates a change to the Queensland Police Security Alert Level; and

(xiv) suspension of a search and rescue (SAR) operation in s. 17.5.5: 'Conclusion of SAR operations' of this Manual.

In each of these cases, the RDO or DDO is to ensure a significant event message (SEM) is completed (see s. 1.18.1: 'Significant Event Messaging System' of this chapter).

In the case of (v) above, the RDO or DDO is to ensure the incident is recorded as a 'Police related firearms incident' in the SEM.

In the case of (i) to (v), messages will be accessed by the Director, Safety and Wellbeing.

In the case of (vi) above, a message is only required where:

(i) the incident involves multiple uses of a Taser;

(ii) the incident involves the use of 2 or more Tasers; or

(iii) the RDO or DDO directs the subject officer to furnish a SEM.

In the case of (viii), messages will be accessed by Crime Stoppers so officers can ask appropriate questions of callers regarding unsolved offences (see s. 5.6.12: 'Information released by police seeking public assistance in the investigation of incidents and crimes' of the MSM).

In the case of (xiii) above, members are to comply with the roles and responsibilities assigned in the Queensland Police Security Alert Level (QPSAL) Handbook.

When a Service member is found committing or is suspected of having committed an offence, a SEM is not to be sent. The matter is to be dealt with in accordance with the Ethical Standards Command, Complaint and Client Service Reporting policy. RDOs are to ensure the on-call Duty Officer, Internal Investigations Group, is immediately advised. However, where the driver of a police vehicle is detected committing an alleged breach of s. 79 or 80 of the *Transport Operations (Road Use Management) Act*, the Service member is to be dealt with in the same manner as members of the public.

Information contained within a SEM is not for general broadcast.

Significant events (advice to Minister)

At the direction of the relevant assistant commissioner, a QPS Ministerial Briefing Note (MBN) is to be completed if it is considered the incident involves controversial or major issues. The MBN is to be completed by the RDO or DDO and forwarded for attention of the relevant assistant commissioner. The MBN is to be completed as soon as the relevant facts surrounding the significant event are verified.

Significant events which may require an MBN for advice to the Minister include the following:

(i) a declaration of an emergency situation under the *Public Safety Preservation Act*;

(ii) a major incident (e.g. a bus crash with multiple fatalities or serious injuries);

(iii) major criminal investigations (e.g. murder or attempted murder of a foreign national);

(iv) politically sensitive or motivated incidents (e.g. major demonstration at function attended by a Member of Parliament);

(v) environmentally significant incidents (e.g. a major chemical spill);

(vi) incidents involving possible legal ramifications;

(vii) incidents drawing media and community interest (e.g. a serious sexual offence against a child on the way to school);

(viii) the death or serious injury of a person in police custody or in a police related incident;

(ix) the death or serious injury of a police officer; and

(x) an incident involving suspected illegal immigrants or suspected illegal fishing vessels and crew.

When a RDO or DDO furnishes a SEM in accordance with the provisions of this section:

(i) the RDO or DDO is to ensure the SEM is sent as soon as practicable. In protracted significant events, an initial message is to be followed by update(s) when further facts are established;

(ii) the RDO or DDO is to assess all available information in relation to the event and ensure the SEM has been noted as to whether or not an MBN is required;

(iii) where an MBN is required, the RDO or DDO is to draft an MBN and submit it to the relevant assistant commissioner for the region;

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(iv) assistant commissioners of regions or commands (or their delegates), who receive a draft MBN in relation to a significant event are to assess the information and, if required, submit it for the attention of their respective deputy commissioner;

(v) assistant commissioners of regions or commands (or their delegates) are to monitor all SEMs originating in their region/command, ensuring appropriate action is taken in relation to any MBNs;

(vi) between the hours of 0800 hrs and 1700 hrs, Monday to Friday, excluding public holidays, assistant commissioners of regions or commands or their delegates, are to ensure SEMs, and where appropriate MBNs, are forwarded through their chain of command. Outside of these hours they are to be forwarded to the Duty Officer, Police Communications Centre (PCC);

(vii) the Duty Officer, PCC, is to assess if the information:

(a) is required to be brought to the attention of the Duty Executive Officer urgently, and ensure the Duty Executive Officer is advised immediately; or

(b) does not require immediate notification and ensure the duty executive officer is advised at the next available opportunity;

(viii) the Duty Executive Officer is to assess the information and ensure where appropriate, MBNs relating to instances involving controversial or major issues are immediately forwarded to the Minister for Police;

(ix) the Duty Executive Officer is to ensure:

(a) the Commissioner and the on-call deputy commissioner are provided a copy of the MBN provided to the Minister for Police; and

(b) the nominated senior policy advisor to the Minister for Police is verbally advised when the Minister for Police is advised; and

(x) the Inspector, PCC, Brisbane, is to maintain current contact details for the Minister for Police, Commissioner of Police, deputy commissioners, and the senior policy advisor to the Minister for Police and Emergency Services and Minister for Corrective Services.

1.18.1 Significant event messaging system (SEMS)

The purpose of a significant event message (SEM) is to provide immediate information on a situation as it is known at that time (i.e. a Situation Report (SITREP)). Further updates and clarifications may be necessary as the response to the incident progresses.

Significant Event Messages do not take the place of formal reporting. They do not require large amounts of information (particularly the first message) and do not require elaborate detail. If further clarification is requested, an update can be provided.

Detailed instructions regarding the use of the SEMS are contained in the SEMS User Guide, which is maintained by Frontline and Digital Division and located on the Service Intranet.

Completion of a significant event message

In addition to the requirements of s. 1.4.6: 'Responsibilities of regional duty officer, district duty officer and shift supervisor' of this chapter regarding significant events, members completing or overviewing a SEM on the SEMS should:

(i) determine whether the incident requires a message i.e. would the assistant commissioner or other members of the Senior Executive need to know about the incident;

(ii) be concise in their reporting of the incident. The message should contain sufficient information to provide advice, but specific details are not generally required (i.e. complete lists of property or elaborate detail of an offence). The message is a SITREP, not a full report;

(iii) ensure the incident is suitable for broadcast on SEMS. Disciplinary matters concerning members of the Service should not be entered on the system. Sound judgement should also be applied to other contentious or confidential issues;

(iv) ensure the information is appropriate for this type of message (i.e. only broad details of offence particulars are required for incidents such as sexual assaults. For example the location, status of investigation etc. in these cases, the QPRIME occurrence would contain the explicit details of the offence);

(v) if information is interim advice only, advise what is known and provide an update later; and

(vi) seek advice from their supervisor or where applicable, the regional or district duty officer if guidance is required.

If confidential or sensitive information is required to be passed to the senior executive, the region or command office may make direct contact with the responsible deputy's office or after hours with the Duty Executive Officer. Advice will be provided as to the appropriate method for provision of such information.

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SEM are given a unique number. To update an existing message, complete the update fields and submit as usual.

Accessing a significant event message

SEM are automatically forwarded as per the SEMS User Guide.

Access to the system is based on the user's level of access. For information on access levels and authority to modify access levels refer to the SEMS User Guide.

SEM can be accessed via any Service computer as follows:

(i) from the People and Assets SharePoint page; and

(ii) select the required message or use the 'Basic search' or 'Advanced search' functions and enter relevant search criteria to locate message.

1.19 Queensland Police Security Alert Level (QPSAL)

The Queensland Police Security Alert Level (QPSAL) system is a communication tool to inform members of the Service about the protective security posture to be applied in the current threat environment.

The QPSAL is a three-tiered action orientated system that helps OIC and managers ensure appropriate measures are adopted at the assigned level at their establishment and by their staff. The levels are:

BE AWARE	**LEVEL 1** A credible general threat has been identified and an attack against QPS personnel may occur. Moderate station & personnel security measures apply
BE ALERT	**LEVEL 2** A credible specific threat has been identified and an attack against QPS personnel is likely. Elevated station & personnel security measures apply
BE READY TO ACT	**LEVEL 3** An attack against QPS personnel is imminent, occurring or has occurred. Maximum station & personnel security measures apply.

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In the normal threat environment, the Service statewide security alert level is BE AWARE.

The QPSAL aims to help protect Service members and establishments, by:

(i) raising awareness of the current threat environment and likelihood of attack;

(ii) ensuring members adopt an appropriate level of vigilance in their workplace; and

(iii) informing an appropriate selection of protective security measures to prepare, deter and respond to an attack or act of violence.

The QPSAL is informed by an assessment of national security information and Service holdings which indicate the likelihood of a threat to Service members and establishments.

A change in security alert levels may be applied across single or multiple stations or establishments (based on geographical location), single or multiple districts or regions, or on a statewide basis depending on the nature and type of threat identified.

A district officer has the authority to make changes to the alert level at one or multiple stations within their district or across their whole district.

An assistant commissioner has the authority to make changes to the alert level at one or multiple districts within their region, or across their region.

Only the Commissioner or a deputy commissioner has authority to alter alert levels statewide or across multiple regions.

Security alert levels for establishments located within specific geographical areas (district or region) that are part of a command or division, are only to be raised in consultation with the relevant district officer or assistant commissioner for that geographical area.

Members identifying a credible threat of attack against Service member/s or establishments that may warrant a change in QPSAL level are to ensure advice is promptly reported to their OIC or Manager for consideration of referral to the relevant district officer or assistant commissioner as appropriate.

OIC and managers receiving advice of threats impacting members or establishments under their control should consider the need to implement appropriate protective security measures independent of the QPSAL process and whether or not there are any changes to security alert levels.

District officers and assistant commissioners are to ensure communication arrangements are established within their district or region to facilitate timely advice of QPSAL changes to all stations and establishments including raising or lowering their alert level.

The Assistant Commissioner, Security, Counter-Terrorism and Forensic Services Command will recommend changes to the QPSAL level resulting from significant changes in the security environment.

The Assistant Commissioner, Crime Command will recommend changes to the QPSAL level resulting from credible threats identified by units within Crime Command.

OIC and managers are to ensure QPSAL signage of the current alert level is displayed at their establishment to ensure it is clearly communicated to all staff.

The roles and responsibilities of officers and additional information regarding the QPSAL can be found in the QPSAL Handbook located on the Specialist Operations SharePoint page.

OPM Issue 113 Public Edition

Appendix 1.1 NOTICES—Recording initial demand

N	Nature of incident	Describe the nature of the incident.
O	Offender status	What is the offender's present location? Consider person, object and place.
T	Threats	What are the known or implied threats?
I	Identifiers	What are the descriptions (identifiers) of persons or vehicles etc.?
C	Computer checks	What computer checks are required for this incident?
E	External agencies	Which external agencies must I advise regarding this incident?
S	Supplementary information	What assistance or advice can I provide to the caller?

OPM Issue 113
Public Edition

Appendix 1.2 SOLVE—Recording initial demand

Elements	Factors	Considerations		
		Low	Medium	High
Severity	• What is the relative severity of the incident or offence? • What is the impact or potential impact on the victim and the community? • What is the scope of the potential damage/loss?	Low risk of impact to life/property/community if no police attendance, not severe in relative terms with other indictments, damage or loss minor	Potential harm to life/property/community may be present at incident and there is a level of risk in terms of severity of the incident relative to other incidents	Loss of life/property and/or severe impact to community highly likely police don't attend
Opportunity	• Does the incident or offence represent an intervention opportunity to prevent or disrupt recidivism, repeat victimisation, or a pattern of offending? • Is the incident or offence an opportunity to gather evidence or intelligence of broader importance than the immediate offence or incident? • Does the incident or offence represent an opportunity to engage with the community or partners to achieve an outcome of strategic or operational importance?	Unlikely any opportunity to prevent or disrupt recidivism/repeat victimisation or ID patterns or gather intel/evidence through attendance, nil strategic/operational significance through engagement	Potential opportunity to prevent or disrupt recidivism/repeat victimisation or ID patterns or gather intel/evidence through attendance, nil strategic/operational significance through engagement	High opportunity to prevent or disrupt recidivism/repeat victimisation or ID patterns or gather intel/evidence through attendance, and contribute to matters of strategic/operational significance through engagement
Likelihood	• What is the likelihood of the harm or threatened harm occurring or reoccurring? • What is the likelihood of a police response being effective at resolving or mitigating the incident or of solving the offence? • What is the likelihood that evidence will be lost if attendance is delayed?	Unlikely for harm to occur/reoccur or police being effective in resolving or solving through attendance, no potential for loss of evidence if police do not attend	Some possibility of harm occurring/reoccurring or police being able to resolve or solve through attendance to prevent repeat CFS or some potential to prevent loss of evidence through attendance	High chance of harm occurring/reoccurring and police being effective in resolving and solving through attendance and prevent loss of evidence
Vulnerability	• Is the person(s) impacted by the incident or the offence vulnerable? • Does the incident or offence increase the vulnerability of the whole community or its institutions (e.g. corruption, offences against people performing public functions)?	Person impacted by incident not vulnerable nor is incident likely to increase vulnerability of community/institutions	Person impacted (victim or offender) may be vulnerable and/or incident may increase vulnerability of community/institutions	Multiple vulnerabilities exist in the persons impacted and/or the incident will increase the vulnerability of community/institutions
Expectations	• When considered in the full context of competing demands and available resources, what would the community expect police to do in response to the incident or offence? • Are there applicable policies or statutory requirements that impact on a response to the incident or offence?	No community expectations in attending incident and nil policies or statutory requirements to attend	Some community expectations in attending incident or some policy or statutory requirements to attend	High community expectation to attend and high levels of policy/statutory requirements to attend
Professional Judgement				

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Appendix 1.3 Deleted

Appendix 1.4 Deleted

Appendix 1.5 Deleted

OPM Issue 113
Public Edition

Appendix 1.6 Agreed guidelines for helicopters operating near scenes of police operations

(s. 1.12.5)

Background

The following guidelines have been adopted by the Queensland Police Service, the Helicopter Association of Australia and the media for coverage by helicopters of the scenes of accidents, sieges, murders, etc.

Operating levels and distances

Inside built-up areas: 1000 feet (or 300 metres) overhead, 500 metres laterally from the scene.

Outside built-up areas: 500 feet (or 150 metres) overhead, 300 metres laterally from the scene.

Siege situations: 1000 feet (or 300 metres) overhead, 1000 metres laterally from the scene.

Duration of operations

Operations over the scene are to be confined to a few minutes to minimise noise.

Landing site selection

Landing sites are to be approximately 200 metres downwind from the scene (including roped-off, 'secondary' or otherwise reasonably extended scenes as well as the focal point of the operation).

Experience has demonstrated that no adverse effect by way of noise or rotor wash will be occasioned when these guidelines are followed.

Media relations generally

Police can request media representatives not to publish operationally sensitive material, publication of which might impede investigations and/or any subsequent trial. This includes photographs in some cases, such as photographs of Special Emergency Response Team members' faces. Police have no other role in restricting what the media can publish, on the grounds of good taste or otherwise. If reasonable requests are likely to be ignored, contact should be made, through the Media and Public Affairs Group, with the management of the news media concerned.

Instructions

(1) The police forward commander or incident coordinator in charge of an area covered by the media from a helicopter is to ensure that the operational guidelines set out above are accepted by police and that no more stringent restrictions are requested.

(2) If there is any apparent infringement of the guidelines, the police forward commander or incident coordinator in charge of the scene will liaise with the media and civil aviation authorities to reduce the possibility of conflict and unnecessary interruption to police investigations.

OPM Issue 113 Public Edition

Appendix 1.7 Standard plans

(s. 1.12)

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

OPM Issue 113
Public Edition

Chapter 2—Investigative Process

2.1 Introduction 107

2.1.1 Use of the Police Powers and Responsibilities Act 107
2.1.2 Registers required to be kept 108

2.2 Deleted 114

2.3 Deleted 114

2.4 Incident management 114

2.4.1 First response procedure at an incident scene 115
2.4.2 Evaluation of incident 115
2.4.3 Routine investigations 115
2.4.4 Serious non-criminal situations 115
2.4.5 Major investigations 115
2.4.6 Preservation of incident scenes 116
2.4.7 Log of events 117
2.4.8 Communication 118
2.4.9 Guarding an incident scene 119
2.4.10 Reporting responsibilities 120
2.4.11 Video and photographic evidence recorded during the commission of offences 120
2.4.12 Roadblocks 122

2.5 Investigation 123

2.5.1 Commencement and conduct of investigations 123
2.5.2 Use of discretion 125
2.5.3 Investigation of serious assault offences where police officers performing duty are victims 125
2.5.4 Rewards for information leading to the apprehension and conviction of offenders 125
2.5.5 Use of digital devices 129
2.5.6 Removal of prisoners/children from corrective services facilities and youth detention centres 132
2.5.7 Removal of prisoners from a watch-house 140
2.5.8 Entering school premises 141
2.5.9 Offences committed at sea 141
2.5.10 Telecommunications interception 144
2.5.11 Use of listening devices and applications for surveillance device warrants 147
2.5.12 Cybercrime reporting and investigation 147
2.5.13 Pretext conversations 149
2.5.14 Investigative interviewing 149
2.5.15 Sexual assault counselling privilege 149
2.5.16 Reportable incidents by aged care providers 152

2.6 Specialist investigation 152

2.6.1 Fire investigation 153
2.6.2 Homicide 158
2.6.3 Sexual offences 162
2.6.4 Fraud 173
2.6.5 Armed robbery 175
2.6.6 Clandestine illicit drug laboratories 175
2.6.7 Illicit drug crops 177
2.6.8 Specialist cybercrime investigations 178
2.6.9 Violent/Sexual Crime Database 179
2.6.10 Electronic evidence examination 180
2.6.11 Workplace and electrical incidents 182
2.6.12 Extortion and product contamination 184
2.6.13 Kidnapping for ransom 184
2.6.14 Joint investigations with external agencies 184
2.6.15 Firearm offences 185
2.6.16 Rural and stock 187
2.6.17 Wage theft 188
2.6.18 Anti-money laundering and Counter Terrorism financing 189

OPM Issue 113 Public Edition

2.7 Crime Command 189

2.7.1 Role of Crime Command upon engagement in investigations with regions 190
2.7.2 Notifying Crime Command 191
2.7.3 Child Abuse and Sexual Crime Group 192
2.7.4 Drug and Serious Crime Group 192
2.7.5 Financial and Cyber Crime Group 192
2.7.6 Homicide Group 193
2.7.7 Organised Crime Gangs Group 194
2.7.8 State Intelligence Group 195
2.7.9 Youth Crime Group 195
2.7.10 Covert and Specialist Operations Group 195

2.8 Entry, search and seizure 195

2.8.1 Search of a person 197
2.8.2 Search of a place 197
2.8.3 Obtaining a search warrant 199
2.8.4 Execution of search warrants 201
2.8.5 Legal or journalist privilege 204
2.8.6 Coroner's search warrant 205
2.8.7 Emergent searches of places to prevent loss of evidence 205
2.8.8 Search warrants (administrative arrangements) 205
2.8.9 Seizure of footage recorded by the media 206
2.8.10 Seizure of electronic storage devices used to record police activities 206
2.8.11 Seizure 206
2.8.12 Production notices and access orders 207
2.8.13 Retention of electronic recordings of searches 208
2.8.14 Execution of search warrants on the premises of a member of the Queensland Legislative Assembly 208
2.8.15 Storage device information access order 209

2.9 Covert operations involving law enforcement participants 209

2.9.1 Witness identity protection certificates 209
2.9.2 Human source management 209

2.10 Intelligence 210

2.10.1 The intelligence network 210
2.10.2 Intelligence submissions 210
2.10.3 Caveat for intelligence products 210
2.10.4 The Australian Criminal Intelligence Database 211
2.10.5 Central register of operations 211
2.10.6 Online intelligence 214

2.11 Identification of suspects 217

2.11.1 General information 217
2.11.2 Eyewitness identification 218
2.11.3 Means of identification 218
2.11.4 Fingerprint, palmprint and footprint identification 219
2.11.5 Identification parades 219
2.11.6 Video line-ups 219
2.11.7 Photographic identification 221
2.11.8 Comfit identification (computer generated images) 222

2.12 Victims of crime 223

2.12.1 The Charter of Victims' Rights (The Victims' Charter) 223
2.12.2 Victim Support Service (Office of the Director of Public Prosecutions (State)) 229
2.12.3 Victim Assist Queensland 229
2.12.4 Disease test orders (blood and urine testing) 229
2.12.5 Non-contact orders 231
2.12.6 Continuing detention and supervision orders 233
2.12.7 Electronic monitoring of dangerous prisoners (sexual offenders) 234
2.12.8 Electronic monitoring of prisoners on parole 234

OPM Issue 113 Public Edition

2.12.9 Victims' Register—Youth Offenders 234

2.13 Statements 235

2.13.1 Introduction 235
2.13.2 Information to be included in a statement 236
2.13.3 Hearsay evidence 237
2.13.4 Persons with vulnerability, disability or cultural needs 238
2.13.5 Sexual assault victims 238
2.13.6 Statements by members of the Service 238
2.13.7 Human source statements 238

2.14 Deleted 239

2.15 Crime and Corruption Commission 239

2.15.1 Use of specialist investigation units 239
2.15.2 Witness protection 239

2.16 False complaints 240

2.17 Investigation of perjury and fabricating evidence offences 241

2.18 Attempt to pervert justice investigations 241

2.19 Specialist support 242

2.19.1 Call out procedure for specialist support 242
2.19.2 Costs and compensation 242
2.19.3 Disaster Victim Identification Squad 243
2.19.4 Dog squad 244
2.19.5 Deleted 247
2.19.6 Forensic Services Group (FSG) 247
2.19.7 Deleted 252
2.19.8 Mounted Unit 252
2.19.9 Deleted 253
2.19.10 Queensland Government Air (QGAir) 253
2.19.11 Police Diving Unit 254
2.19.12 Deleted 255
2.19.13 Deleted 255
2.19.14 Deleted 255
2.19.15 Water police 255
2.19.16 Railway Squad 256
2.19.17 Deleted 257

2.20 State Emergency Service 257

2.21 Helicopter operations 258

2.21.1 Assistance of government and community helicopter providers at incidents 258
2.21.2 Helicopter tasking (government and community helicopter providers) 259
2.21.3 Polair Queensland tasking 261
2.21.4 Helicopter tasking (private helicopter services) 263

2.22 Police Drug Diversion Program 263

2.22.1 Eligibility for drug diversion 264
2.22.2 Initial contact with minor drug offender 264
2.22.3 Determining eligibility for drug diversion 264
2.22.4 Offer of drug diversion 265
2.22.5 Acceptance of offer of drug diversion 265
2.22.6 Rescheduling of a drug diversion assessment program 266
2.22.7 Refusal of offer of drug diversion 266
2.22.8 Eligible defendant not offered drug diversion 267
2.22.9 Ineligible for drug diversion 267
2.22.10 Forfeiture of minor drugs matter 267

OPM Issue 113 Public Edition

2.22.11 Drug diversion assessment program outcomes 267
2.22.12 Other outcomes from the diversion process 268
2.22.13 Limit on re-arrest 268
2.22.14 Duty of prescribed police officers 268
2.22.15 Members investigated for a minor drugs offence 269

2.23 Forensic procedures 269

2.23.1 Forensic procedure consent 269
2.23.2 Forensic procedure orders 271

2.24 Non-medical examinations 282

2.24.1 Non-medical examinations (approval and performance) 283
2.24.2 Obtaining non-medical examination approval from an authorised police officer 283
2.24.3 Non-medical examination notice 284

2.25 DNA 285

2.25.1 Deleted 285
2.25.2 Obtaining DNA from suspects/offenders/accused persons 285
2.25.3 Obtaining DNA from reportable offenders 286
2.25.4 Issuing of DNA sample notices 287
2.25.5 Court order under s. 484 or s. 485 of the PPRA 288
2.25.6 Obtaining samples for DNA analysis from a victim/complainant/witness 289
2.25.7 Obtaining DNA sample from child 289
2.25.8 Sampling offenders/suspects by court order or other authority under the PPRA 290
2.25.9 Sampling by consent 292
2.25.10 Deleted 292
2.25.11 Intelligence led DNA screening 292
2.25.12 Transit of DNA samples 293
2.25.13 DNA profile link notification 293
2.25.14 Evidentiary certificate challenged by defence 293
2.25.15 When DNA samples and results are to be destroyed 294
2.25.16 Obtaining DNA from prisoners 294
2.25.17 Sampling of items for trace DNA 294
2.25.18 Collection of trace DNA exhibits 295
2.25.19 Collection and preservation of potential forensic evidence when a scenes of crime officer is unavailable 295
2.25.20 Items of clothing worn by a complainant 296
2.25.21 Requesting interstate law enforcement agency for a DNA person/DNA crime scene profile or to perform a DNA comparison 296
2.25.22 Familial DNA search requests 296

2.26 Identifying particulars 297

2.26.1 Relationship to other procedures 297
2.26.2 When to take identifying particulars 298
2.26.3 Identifying particulars notice 298
2.26.4 Photographs 299
2.26.5 Fingerprinting 300
2.26.6 Voice recordings 302
2.26.7 Destruction of identifying particulars 302
2.26.8 Taking fingerprints for occupational licensing 303

2.27 Attendance required by court orders, directions to attend and reporting notices for the performance of a forensic procedure 304

2.27.1 Persons attending a place, police station or police establishment in accordance with an order, requirement or direction (original direction) 304
2.27.2 Later direction 305
2.27.3 Non-compliance with a reporting notice 305

2.28 Requesting information from transport industry bodies 306

2.28.1 Obtaining security recordings from taxi companies 306
2.28.2 Obtaining video recordings from the Department of Transport and Main Roads 309

OPM Issue 113 Public Edition

2.28.3 Railway related offences 309
2.28.4 Uber information requests 310
2.28.5 Brisbane City Council (Transport for Brisbane) bus CCTV footage 311

2.29 Public transport exclusion orders and civil banning orders 313

2.29.1 Exclusion orders 314
2.29.2 Civil banning orders 315
2.29.3 Action before commencing a proceeding against a person for contravening an exclusion order, interim civil banning order or civil banning order 317
2.29.4 Police application to amend or revoke an exclusion order or civil banning order 318
2.29.5 Action when a person who is subject of an exclusion order or civil banning order applies for the order to be amended or revoked 319

2.30 TransLink senior network officers 319

2.30.1 Definitions 319
2.30.2 Powers of TransLink senior network officers to detain persons 319
2.30.3 TransLink senior network officer to contact police after detaining a person 320
2.30.4 Action prior to and subsequent to accepting custody of detained person from a TransLink senior network officer 321
2.30.5 Actions where injuries sustained by the detained person 321
2.30.6 Complaints made against TransLink senior network officer by detained person 322
2.30.7 TransLink senior network officer suspected under the influence of liquor or drug while on duty 322
2.30.8 Action where TransLink SNO has detained a person for an offence outside of the scope of Part 4A of the Transport Operations (Passenger Transport) Act 322
2.30.9 Release of information to TransLink senior network officers 322
2.30.10 Death of person or serious injury of person which may result in death while being detained by TransLink senior network officer 323

2.31 Policing of serious and organised crime 323

2.31.1 Consorting 323
2.31.2 Public safety orders 328
2.31.3 Restricted premises orders 332
2.31.4 Fortification removal orders 333
2.31.5 Application for Peace and Good Behaviour Act court orders 335
2.31.6 Service of Peace and Good Behaviour Act applications and court orders 336
2.31.7 Control orders 337
2.31.8 Body art tattooing business closure orders 339
2.31.9 Miscellaneous procedures relating to serious and organised crime 341

2.32 Prescribed offences and relevant assault offences 342

2.32.1 Circumstance of aggravation for prescribed offences (including relevant assault offences) 342
2.32.2 Deleted 343
2.32.3 Deleted 343
2.32.4 Obtaining breath, saliva, blood or urine specimens for relevant assault offences 343
2.32.5 Property and testing procedures 344

2.33 Security, Counter-Terrorism and Forensic Services Command 345

2.34 Threats to Service members 345

2.35 Firearm prohibition order 345

2.35.1 Definitions 346
2.35.2 Authority to make firearm prohibition order 346
2.35.3 Application process 347
2.35.4 Service of firearm prohibition orders 347
2.35.5 Recording of searches and use of enforcement powers—QPRIME Occurrences 347
2.35.6 Searches 348
2.35.7 Compliance 349
2.35.8 Firearm Prohibition Order Unit 349

Appendix 2.1 Guidelines for conducting identification parades 350

OPM Issue 113 Public Edition

Appendix 2.2 Rehabilitation of convictions generally 351

Appendix 2.3 Indicative list of responsibilities for criminal investigations 353

Appendix 2.4 Intergovernmental agreement—crimes at sea 355

Appendix 2.5 Agreement for a national protocol for receiving reports of crimes at sea 358

Appendix 2.6 Forensic procedure type table 361

Appendix 2.7 Evaluation—Admiralty Code 364

Appendix 2.8 Risk control measures for conducting searches of places 365

Appendix 2.9 Helicopter landing areas 366

Appendix 2.10 Removal of prisoners/children from Corrective Services facilities/youth detention centres as suspects 368

Appendix 2.11 Removal of prisoners from Corrective Services facilities for law enforcement purposes 369

Appendix 2.12 Prisoner removal audit checklist for QPRIME 370

Appendix 2.13 Deleted 371

Appendix 2.14 Civil Banning Order fact sheet 372

Appendix 2.15 Protocols for the execution of search warrants by the Queensland Police Service on the premises of a member of the Queensland Legislative Assembly 374

OPM Issue 113 Public Edition

2.1 Introduction

POLICY

The investigative process is applicable to a wide variety of policing functions, both reactive and proactive. It is essentially a process which enables police to identify and prosecute offenders and to work with members of the community to solve problems. Officers are to apply appropriate and ethical investigative procedures when performing their duties.

The investigative process commences at the time an incident comes to the attention of an officer and concludes when the prosecution proceedings are finalised (see also Chapter 3: 'Prosecution Process' of this Manual). Complete and efficient investigation is critical to the achievement of desirable outcomes which are acceptable to the community.

Officers should refer to s. 1.11: 'QPRIME (Policelink entered occurrences)' of this Manual as far as offence occurrence requirements are concerned.

2.1.1 Use of the Police Powers and Responsibilities Act

General police powers and responsibilities when conducting an investigation

ORDER

Officers are to ensure, where appropriate while conducting an investigation, they are conversant with the safeguards and powers contained in the PPRA, the responsibilities and procedures prescribed in the Police Powers and Responsibilities Regulation (PPRR), which contains the Police Responsibilities Code (PRC), any other applicable legislation as well as the contents of this Manual.

When not to use the Police Powers and Responsibilities Act

In matters which are dealt with by Acts included in Schedule 1: 'Acts not affected by this Act' of the PPRA (**'Schedule 1 Acts'**) and Schedule 10: 'Relevant laws' of the PPRR, (e.g. incidents of domestic violence are dealt with under the DFVPA), the powers and responsibilities contained in the PPRA should not be used if the power or responsibility is one which an officer has under the relevant Schedule 1 Act.

Although the *Youth Justice Act* is a Schedule 1 Act, s. 365: 'Arrest without warrant', 365A: 'Arrest without warrant upon instruction of another police officer' and Chapter 15: 'Powers and responsibilities relating to investigations and questioning' of the PPRA are to be used to the extent to which they apply to children.

When provisions of the Police Powers and Responsibilities Act and Schedule 1 Acts apply concurrently

Officers investigating matters which are generally dealt with under the provisions of a Schedule 1 Act, (e.g. domestic violence is dealt with by the DFVPA), are to where necessary, make use of those investigative powers provided by the PPRA which officers do not have under the Schedule 1 Act.

Examples

Section 19 of the PPRA provides a power for officers to enter a place and remain for a reasonable time to serve a document, such as a domestic violence order. The DFVPA provides no such power.

Section 467of the PPRA provides a power for officers to photograph or take the identifying particulars of a person charged with the offence of contravening a domestic violence order. A similar power is not contained within the DFVPA.

Officers are also to fulfil any responsibilities imposed upon officers by the provisions of the PPRA that are not imposed by a similar provision of the relevant Schedule 1 Act.

Example

An officer arresting a person for contravening a domestic violence order is to, as soon as reasonably practicable supply the officer's name, rank and station, and if in plain clothes inform the person that the officer is a police officer and produce the officer's identity card. This responsibility is imposed by s. 637(2) and (3) of the PPRA and no similar provision exists in the DFVPA.

When the Police Powers and Responsibilities Act overrides Acts other than Schedule 1 Acts

The powers and responsibilities under the PPRA are to be used and complied with when an Act (not a Schedule 1 Act):

(i) does not confer a power or impose a responsibility; or

(ii) does confer a power or impose a responsibility and the PPRA confers a similar power or imposes a similar responsibility.

When a power or responsibility contained in an Act other than a Schedule 1 Act applies

If the PPRA does not confer a power on a specific issue, but an Act (not a Schedule 1 Act) does provide such a power (e.g. s. 41(1) of the *Drugs Misuse Act* which empowers a police officer to apply for a restraining order against property liable to forfeiture in consequence of the commission of an offence defined in Part 2 of the Act where proceedings have been or are about to be commenced)—that power is to be used and any responsibilities relevant to the exercise of that power are to be performed.

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Additional powers for relevant laws

Section 22: 'Power to enter etc. for relevant laws' of the PPRA empowers a police officer to enter and stay on a place used for a purpose under a license under a relevant Act. Schedule 10: 'Relevant laws' of the PPRR contains a list of relevant Acts for the purpose of s. 22 of the PPRA.

Use of Police Powers and Responsibilities Act when interviewing offenders

Chapter 15, Part 3 (ss. 414 to 441): 'Safeguards ensuring rights of and fairness to persons questioned for indictable offences' of the PPRA and Part 4 (ss. 21 to 34): 'Responsibilities relating to investigations and questioning for indictable offences apply to a person in custody for indictable offences.

Although there is no legislative requirement for these provisions to apply to other offences, to preclude argument as to weight of evidence, officers are to consider applying these safeguards and responsibilities in relation to non-indictable offences of a serious nature (e.g. possession of a concealable firearm).

Whenever officers intend to interview a person in relation to an offence which may result in the person being charged with either a non-indictable or an indictable offence (e.g. interview for an offence which may constitute a regulatory offence or imposition or, depending on other factors, such as the criminal history of the offender, may result in a charge of an indictable offence under the Criminal Code), officers are to comply with the above mentioned safeguards and responsibilities from the outset.

Use of Police Powers and Responsibilities Act to obtain warrants, orders etc., by telephone or similar facility

An officer may apply for a prescribed authority and where they consider it necessary because of:

(i) urgent circumstances; or

(ii) other special circumstances, including, the officer's remote location,

may make application by phone, fax, radio, email or another similar facility (see s. 800: 'Obtaining warrants, orders and authorities, etc., by telephone or similar facility' of the PPRA).

Where an officer intends to obtain a prescribed authority and the application is required to be made by phone, fax, radio, email or another similar facility, the applicant officer is to:

(i) prepare an application on the same form that is normally used to obtain the specific prescribed authority (e.g. QP 0711: 'Application for search warrant' under s. 151: 'Issue of search warrant' of the PPRA);

(ii) ensure the application indicates the reason the application cannot be made in person, (e.g. because of remote location of the applicant officer);

(iii) contact the person who may issue the prescribed authority and ascertain how they would prefer to hear the application;

(iv) answer any questions the person has about the application and record the details of the conversation in an official police notebook;

(v) in cases where the prescribed authority requires the application must be sworn, have possession of a bible or the wording of the affirmation and swear, or affirm, the application at the appropriate time;

(vi) in cases where the person agrees to issue the prescribed authority but is unable to fax it, complete a form of prescribed authority and write on it:

(a) the issuer's name;

(b) the terms of the prescribed authority; and

(c) the day and time the prescribed authority was issued.

The form of prescribed authority will be the same form that is usually used for the issuance of the specific prescribed authority (e.g. QP 0712: 'Search warrant' if the prescribed authority is a search warrant issued under s. 151: 'Issue of search warrant' of the PPRA); and

(vii) ensure the exercise of power authorised by the terms of the prescribed authority is performed.

2.1.2 Registers required to be kept

Chapter 21, Part 2: 'Registers' (ss. 660–685) of the PPRA and Part 7: 'Responsibilities relating to registers' (ss. 47–72) of the Responsibilities Code (PRC) require a register entry to be made for any:

(i) 'covert act'; and

(ii) 'enforcement act',

as defined by Schedule 6: 'Dictionary' of the PPRA.

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The taking of a patient, other than a voluntary patient, to an authorised mental health service is also to be considered as an enforcement act for the purposes of completing registers in accordance with the PPRA. See subsection 'Completion of QPRIME custody reports for mentally ill persons' of s. 6.6.1: 'Mental distress or crisis' of this Manual.

Additionally the detention of a person, under s. 32: 'Power to detain' of the *Public Safety Preservation Act* is to be considered an enforcement act for the purposes of completing registers in accordance with the PPRA. See s. 17.3.18: 'Chemical, biological or radiological (CBR) incidents' of this Manual.

Responsibilities for register entries relating to a monitoring order, a surveillance warrant or a covert search warrant (see 'covert act' as defined above), and relevant information disclosed are restricted to certain officers. See ss. 666: 'Information to be recorded in register for div 2' and 671: 'Who must record information relating to covert search warrants in register' of the PPRA.

Enforcement acts (register entries and what reports to supply from QPRIME)

Unless otherwise authorised (see Delegation D 24.4 and subsections titled 'Investigations against members of the Service' and 'Persons detained on preventative detention orders' of this section) the following QPRIME custody, search, property and occurrence reports are to be used for the making of register entries and for the supply of a copy or a print-out of the information recorded in the register relating to 'enforcement acts' required under the PPRA and the RC.

The search of a person:

(i) complete a QPRIME:

(a) custody report (including the detention log); or

(b) custody report (full) (including the detention log); or

(c) person stop/search report; and

(ii) supply a copy of a QPRIME:

(a) person arrested/detained report (for release); or

(b) person stop/search report (for release).

The search of a vehicle, complete a QPRIME vehicle search report and supply a copy of a QPRIME vehicle search report (for release).

The search of a premises, complete a QPRIME location search report and supply a copy of a QPRIME location search report (for release).

The taking or seizing of a thing, other than during a search under s. 443: 'Police officer may search person in custody' of the PPRA:

(i) complete a:

(a) QPB 32A: 'Field property receipt'; or

(b) QP 0760: 'Property receipt';

(ii) supply a copy of a:

(a) QPB 32A: 'Field property receipt'; or

(b) QP 0760: 'Property receipt'; and/or

(c) QPRIME property evidence report.

The arrest of a person:

(i) complete a QPRIME:

(a) custody report (including the detention log); or

(b) custody report (full) (including the detention log); and

(ii) supply a copy of a QPRIME person arrested/detained report (for release).

The detention of a person for investigations or questioning under Chapter 15: 'Powers and responsibilities relating to investigations and questioning for indictable offences' of the PPRA:

(i) complete a QPRIME:

(a) custody report (including the detention log); or

(b) custody report (full) (including the detention log); and/or

(c) Interview report; and

(ii) supply a copy of a QPRIME person arrested/detained report (for release).

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The questioning of a person to whom Chapter 15, Part 3: 'Safeguards ensuring rights of and fairness to persons questioned for indictable offences' (ss. 414–441) applies:

(i) complete a QPRIME:

(a) custody report (including the detention log); or

(b) custody report (Full) (including the detention log); and

(c) interview report; and

(ii) supply a copy of a QPRIME person arrested/detained report (for release).

The exercise of powers under the PPRA relating to a search warrant, production order or production notice:

(i) complete a QPRIME:

(a) person stop/search report;

(b) location search report; and/or

(c) vehicle search report; and

(ii) supply a copy of a QPRIME:

(a) person stop/search report (for release);

(b) location search report (for release); and/or

(c) vehicle search report (for release).

The giving of a direction under s. 48: 'Direction may be given to person' of the PPRA, complete a QPRIME Occurrence 'Move on Direction Occurrence [1303]' and supply a copy of this QPRIME Occurrence Report. See also s. 13.23.5: 'Inspection of the Register of directions given' of this Manual.

The giving of a direction under s. 581: 'Powers of police officer to deal with excessive noise' of the PPRA in relation to motorcycle noise only:

(i) complete:

(a) a Noise direction flag, to be placed in the relevant QPRIME person entry;

(b) a Form 95: 'Noise abatement direction (motorbike driven on a place other than a road)'; and

(c) details of the direction (to be given to the police communications centre); and

(ii) supply a copy of a Form 95.

See also s. 13.29.1: 'Investigation and first direction' of this Manual.

The giving of a direction under s. 581: 'Powers of police officer to deal with excessive noise' of the PPRA in relation to other noise, not motorcycle noise:

(i) complete:

(a) a noise direction flag, to be placed on the relevant QPRIME person entry; and

(b) details of the direction (to be given to the police communications centre); and

(ii) supply a copy of the record made of the direction by a police communication centre.

See also s. 13.29.1: 'Investigation and first direction' of this Manual.

The discontinuance of an arrest for a minor drugs offence under s. 379: 'Additional case when arrest for minor drugs offence may be discontinued' of the PPRA:

(i) complete a QPRIME:

(a) custody report (including the detention log); or

(b) custody report (full) (including the detention log); and

(ii) supply a copy of a QPRIME Person Arrested/Detained Report (For Release).

The entry of a place to find out whether domestic violence is occurring, or has occurred, at the place:

(i) complete a QPRIME:

(a) location search report; and/or

(b) vehicle search report; and

(ii) supply a copy of a QPRIME:

(a) location search report (for release); and/or

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(b) vehicle search report (for release).

The entry of a place under s. 596: 'Entry of place on suspicion of death or injury' of the PPRA to find out whether someone in the place is dead or in need or urgent medical treatment:

(i) complete a QPRIME:

(a) location search report; and/or

(b) vehicle search report; and

(ii) supply a copy of a QPRIME:

(a) location search report (for release); and/or

(b) vehicle search report (for release).

The detention of a person under s. 604: 'Dealing with persons affected by potentially harmful things' of the PPRA:

(i) complete a QPRIME:

(a) custody report (including the detention log); or

(b) custody report (full) (including the detention log); and

(ii) supply a copy of a QPRIME person arrested/detained report (for release).

The exclusion from questioning, under Chapter 15, Part 3, Division 4 or 5 of the PPRA, of a relative, friend or support person:

(i) complete a QPRIME:

(a) custody report (including the detention log); or

(b) custody report (full) (including the detention log); and

(c) interview report; and

(ii) supply a copy of a QPRIME person arrested/detained report (for release).

The exercise of powers under s. 53BG: 'Taking action for out-of-control event' of the PPRA relating to the authorising of out-of-control event powers:

(i) complete a QPRIME out of control event occurrence; and

(ii) supply a copy of the record made of the out-of-control event occurrence (for release).

The detention of a person by a protective services officer for a time reasonably necessary to give the person into the custody of a police officer under s. 558: 'Detention of entrants by protective services officers' of the PPRA is to:

(i) complete a QPRIME custody report (including detention log); and

(ii) complete an IMAC incident report.

OPM Issue 113 Public Edition

QPRIME reports and how they relate to enforcement acts

The following information outlines details of various QPRIME reports and how they relate to the register of enforcement acts. When supplying a copy or print-out of the information recorded in the register of enforcement acts, the nature of the acts that were performed will determine which reports are required. Several QPRIME reports may need to be supplied to cover all enforcements acts that were performed. QPRIME reports include:

(i) the custody report and the custody report (full) (including the detention log) are to be used to register enforcement acts in relation to persons in custody, usually where they are arrested, searched, detained and questioned for an indictable offence and held in a watch-house or holding cell;

(ii) the location search report is to be used for register entries relating to search warrants, Coroner's search warrants, extraterritorial warrants, production orders, production notices, crime scene warrants, post-search approval orders (emergent searches) and searches without warrants relating only to addresses;

(iii) person stop/search report is to be used for register entries relating to persons who are searched (with or without a warrant) and later released but not arrested. It is also to be used to record register entries relating to production notices or production orders in relation to a business or organisation;

(iv) vehicle search report is to be used for register entries relating to search warrants, Coroner's search warrants, extraterritorial warrants, production orders, production notices, crime scene warrants, post-search approval orders (emergent searches) and searches without warrants only relating to vehicles;

(v) QP 0760: 'Property receipt' (QPRIME) is to be used for register entries relating to the seizing of property (other than during a search under s. 443(3) of the PPRA). A QPB 32A: 'Field property receipt' may also be used. These forms provide initial information in relation to the seizing of property; and

(vi) QPRIME occurrence report is to be used for register entries when the information that is required is not available from other QPRIME reports e.g. for a direction given under s. 48: 'Direction may be given to person' of the PPRA.

Vehicles and locations (addresses) are to be considered mutually exclusive entities in QPRIME.

A number of circumstances exist when entries are not required to be made in QPRIME custody, search, property and occurrence reports and are exceptions to this policy, see s. 16.8.2: 'Exceptions to making entries in QPRIME custody, search and property reports' of this Manual.

Persons detained on preventative detention orders and investigations against members of the Service are to be made in the appropriate QPRIME custody, search, property and occurrence reports but are to have an access control list (ACL) applied to the entry or relevant parts of the entry (i.e. person report) as soon as practicable to restrict viewing and access to the entries. See also subsections: 'Investigations against members of the Service' and 'Persons detained on preventative detention orders' of this section.

Responsibility for entering enforcement acts in a register

Section 679: 'Who must record information in register' of the PPRA requires:

(i) the police officer or protective services officer who does an enforcement act; or

(ii) if 2 or more police officers or protective services officers do the enforcement act, the senior police officer or senior protective services officer involved in doing the act,

must ensure the information required under Part 7: 'Responsibilities relating to registers' (ss. 47–72) of the Police Responsibilities Code is recorded in a register as soon as reasonably practicable after the act is done or the information becomes available.

ORDER

A watch-house officer who does an enforcement act is to ensure that information required under Part 7: 'Responsibilities relating to registers' (ss. 47–72) of the Police Responsibilities Code about an enforcement act is recorded in a register as required of a police officer under s. 679 of the PPRA.

See also subsection titled 'Information to be recorded in QPRIME custody, search and property reports' of s. 16.10.1: 'General requirements concerning searches of persons' of this Manual.

Entering enforcement acts in QPRIME custody, search, property and occurrence reports

Officers are to complete a new entry in the relevant QPRIME custody, search, property or occurrence report in respect of each person to whom an enforcement act is done, each location or vehicle where an enforcement act is done and each property seizure or occurrence. Where an enforcement act is done to more than one person, location, vehicle, seizure of property or occurrence in a single incident, officers are to create an entry in the relevant QPRIME custody, search, property and occurrence report for each person, location, vehicle, seizure of property or occurrence.

Example

A house occupied by John Smith is entered to find out whether domestic violence is occurring or has occurred at the place. After entering the place officers search the place for anyone at risk of being injured by domestic violence. During the search William Jones is detained and searched for anything that may be used for an act of domestic violence.

A QPRIME Location Search Report is to be completed for John Smith, in respect of the entry and search of Smith's house. A QPRIME Person Stop/Search Report or Custody Report is to be completed where William Jones, is detained and searched and not taken into custody and a QPRIME Custody Report or Custody Report (Full) where Jones is arrested/detained and taken to a watch-house, holding cell or other place, such as a place of safety.

Where an enforcement act consists of an entry to a place to find out whether domestic violence is occurring or has occurred at a place, or the entry of a place to find out whether someone in the place is dead or in need or urgent medical treatment, officers are to enter the relevant entry type in the relevant QPRIME search report i.e. Location Search Report or Vehicle Search Report, in the 'Legal Power' field.

Protective services officers are to complete a new entry in QPRIME when an enforcement act is done under ss. 553: 'Safeguards for inspections of entrant's belongings' and 556: 'Seizure of proscribed thing' of the PPRA.

Particular information required to be recorded under the Police Responsibilities Code

Part 7: 'Responsibilities relating to registers' (ss. 47–72) of the Police Responsibilities Code requires that certain details are recorded in respect of particular enforcement acts.

Where there is no custom field in the relevant QPRIME custody, search, property or occurrence report to enter the details required by the RC, that information is to be recorded in the Narrative Details section through the Narrative tab of the relevant QPRIME report by the officer who is responsible for completing the report.

OPM Issue 113 Public Edition

Investigations against members of the Service

QPRIME custody, search, property and occurrence reports are to be used for making register entries relating to 'enforcement acts' where investigations are being made against a member of the Service, however these entries are to be restricted through the application of ACL to the relevant entry or parts of the relevant entry. As these investigations may, in some instances, be compromised if the information is accessed by other members of the Service, an officer who considers a QPRIME custody or search report is required to be restricted is to:

(i) contact the ACL Manager from ESC, this may be done by sending a task;

(ii) advise the ACL Manager why an ACL is required to be applied to a particular QPRIME report;

(iii) discuss details of the relevant entry and which part of the entry an ACL could be applied i.e. entire occurrence, or just sensitive parts; and

(iv) advise details of all officers and staff members who require access to the relevant entry, e.g. investigating officer, watch-house manager, forensic officer.

The ACL Manager from ESC is to:

(i) inspect the register entry and assess whether it is necessary to restrict the inspection of the information received concerning a member of the Service and if so, apply the ACL to the appropriate QPRIME entry or part of the entry; and

(ii) periodically review the necessity to restrict its inspection. When satisfied that restricted inspection of the information is unnecessary, ensure the ACL is removed from the entry. (See Delegation D 24.4 and s. 682: 'Restriction on disclosure of certain information' of the PPRA).

Persons detained on preventative detention orders

QPRIME custody, search, property and occurrence reports are to be used for making register entries relating to 'enforcement acts' for the detention of persons on preventative detention orders pursuant to the *Criminal Code Act* (Cwlth), Chapter 5, Part 5.3, Divisions 100 to 105 and the *Terrorism (Preventative Detention) Act*, however these entries are to be restricted through the application of ACL to the relevant entry or parts of the relevant entry.

Revealing information that:

(i) a preventative detention order has been made in relation to a person;

(ii) the fact a person is detained under that order;

(iii) the period for which the person is detained; or

(iv) any other information that a person who is being detained communicates to a person while the person is being detained,

may result in the commission of an offence.

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Persons detained under a preventative detention order are being investigated in relation to offences of:

(i) engaging in a terrorist act; or

(ii) possessing a thing that is connected with the preparation for, or the engagement of a person in, a terrorist act; or

(iii) doing or has done an act in preparation for, or in planning, a terrorist act.

These investigations may, in some instances, be compromised if the information is accessed by other members of the Service.

A senior police officer, senior Australian Federal Police member or the Crime Command case officer for the preventative detention order matter who considers a QPRIME custody, search, property or occurrence report is required to be restricted is to:

(i) contact the QPRIME ACL Manager (who is on call 24 hours) by contacting the ICT Service Centre;

(ii) advise the ACL Manager why an ACL is required to be applied to a particular QPRIME report;

(iii) discuss details of the relevant entry and which part of the entry an ACL could be applied i.e. entire occurrence, or just sensitive parts;

(iv) advise details of all officers and staff members who require access to the relevant entry, e.g. senior police officer, watch-house manager, intelligence officer; and

(v) periodically review the necessity to restrict the QPRIME entry and when satisfied that restricted inspection of the information is unnecessary, contact the ACL Manager to have the ACL removed.

The QPRIME ACL Manager is to:

(i) apply the ACL to the appropriate QPRIME entry or part of the entry when requested; and

(ii) ensure the ACL is removed from the entry when advised by the relevant officer (see Delegation D 24.4 and s. 682 of the PPRA).

Persons to be given copy of information in register of enforcement acts

Section 681: 'Persons to be given copy of information in register' of the PPRA enables a person to whom an enforcement act was done, at any time within 3 years after the act was done, to ask any officer who is entitled to inspect the register of enforcement acts, to give the person a copy or printout of the information recorded in the register about the act.

When a person to whom an enforcement act was done asks an officer, who is entitled to inspect the register of enforcement acts, for a copy or printout of the information recorded in the register about the act, the officer is to comply with the request as soon as reasonably practicable following the request. The officer is to:

(i) ask the person concerned to produce sufficient identification particulars to satisfy the officer that the person is entitled to the information requested;

(ii) if satisfied that the person concerned is the person entitled to the information requested, query the appropriate QPRIME or other register entry and give the person a copy or a print out of the information recorded in the relevant QPRIME or other register entry about the act in question;

(iii) when a copy or a printout of the information recorded in the register in QPRIME is given to the person concerned, modify the relevant QPRIME entry and record in a Narrative tab the identity of the person concerned and the date time and location when and where the copy or printout was given;

(iv) when a copy or a printout of the information recorded in the register located other than in QPRIME is given to the person concerned record in the register the identity of the person concerned and the date time and location when and where the copy or printout was given;

(v) when a copy or printout of the information recorded in the register in QPRIME is not given to the person concerned, modify the relevant QPRIME entry and record in a Narrative tab the identity of the person concerned the date, time and location when and where the request was made by the person concerned and brief reasons for the refusal;

(vi) when a copy or printout of the information recorded in the register located other than in QPRIME is not given to the person concerned, record in the register the identity of the person concerned the date, time and location when and where the request was made by the person concerned and brief reasons for the refusal; and

(vii) when the relevant entry cannot be located in the appropriate register (in QPRIME or otherwise):

(a) obtain sufficient details from the person concerned and, by written report, notify the officer who was responsible for entering the particulars in relation to the identified enforcement act and that officer's officer in charge; and

(b) advise the person concerned to contact the officer responsible for entering the particulars relating to the identified enforcement act.

OPM Issue 113 Public Edition

2.2 Deleted

2.3 Deleted

2.4 Incident management

A police response to an incident may include dealing with a rather simple and uncomplicated issue requiring basic policing skills to resolve, whilst others involve the resolution of complex issues, which require a more coordinated, detailed, intensive and expert response.

Certain incidents may be effectively dealt with by a first response officer without any other assistance whereas others may involve other officers. Once the first response officer attends the scene of an incident and evaluates same an appropriate response will be undertaken.

Depending on the officer's evaluation and the complexity of the incident, an effective resolution may involve the appointment of an investigating officer, a police forward commander, a police commander and the establishment of a police forward command post or the activation of a police operations centre (see s. 1.12: 'Incident Command' of this Manual).

Procedures that are applicable to the management of structural fires are unique and require a varied response to the policies and procedures outlined in this section. For first response procedures and subsequent investigation action in the event of responding to a structural fire incident, see s. 2.6.1: 'Fire investigation' of this chapter.

2.4.1 First response procedure at an incident scene

On arrival at the scene of an incident, the first response officer assumes control of the scene until control is relinquished in accordance with the provisions of this chapter. Generally, control of the scene passes to the investigating officer on arrival, although in some matters the first response officer will become the investigating officer after the incident has been evaluated.

The first response officer is to remain at the scene unless compelled to leave by circumstances or until such time as control is given to the designated investigating officer, the incident scene liaison officer or another nominated officer.

ORDER

On arrival the first response officer is to immediately secure the scene. This is to include:

(i) identifying the extent of the incident scene. This involves defining the area immediately around the site of the incident which is likely to yield evidence and which may require containment and exclusion of the public;

(ii) rendering the scene safe;

(iii) preserving potential evidence;

(iv) where appropriate and practicable, ensuring suitable digital photographs or video recordings are taken of the scene; and

(v) rendering any necessary assistance to members of the public.

2.4.2 Evaluation of incident

ORDER

The first response officer is to evaluate the scene and designate the incident as:

(i) a routine investigation;

(ii) a serious non-criminal situation; or

(iii) a major investigation;

in accordance with the definitions provided in this Manual.

In cases where the incident is considered to be a 'significant event' as outlined in s. 1.4.6: 'Responsibilities of regional duty officer, district duty officer and shift supervisor' of this Manual, the first response officer is to immediately notify the shift supervisor and the:

(i) regional duty officer;

(ii) patrol group inspector; or

(iii) district duty officer.

Investigating officers and regional duty officers, patrol group inspectors or district duty officers are to ensure that incidents are re-evaluated where further information comes to hand, in accordance with the provisions of this section, and the appropriate designation given at any time where circumstances so indicate.

2.4.3 Routine investigations

When an incident has been designated as a routine investigation, the matter is to be dealt with in accordance with local arrangements. This includes preserving the scene to the extent necessary under the circumstances.

2.4.4 Serious non-criminal situations

When an incident has been designated as a serious non-criminal situation refer to Chapter 17: 'Major Incidents' of this Manual.

2.4.5 Major investigations

A regional duty officer (RDO) or district duty officer (DDO) who is advised that an incident has been designated as a major investigation is to:

(i) ensure that the incident has been evaluated correctly, (see SMD) for definition of major investigations;

(ii) arrange for the attendance of the appropriate specialist support units;

(iii) notify the regional crime coordinator (RCC), who will notify the appropriate specialist group at Crime Command or the Duty Supervisor if after hours (see s. 2.7.2: 'Notifying Crime Command' of this chapter); and

OPM Issue 113 Public Edition

(iv) ensure compliance with the reporting provisions of Chapter 1: 'Operational Management' of this Manual regarding significant events are adhered to.

Where practicable, during the initial stage of a major investigation and before the commencement of the examination of the incident scene, the following persons are to confer to establish the method of examination and the resources required:

(i) the RCC;

(ii) the senior investigating officer, Crime Command; and

(iii) the regional Forensic Coordinator (or the forensic officer appointed by the Forensic Coordinator).

Where appropriate refer to Chapter 17: 'Major Incidents' of this Manual.

ORDER

When an incident has been designated as a major investigation the first response officer (FRO) is to:

(i) immediately notify or arrange for the immediate notification of the RDO or DDO; and

(ii) commence a log of events.

Establishing a crime scene under the Police Powers and Responsibilities Act

A crime scene is defined under s. 163B: 'What is a crime scene' of the PPRA.

See s. 164: 'Gaining access to crime scenes' and s. 165: 'Initial establishment of crime scene' of the PPRA if considering an incident scene should be a crime scene.

Officers are to carefully consider all circumstances relating to an incident scene, including the availability of any alternative powers, before making the decision to establish an incident scene as a crime scene.

Generally, FROs are not to declare an incident scene as a crime scene unless circumstances exist where evidence may be lost if the incident scene is not declared a crime scene immediately. An example would be where the occupants of a house in which a serious assault has been committed refuse to allow a FRO to enter the place.

The establishing of an incident scene as a crime scene is to, wherever possible, be done by the designated investigating officer for the incident.

Crime scene warrants

The responsible officer who establishes a crime scene at a place other than a public place is to ensure a crime scene warrant is applied for as soon as reasonably practicable.

Application for a crime scene warrant for a crime scene established in a public place is only to be made if it is likely that anything done at the scene by or at the direction of police for collecting evidence may cause structural damage to a building.

Applications for crime scene warrants are to be made using appropriate forms. Once an application has been endorsed or rejected by the issuing authority, and before it has been executed, officers are to enter application details of the warrant into QPRIME by creating an Investigative Warrant Occurrence and a Search Report within the appropriate entity (address or vehicle) involved in the occurrence.

ORDER

Applications for crime scene warrants are to be made in accordance with the provisions of Chapter 7, Part 3, Division 2: 'Crime scene warrants' (ss. 170–175) of the PPRA and s. 6: 'Applications for crime scene warrants—Act, s 170', and s. 7: 'Applications for extensions of crime scene warrants—Act, s 173' of the Responsibilities Code.

2.4.6 Preservation of incident scenes

Once a decision has been made that the services of forensic experts are required, the incident scene must be preserved until forensic testing is completed. The action required to preserve an incident scene will vary with each case. In all cases though, the objective of preserving the scene is to make arrangements which ensure no potential evidence is lost, damaged or destroyed, either naturally, or through the actions of persons entering the scene.

Until forensic testing of an incident scene is complete, the officer in control of the incident scene is to ensure that:

(i) the boundaries of the scene are clearly marked, wherever possible using crime scene tape, as soon as practicable after the boundaries have been decided;

(ii) all persons, including police, irrespective of rank, members of the media or unauthorised persons not involved in testing or examining the scene, are excluded from the scene;

(iii) the scene is not disturbed or contaminated unless to preserve life or protect property;

(iv) where the loss or destruction of potential evidence cannot reasonably be prevented, suitable digital photographs or video recordings are taken of the scene; and

OPM Issue 113 Public Edition

(v) an entry/exit point to the crime scene is established. This entry/exit point is not to be situated so as to contaminate any potential path used by the offender(s) or suspect(s), and is to be established, where possible, on the advice of a forensic officer.

ORDER

A member is not to enter an incident scene unless authorised to do so by the officer who has, at that time, control of the scene.

A member who has been permitted to enter an incident scene is to enter and leave the scene by the route designated for that purpose by the officer in control of the scene.

Members authorised to enter an incident scene are normally to be accompanied by the officer in control of the scene and perform any investigation under the guidance of that officer. This will prevent scene contamination.

The following factors are to be considered by the officer who has control of an incident scene when considering the extent of the boundaries and the preservation of the scene:

(i) any potential evidence is identified if possible;

(ii) the location of entry/exit of offender(s) is ascertained if possible;

(iii) the origin or cause of the incident is located;

(iv) if use of a police dog is being considered, all possible steps are to be taken to prevent unnecessary movement around the perimeter of the area;

(v) any part of the scene in danger of being destroyed or damaged is to be protected;

(vi) items with evidentiary value are not to be touched or moved by any person until all forensic and technical examinations are complete or a forensic officer indicates that no such tests are necessary; and

(vii) if it is necessary to immediately move anything at an incident scene, where practicable, a photograph of the thing is to be taken or it is to be measured, or something is to replace the thing to indicate the exact location of the place from which it is moved.

Preservation of scenes (major investigations)

The relevant Forensic Coordinator (or the forensic officer appointed by the Forensic Coordinator) is to take charge of, and be responsible for, the management of the scene of a major investigation (including all roles undertaken by forensic and investigation officers that relate to the scene examination). The duties performed by forensic experts specific to their science or area of expertise are to remain their individual responsibility.

All information with respect to examinations made, evidence obtained and details of personnel involved is to be reported through the investigation centre. Relevant logs are to be completed and delivered to the investigation centre without delay.

On completion of the scene examination, the regional Forensic Coordinator (or the forensic officer appointed by the regional Forensic Coordinator) is to report to the regional crime coordinator or senior investigating officer, Crime Command. At this stage, a formal hand over, including a walkthrough of the scene, is to be carried out to confirm the examination has been finalised. The scene then becomes the responsibility of the officer in charge of the investigation.

Where practicable, the regional Forensic Coordinator (or the forensic officer appointed by the regional Forensic Coordinator) is to attend all briefings and debriefings relating to the major investigation.

Preservation of scenes (crime scenes)

The provisions of this section apply with regard to an established crime scene. Additionally, the responsible officer at a crime scene is to comply with the provisions of s. 167: ‘Deciding limits of crime scene’, s. 168: ‘Restricting access to crime scene’ and s. 169: ‘Preserving evidence at crime scene’ of the PPRA.

The responsible officer at a crime scene is a police officer acting under the direction of the regional duty officer, in relation to the crime scene. See also ss. 176: ‘Powers at crime scene’, 177: ‘Powers of direction etc. at crime scene’, 178: ‘Exercise of crime scene powers in public place’ and 179: ‘Alternative accommodation to be provided in some cases’ of the PPRA and 8: ‘Authorised assistants—Act, sch 6’ of the Police Responsibilities Code.

2.4.7 Log of events

ORDER

The OIC at an incident scene confirmed as a major investigation by the:

(i) RCC;

(ii) RDO;

(iii) patrol group inspector;

(iv) DDO; or

OPM Issue 113 Public Edition

(v) responsible officer at an established crime scene under the PPRA,

is to keep a log of events in relation to the incident.

The log is to be commenced upon confirmation of the incident scene as a major investigation or establishment of the incident scene as a crime scene and is to be maintained until the investigation of the incident scene is complete.

The investigating officer may elect to maintain the log of events throughout the remainder of the investigation.

ORDER

The log of events is a chronological record of occurrences to be used to record:

(i) the time and date of the commencement of the log;

(ii) if applicable, the time and date the scene was established as a crime scene in accordance with the PPRA, and the details of the officer who decided to establish such crime scene;

(iii) the specific location of the scene;

(iv) a full description of the scene on the arrival of the first response officer;

(v) identification of the boundary of the crime scene;

(vi) brief details of the initial allocation of resources at the scene including:

(a) staff deployed; and

(b) materials and equipment used; and

(vii) time of entry and name of any person, including all officers entering the scene including:

(a) reason for entry;

(b) which officer gave the person authority to enter; and

(c) time of exit.

The OIC of the incident scene is to:

(i) record the name of the officer to whom control of the incident scene is relinquished and the time and date of relinquishment on the log of events; and

(ii) fully brief any other officer taking over control of the incident scene.

The log of events should be recorded by the means most appropriate to the situation. Acceptable methods include:

(i) QP 122: 'Log of Events, Crime Scene—Major Investigation' (available from Supply Services);

(ii) in the officer's official police notebook; or

(iii) by BWC recording or other appropriate means.

OPM Issue 113 Public Edition

2.4.8 Communication

Officers are to keep radio transmissions to a minimum and consider the likelihood of:

(i) offenders and other persons having access to monitors; and

(ii) the need for other officers to make urgent transmissions regarding an incident.

Officers are to establish clear communications with appropriate support units prior to entry to any incident scene at which a hazard or danger exists. Where practicable, officers are to use GWN police radio to convey critical information to other police officers attending an incident.

Information transmitted by first response officers may be critical to the location and apprehension of offenders. The initial collection and recording of facts should be undertaken with this in mind. Critical information to be broadcast as soon as possible after a serious incident includes:

(i) time lapse between offence and broadcast;

(ii) description of offender(s);

(iii) weapon used, if any;

(iv) description of method of transport used by offender(s);

(v) direction of travel from the scene; and

(vi) likelihood that the offender(s) will use violence when approached.

Situation reports

A situation report (SITREP) is a verbal or written report to a senior officer from an officer attending an incident scene, advising the status of an incident. SITREPs should be provided upon arrival at the scene by officers after performing first response duties. Situation reports may be required in order to provide regular reports as the incident progresses or provided at nominated intervals. The following SITREP format should be adapted to suit the particular incident:

(i) situation:

(a) a concise summary of what has happened, what is occurring and what control measures have been put in place;

(b) identify the extent of the incident scene including the extent of destruction, the numbers of victims or offenders; and

(ii) other considerations:

(a) the location of officers at the scene or those that have been allocated tasks;

(b) the activities being undertaken or the results of activities undertaken by Service members or other emergency services;

(c) the potential for the incident to escalate; and

(d) the need for further resources.

2.4.9 Guarding an incident scene

When evidence is to be placed under police guard at an incident scene or the scene of an investigation during an investigation, adequate numbers of staff are to be assigned to the investigation so that officers assigned the duty of guarding evidence are not carrying out other duties simultaneously during their guard duties. When guarding an incident scene or the scene of an investigation, officers are to establish inner and outer cordons.

Establishing inner and outer cordons

Where the extent of an incident scene has been defined and depending on the type of incident, officers are to establish inner and outer cordons around the incident scene. The extent and size of the inner or outer cordons will depend on the circumstances of incident.

An inner cordon is established to exclude all persons who are not authorised, including other police and emergency services personnel, from entering the incident scene. The purpose of the inner cordon is to isolate and contain the immediate area of the incident while the emergency service or 'lead agency' responsible for responding to the incident performs its specific role.

An outer cordon is established to limit public interference with the operations of the combat authority and other emergency services outside of the inner cordon.

Methods of cordoning may include establishing:

(i) roadblocks and barricades or erecting crime scene tape; or

(ii) check points or posts along the perimeter of a cordon.

Police forward commanders are to:

(i) position officers at points around the cordon and allocate each officer an area of responsibility; and

(ii) ensure that a mobile or foot patrol is conducted along the cordon to prevent or to respond to any penetration by unauthorised persons.

The first response officer, or if a different person, the officer in charge of an incident scene is to ensure that:

(i) precise duties are assigned to officers while assisting at the scene;

(ii) an officer assigned the duty of guarding evidence has no other duty;

(iii) officers assigned the duty of guarding the evidence are advised of the period for which the guard duty will continue;

(iv) the period of guard duty is short and definite;

(v) during the period of guard duty assigned, the officer assigned that duty compiles notes of all observations made during that guard duty;

(vi) the names of officers assigned to guard duty and their observations are to be recorded in the log of events; and

(vii) where appropriate, provide situation reports to the relevant PCC or OIC.

OPM Issue 113 Public Edition

2.4.10 Reporting responsibilities

In all cases requiring an investigative response the investigating officer has responsibility for submitting, or for ensuring the submission of all necessary reports relating to the matter. This includes instances in which:

(i) the first response officer becomes the investigating officer for the matter; and

(ii) the first response officer relinquishes control of the scene to another officer who then becomes the investigating officer.

2.4.11 Video and photographic evidence recorded during the commission of offences

ORDER

Video and photographic evidence taken by closed circuit television (CCTV) or security surveillance cameras are to be treated as documentary exhibits and the provisions of Chapter 4: 'Property' of this Manual apply in addition to the procedures outlined herein.

Obtaining video recordings in general

Security systems use either analogue or digital recording systems. Members when retrieving footage from a security system should take notes detailing the equipment and methods used and steps taken to retrieve the footage.

In the case of offences where evidence may be obtained from a CCTV or security surveillance system and the recording is still being made upon the arrival of police, officers should follow the procedures outlined below.

DVR systems

Officers should:

(i) attempt to find a person who is familiar with the security system, i.e. venue manager, owner, repairer or security provider, and make arrangements to review and retrieve recorded vision of interest;

(ii) if available, refer to the equipment manual to assist with operation of system;

(iii) prior to searching for recorded vision, make a note of the time and date displayed on the screen, compared to the current time and date (note both times). This time 'offset' may be invaluable later;

(iv) when searching for the incident, by date, time and/or camera number depending on the system, determine the duration of vision required. This may affect retrieval options.

(v) whilst in the search mode attempt to identify the time and date of the earliest recording in order to determine the overwrite period for the system i.e. if on an active system, the earliest recording available is two weeks prior to the current time and date. Incident data will be overwritten 14 days after occurring;

(vi) where possible, export the relevant vision in its 'native' format as this is the highest quality available from the system. With time permitting, an additional export of the required recording in a generic format could be beneficial for ease of viewing. i.e. AVI;

(vii) where possible, obtain the software required to play the native video file. If an option exists to save the player with the exported vision, this should be selected;

(viii) consider the export of still images directly to an external USB flash drive or CD as an alternative to video. Bitmap images are preferable in quality to JPEG images;

(ix) when navigating within the operating menus of DVR systems take care not to erase data or re-configure operating parameters; and

(x) where the retrieved data is not playable on a standard build Service computer and requires reformatting for investigation or court presentation purposes, forward the file and player to the Electronic Recording Section (ERS) for conversion/enhancement or seek advice from ERS regarding replay options.

When a DVR cannot be operated and is to be seized officers should:

(i) in addition to seizing the unit, take the operation manual and associated power supply; and

(ii) obtain all passwords. Administrator level passwords to the DVR usually allow more options for operation and data retrieval.

Officers should not:

(i) remove the hard drives from the system as the data is generally not useful without the rest of the unit to play it back;

(ii) change the time and date on the DVR system; or

(iii) turn the unit on without obtaining advice. Most systems are setup to start recording when they are turned on.

Disable recording if unit is re-powered as unit may overwrite required footage even though it has no cameras connected. It is easy to accidentally erase a DVR system if the wrong menu is accessed, losing the footage forever.

OPM Issue 113 Public Edition

Analogue systems

In relation to a video tape analogue CCTV system, officers should:

(i) attempt to find a person who is familiar with the security system;

(ii) remove the tape from recorder and remove erasure tab on spine to ensure it cannot be recorded over;

(iii) avoid multiple replays of the incident, as each pass can damage the tape. Officers should never:

(a) pause the tape at any point during the incident as this will damage the tape; and

(b) wherever possible make a duplicate recording to either analogue or digital media for viewing purposes.

(iv) if tape needs enhancement, de-multiplexing or further copying forward the original to the ERS for processing.

In relation to a film based analogue CCTV system, officers should ensure:

(i) the film recording is stopped and removed by a person familiar with the recording mechanism (for example bank manager or security provider); and

(ii) possession of the film is taken and delivered as soon as practicable to the Forensic Imaging Section for development.

After the film is developed, the investigating officer should view the negatives or consult with the Forensic Imaging Section personnel to select suitable frames for printing.

All exhibits submitted to the ERS for development/analysis/enhancement or conversion is to be entered as QPRIME Property and include details of the request on a QP 0127C: 'Request to enhance audio/video evidence' (available in QPRIME).

Within the Brisbane Metropolitan area, ERS staff are available to assist in the retrieval of security footage where on-site assistance is not available. Information required by ERS staff is outlined below:

(i) type of system (digital, analogue, film);

(ii) make and model of system;

(iii) administration passwords (if applicable);

(iv) time and date of offence;

(v) number of cameras attached to system and specific cameras required;

(vi) description of person of interest;

(vii) details of contact person at location; and

(viii) for digital systems, accuracy of on-screen time display and data overwrite time.

OPM Issue 113 Public Edition

Outside the Brisbane metropolitan area, officers should seek advice from their regional Forensic Coordinator where on-site assistance with security footage retrieval is unavailable. Where regional SOC officers do not possess the required skills to perform this task support may be requested from district information technology officers (DITOs) via the IMD Service Desk or in accordance with local procedures.

ERS staff will be made available to assist in the retrieval of CCTV recordings at major incidents. Officers requiring the assistance of ERS staff after hours are to contact the Inspector, Forensic Imaging Section, Brisbane.

This procedure does not apply to video tape recordings and photographic recordings made by police officers.

To minimise the number of officers required to give evidence of continuity of possession, the officer taking possession of:

(i) a video recording; or

(ii) an undeveloped photographic recording,

is to be the officer who conveys it to and from the ERS. Where this is impractical, another member is to undertake the task, but is to be in a position to give evidence of the continuity of possession of the material (see s. 4.2.7: 'Continuity of possession' of this Manual).

Admissibility of photographs, audio and video recordings and film

A photograph, recording (audio or video) or film of a crime being committed is admissible as real evidence however; evidence of the provenance and integrity of such exhibits is required. Authentication may be obtained in a number of ways, (e.g. through a statement from the person who took the photograph, video or film recording testifying to its integrity). Alternatively, evidence of a person who was present when the recording was made and can attest to the accuracy of what is depicted by the exhibit will also suffice.

Where a recording, photograph or film is to be relied upon and evidence from a photographer or a person present is not available to prove the provenance and integrity of the exhibit, (e.g. CCTV footage), a statement from a person who can

give evidence of the operation of the camera, the retrieval of the images, subsequent storage and, where necessary, a certificate under s. 95: 'Admissibility of statements in documents or things produced by processors or devices' of the *Evidence Act* is to be obtained (QP 0880: 'Section 95 certificate (statements contained in a document or thing produced by a device or process)'), see s. 3.8.17: 'Computer Records (Evidence Act)' of this Manual.

Where recordings from security systems contain evidential value, the investigating officer is to make arrangements to ensure the media format is of a type capable of being replayed to the relevant court by prosecutions. Investigating officers should contact the relevant police prosecution corps or Office of the Director of Public Prosecutions as appropriate, if required.

Presenting electronically recorded evidence in court

Where the investigating officer intends to present electronically recorded evidence from security systems as evidence in court, the investigating officer is to make arrangements to ensure the format of the media to be presented is capable of being replayed in the relevant court. The investigating officer should contact the ERS where assistance is required to convert a recording into a suitable court presentation format.

2.4.12 Roadblocks

Section 26: 'Roadblocks' of the PPRA empowers police to establish roadblocks if they reasonably suspect a roadblock may be effective to apprehend or locate a person in a vehicle who:

(i) has committed a seven-year imprisonment offence;

(ii) may be unlawfully depriving someone else of liberty (see s. 355: 'Deprivation of liberty' of the Criminal Code);

(iii) is being unlawfully deprived of liberty;

(iv) has escaped from lawful custody; or

(v) may be endangering the life or safety of someone else.

Once established, an officer may stop all vehicles or any vehicle at the roadblock and detain each vehicle stopped for the time reasonably necessary to search it to find out if a person mentioned in points (i) to (v) above is in it.

In deciding whether to establish a roadblock, the officer must have regard to the following:

(i) when and where the relevant circumstances happened; and

(ii) the information the officer has about where the person sought may be travelling in a vehicle.

Before deciding on a place to establish a roadblock, to comply with s. 27: 'Procedure for establishing roadblocks' of the PPRA, the senior officer present must consider:

(i) the effect the roadblock may have on road safety and public safety;

(ii) the likelihood of a dangerous situation happening if a person sought is located at the roadblock; and

(iii) any other relevant safety considerations;

Example:

If the person sought is believed to be armed and dangerous, the officer establishing the roadblock may decide not to establish it in a populated location.

Officers are also to comply with the provisions of Chapter 3: 'Interception by Police' of the TM.

Where officers establish a roadblock they are to notify the appropriate police communications centre for their area of operation, or where no police communications centre operates, the officer in charge of the police division where the roadblock has been established as soon as reasonably practicable following its establishment.

The advice is to include:

(i) the location of the established roadblock;

(ii) the reason for its establishment;

(iii) whether a tyre deflation device (TDD) is intended to be deployed as part of the roadblock; and

(iv) any safety considerations including the possible effect on road safety, public safety and the likelihood of a dangerous situation arising if a person sought is located at the roadblock.

The OIC of the PCC or of the police division notified is to ensure that the local regional duty officer, patrol group inspector or district duty officer is advised of the establishment of such a roadblock and whether a TDD is intended to be deployed.

The regional duty officer, patrol group inspector or district duty officer when notified should wherever practicably visit the location of the roadblock and ensure that legislative provisions and Service provisions are being complied with.

Where appropriate the regional duty officer, patrol group inspector or district duty officer may direct that the roadblock be removed and where applicable, the TDD not to be deployed.

OPM Issue 113 Public Edition

The senior officer present at a roadblock should ensure the relevant details of the roadblock are recorded in the relevant QPRIME occurrence. These details are to include:

(i) the reasons for establishing the roadblock;

(ii) when and where the road block was established;

(iii) for how long the roadblock was established;

(iv) whether a TDD was deployed;

(v) whether the roadblock led to a person sought being located or arrested; and

(vi) the relevant significant event message number relating to the roadblock (if a message is sent).

Authority to deploy TDD (pursuit)

ORDER

Where a TDD is to be deployed at a roadblock during a pursuit, its deployment must be authorised in advance by the pursuit controller in accordance with s. 14.30: 'Use of tyre deflation devices (TDD)' of this Manual.

Tyre deflation devices are not to be used to stop motorcycles or similar vehicles.

2.5 Investigation

2.5.1 Commencement and conduct of investigations

The successful investigation of offences and the management of incidents is dependent on timely and accurate information being passed to investigating officers. Members who receive complaints or reports of offences and incidents are responsible for the accurate collection, recording and dissemination of this information.

First response officers tasked to attend an occurrence are to promptly investigate the facts and circumstances in order to:

(i) identify if an offence has been committed;

(ii) identify potential witnesses and offenders;

(iii) obtain all relevant information; and

(iv) safeguard evidence.

When conducting investigations, officers are to remain objective and impartial and consider their initial appreciation of an occurrence, based on the preliminary information provided by complainants, witnesses or informants, may differ to what has occurred.

In all investigations, officers should apply the provisions contained in s. 2.4: 'Incident management' of this chapter. The incident scene is to be contained and preserved until the arrival of any specialist officers or specialist investigators. Officers are to provide comprehensive briefings when handing over to specialist investigators and when engaging specialist officers to assist in an investigation.

Officers who believe an offence has been committed, are to ensure they are satisfied sufficient and admissible evidence can be obtained to prove the offence and justify the commencement of proceedings (see s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual). Officers are to consider whether the offence is a domestic violence offence, and investigate accordingly (see ss. 9.3.1: 'Commencing proceedings for statutory offences' and 9.3.15: 'Recording DV offence on a person's criminal history' of this Manual).

Management of risks to children during investigations

During any investigation, including protracted investigations, officers have a duty of care to consider and manage risk of harm to children directly or indirectly involved in the investigation. If an officer:

(i) identifies a risk of harm; or

(ii) has concerns for a child's safety or wellbeing,

the officer is to:

(i) take all reasonable and necessary action to mitigate the risk and, where appropriate, apply the Child Harm Referral Process (see s. 7.3.1: 'Initial action for reports of child harm' of this Manual); and

(ii) if action may compromise a protracted investigation, immediately advise the officer's supervising commissioned officer.

Conducting investigations applying culturally safe and trauma-informed approaches

During an investigation, officers should:

OPM Issue 113 Public Edition

(i) adopt a trauma-informed approach which acknowledges the impact of trauma on a person's thoughts, beliefs, and behaviour; and

(ii) ensure that their approach is culturally appropriate with victims, family, and community members, respecting and integrating the needs of First Nations or other multicultural community members.

To ensure investigations are undertaken in a culturally safe and trauma-informed manner, where practical, officers should consult with one or more of the following:

(i) First Nations Division;

(ii) Multicultural Affairs, First Nations Division;

(iii) a cross cultural liaison officer (CCLO) or a police liaison officer (PLO) (see ss. 6.4.3: 'Cross cultural liaison officers' and 1.4.10 'Role and function of police liaison officers' of this Manual); and

(iv) a First Nations elder from the local community,

who can provide cultural advice, awareness, and expertise to assist and enhance investigations.

Family liaison officers should be appointed in major investigations as the primary point of contact for the family to address their questions and concerns, while safeguarding investigators from unnecessary vicarious trauma (see ss. 1.16.5: 'Police related incidents not involving fatalities', 2.6.2: 'Homicide', 8.3.2: 'Responsibility for investigating and reporting on deaths', 8.6: 'Death of a member of the Service', and 12.4.1: 'Responsibilities of case officer' of this Manual).

ORDER

Police liaison officers are not to be used as family liaison officers under any circumstances.

Crime Command support

Crime Command is responsible for the control of certain investigative activities and is to provide support and assistance to regions in appropriate cases (see s. 2.7: 'Crime Command' of this chapter). Investigating officers who are required to assign an operation name to an investigation are to contact their local intelligence officer (see s. 2.10.5: 'Central register of operations' of this chapter).

Reporting

Where a member of the public reports a non-urgent matter to Policelink, a primary investigation may not be required (see s. 1.11.1: 'Policelink entered occurrences' of this Manual).

Where appropriate, information collected should be recorded on an occurrence report (see s. 1.11: 'QPRIME occurrences' of this Manual).

Primary investigations

It is critical primary investigations be carried out as completely as possible. Wherever possible, primary investigations should be undertaken by the first response officer.

Activities undertaken during primary investigations, which are not exhaustive, may include:

(i) identification of:

(a) witnesses or potential witnesses;

(b) suspects;

(c) suspect associates; and

(d) suspect location;

(ii) witness:

(a) interviews; and

(b) statements (for production in court);

(iii) recording:

(a) observations made at the scene;

(b) geographic factors;

(c) demographic factors if appropriate; and

(d) vehicles at the scene;

(iv) obtaining descriptions of:

(a) offenders or suspects;

(b) offender's or suspect's vehicles; and

OPM Issue 113 Public Edition

(c) potential witnesses;

(v) seizure and safeguarding of evidence including video and photographic surveillance evidence (see s. 2.4.11: 'Video and photographic evidence recorded during the commission of offences' of this chapter);

(vi) taking evidential photographs (see s. 2.5.5: 'Use of digital devices' of this chapter);

(vii) notifying:

(a) appropriate specialist groups;

(b) DDO, RDO or commissioned officers; and

(c) appropriate support groups (see s. 2.12: 'Victims of crime' of this chapter);

(viii) arranging for necessary inquiries to be conducted by other members/regions; and

(ix) reporting and recording of:

(a) investigations undertaken;

(b) outcomes; and

(c) exhibit/evidence handling.

Information obtained during the primary investigation will assist in the decision regarding the priority to be given to the investigation. Primary investigators are to make recommendations in relevant QPRIME occurrences for the information of supervisors.

2.5.2 Use of discretion

PROCEDURE

Officers who are involved in operational activities which lead to the prosecution of persons for offences should exercise discretion when deciding the form of proceedings to be adopted. Officers should refer to Chapter 3: 'Prosecution Process' of this Manual.

2.5.3 Investigation of serious assault offences where police officers performing duty are victims

POLICY

The investigation of serious assault offences (s. 340: 'Serious assaults' of the Criminal Code) where police officers performing a duty are victims should, where practicable, be investigated by an officer from an independent specialist investigation office i.e. criminal investigation branch, child protection investigation unit.

A senior officer, not involved in the relevant incident, is to consider the following when determining the requirement of an independent officer to investigate the serious assault:

(i) facts and circumstances of the assault;

(ii) serious nature of the assault;

(iii) injuries sustained.

(iv) the complexity of the incident.

(v) number of victims,

(vi) number of witnesses,

(vii) number of suspects,

(viii) availability of resources.

(ix) where practicable the investigator should be senior in rank to the victim, (s. 2.3AA: 'Responsibility for command' of the *Police Service Administration Act*).

PROCEDURE

General principles dealing with incident management, including first response procedures, evaluation, preservation and guarding of incident scenes etc. are dealt with under s. 2.4: 'Incident Management' and matters dealing with investigations are outlined in s. 2.5: 'Investigation' of this chapter.

The senior officer is to be mindful of the contents of s. 1.17: 'Significant Event Review Panels' of this Manual relating to duties and requirements for significant events.

2.5.4 Rewards for information leading to the apprehension and conviction of offenders

A number of reward schemes exist for information leading to the apprehension and/or conviction of offenders. These include rewards offered:

(i) by the Government in reward notices;

OPM Issue 113 Public Edition

(ii) by the Service to human sources;

(iii) under the Arson Rewards Scheme;

(iv) through Crime Stoppers; and

(v) by members of the community or private companies.

For information relating to offers of cash, gifts or benefits to members of the Service see s. 11.4: 'Gifts or benefits offered to members of the Service' of the MSM.

Rewards Evaluation Committee

The Rewards Evaluation Committee has been established in Crime Command to provide recommendations for the determination of rewards (see Crime Command Instruction 29/2023: 'Guiding Principles for the QPS Rewards Evaluation Committee' available on the Crime Command SharePoint page). The committee is chaired by the detective superintendent, State Intelligence Group (SIG), Crime Command.

Government reward notices

A reward notice is the declaration of an offer by Government of a sum of money payable at the sole and absolute discretion of the Commissioner to a member or members of the community for information supplied leading to the apprehension and conviction of offenders for murder or other serious offences.

Information about rewards currently available is published on the 'Index to Rewards Offered' on the QPS Internet site.

OICs of investigations may under certain circumstances, make application for the issue or withdrawal of a Government reward notice.

The Detective Superintendent, SIG, is to take any necessary action as a result of information provided to ascertain whether the subject reward is to be approved, paid or otherwise withdrawn from offer.

The Detective Superintendent, SIG, is responsible for ensuring reward notices are published and maintained on the Service internet site.

Officers should consider making an application for the issue of a reward notice in circumstances where:

(i) a murder or other serious offence or incident has occurred;

(ii) an offender or suspect has not been identified or located;

(iii) further information is required to allow the investigation to proceed; and

(iv) it is unlikely that the investigation will be successfully resolved without further information.

Officers applying for the issue of a reward notice should submit a report for consideration to their regional crime coordinator (RCC), or in the case of Crime Command, the officer's detective superintendent. The report is to contain details of:

(i) the nature of the incident (e.g. murder, missing person/suspected murder);

(ii) the date, time and place of the offence or incident;

(iii) details of how the offence or incident occurred, where known;

(iv) details of the progress of the investigation;

(v) the expected outcomes of offering a reward;

(vi) whether there are any foreseeable legal impediments to issuing a reward; and

(vii) other relevant matters concerning the wording and distribution of the reward notice.

A draft Ministerial Briefing Note (MBN) is to be included with the report.

On receipt of the report, the RCC or detective superintendent is to make firm recommendations relating to approval and, having regard to the individual circumstances of the case, an appropriate reward value, before forwarding the report through the chain of command to the Detective Superintendent, SIG.

On receipt of a request from a region or command for the issue of a reward notice, the Detective Superintendent, SIG should ensure:

(i) the proposed reward is appropriate and consistent with rewards offered in similar cases;

(ii) there is no legal impediment to the issuing of the reward; and

(iii) all necessary action is taken to obtain Ministerial approval for the reward to be offered.

Upon being advised of Ministerial approval for the reward, the Detective Superintendent, SIG is to ensure:

(i) the region or command requesting the reward notice is notified of the approval by the Minister and the requirement to add details of the notice into the relevant QPRIME occurrence;

OPM Issue 113 Public Edition

(ii) a reward notice is drafted and approved by the investigating officer applying for the reward;

(iii) the reward notice is published on the 'Index to Rewards Offered' on the Service internet site; and

(iv) a copy of the published reward notice is provided to the OIC of the relevant investigation.

The RCC, or in the case of Crime Command, the detective superintendent requesting the issue of a reward notice, after receiving notification that the reward notice has been approved, is to ensure:

(i) a copy of the reward notice is scanned into the relevant QPRIME occurrence;

(ii) a 'Supplementary Report' is generated in the relevant QPRIME occurrence recording details of the reward notice;

(iii) a 'Diary Date' flag is created within the relevant QPRIME occurrence. This should include:

(a) a reminder date set 12 months from the approval date of the relevant reward notice;

(b) a link to the organisational unit responsible for the relevant investigation in the 'Person to Notify' section of the flag;

(c) a prompt for the OIC of the responsible organisational unit to detail the task to an investigator for overview, updating, creating an extended expiry date or application for withdrawal of the reward as applicable; and

(iv) consultation occurs with Media and Public Affairs Group for promotion of the reward.

Arrest

When a person is arrested in connection with an offence for which a reward is on offer, the arresting officer is to forward a report through the chain of command to the Detective Superintendent, SIG, providing brief details of the arrest for information of the Rewards Evaluation Committee.

Conviction and claim of reward

When a person is convicted in connection with an offence for which a reward is on offer, the arresting officer is to forward a report through their chain of command to the Detective Superintendent, SIG, providing the following information:

(i) the offence for which the subject reward is on offer;

(ii) the name/s of the person/s arrested or apprehended;

(iii) concise details of how the offender/s came to notice, e.g. whether information was provided to police in response to the reward on offer, and if the reward is sought:

(a) the proposed reward recipient's involvement in the offence (if any); and

(b) whether there is any indemnity against prosecution issues in respect to the proposed reward recipient (see s. 3.4.5: 'Director of Public Prosecutions (State) guidelines' and s. 3.9.14: 'Indemnities against prosecution' of this Manual);

(iv) the name, rank, registered number and station of the apprehending officer; and

(v) a draft MBN.

On receipt of advice from a region or command for the claim of a reward, the Detective Superintendent, SIG, is to ensure:

(i) the proposed reward is appropriate and consistent with the reward recipient's involvement in the matter;

(ii) there is no legal impediment to the issuing of the reward; and

(iii) all necessary action is taken to obtain Ministerial approval for the reward to be paid.

Upon being advised of Ministerial approval for payment of a reward, the Detective Superintendent, SIG, is to ensure:

(i) the reward notice on the 'Index to Rewards Offered' on the QPS Internet site is updated; and

(ii) the region or command reporting the claim for the reward notice is notified of the approval by the Minister and the requirement to add details of the award claim/payment into the relevant QPRIME occurrence.

The RCC, or in the case of Crime Command, the detective superintendent advising the claim of a reward notice, after receiving notification that the payment of the reward notice has been approved, is to ensure:

(i) a copy of the reward payment advice is scanned into the relevant QPRIME occurrence;

(ii) a 'Supplementary Report' is generated in the relevant QPRIME occurrence recording details of the reward payment advice;

(iii) any 'Diary Date' flag within the relevant QPRIME occurrence in relation to the reward notice is finalised; and

(iv) consultation occurs with Media and Public Affairs Group for promotion of the reward payment.

OPM Issue 113 Public Edition

Annual review of rewards

Where a reward has been issued, the investigating officer is to conduct an annual review of the circumstances subject of the reward. Where the investigation has been formally handed over to a specialist unit (e.g. Homicide Investigation Unit), the specialist unit is to conduct the annual review. Where the investigation has been filed, the OIC of the criminal investigation unit responsible for the area where the incident occurred is to ensure the annual review is conducted.

The review of the reward should include:

(i) the status of the reward notice; and

(ii) whether renewed publication of the reward notice would be beneficial; or

(iii) whether the reward notice should be withdrawn.

The result of the review is to be recorded in a 'Supplementary Report' generated in the relevant QPRIME occurrence.

The Assistant Commissioner, Crime Command is to ensure an annual assessment is conducted concerning all current and published rewards in respect of compliance with the requirements of this section.

Finalisation or withdrawal of rewards

All Government rewards are to remain in effect indefinitely or until such time that they are claimed (finalised) or withdrawn as a result of a recommendation of the Rewards Evaluation Committee. In instances where payment of a reward has been delivered the nominated reward must still remain active on the 'Index to Rewards Offered' until the appeal process has expired.

If a determination has been made that a reward notice should be withdrawn, the OIC of the investigation is to submit a report to their RCC, or in the case of Crime Command, the officer's detective superintendent outlining the reasons with a firm recommendation for consideration.

On receipt of the report the RCC or detective superintendent is to make firm recommendations relating to the withdrawal before forwarding the report to the Detective Superintendent, SIG, for review by the Rewards Evaluation Committee.

Rewards or payments to human sources

For information in relation to the management and payment of human sources, see s. 8.1: 'Human Source Management Policy' available on the Crime Command SharePoint page.

Arson Rewards Scheme

The Arson Rewards Scheme is administered by the Insurance Council of Australia.

The aims of the scheme are to provide:

(i) a deterrent to arson and arson fraud (arson-related offences);

(ii) information to assist police in the investigation of deliberate fires where arson is involved; and

(iii) information to assist insurers in the denial of liability for fire claims where fraud is involved and to reduce claim payouts.

Participation in the scheme is by Insurance Council of Australia members. Total costs, including the reward payment amount, are the responsibility of the insurer on whose policy the claim is being made.

Overall control, supervision of payment of rewards and responsibility for advertising rests with the Insurance Council of Australia. Determination of rewards under the scheme are to be conducted by the Rewards Evaluation Committee in participation with a representative from the Insurance Council of Australia.

Recommendations for the payment of rewards under the scheme are to be made by arresting officers upon conviction of a person in connection with arson-related offences. The recommendations are assessed by the Rewards Evaluation Committee in conjunction with a representative from the Insurance Council of Australia in accordance with the 'General Insurance Industry Arson Reward Scheme Guidelines' which are available on the Arson Investigation Unit SharePoint page.

Upon conviction of a person in connection with an arson-related offence for which a reward may be payable under the Arson Rewards Scheme, the arresting officer should forward a report through the chain of command to the Detective Superintendent, SIG, for the attention of the Rewards Evaluation Committee. The report should contain details of:

(i) the offence for which the offender was convicted;

(ii) the date and place of conviction (including whether or not a conviction was recorded);

(iii) the sentence imposed by the court;

(iv) how the offender(s) came to notice, e.g. whether information was provided to police in response to the reward on offer; and

(v) the name, rank, registered number and station of the arresting officer.

OPM Issue 113 Public Edition

On receipt of a request from a region or command for consideration of payment of a reward under the Arson Reward Scheme, the Detective Superintendent, SIG, is to ensure:

(i) an Insurance Council of Australia representative is invited to participate on the Rewards Evaluation Committee;

(ii) payment of the reward is considered in accordance with the 'General Insurance Industry Arson Reward Scheme Guidelines'; and

(iii) all necessary action is taken by the Insurance Council of Australia representative to:

(a) liaise with the relevant Insurance Council of Australia member (insurer) to confirm responsibility for payment of the reward and the reward amount;

(b) establish the method and subsequent administration of payment to the reward recipient; and

(c) provide confirmation of payment of the reward to the Rewards Evaluation Committee.

Crime Stoppers rewards

See s. 1.15: 'Crime Stoppers' of this Manual and the Crime Stoppers SharePoint page.

Community or private companies' rewards

Occasionally, members of the community or private companies may approach the Service with a view to offering or donating a reward for information leading to the apprehension and conviction of offenders for particular incidents or offences.

Members of the Service who receive an offer from a member of the community or private company to provide a reward in such circumstances, are to:

(i) obtain full particulars of the offer; including the:

(a) amount of the reward being offered;

(b) details of the incident or offence for which the reward is being offered; and

(c) terms or conditions on which the reward is being offered, e.g. whether the reward will be paid as a result of information leading to the arrest of, or upon conviction of the offender;

(ii) ascertain the progress of the investigation, including where possible the identification of possible suspects/offenders; and

(iii) forward a report containing the above information to the OIC of their region or command for referral to the relevant deputy commissioner for consideration.

Advertising rewards for the return of lost or stolen property

Section 25A: 'Advertising a reward for the return of stolen property etc.' of the *Summary Offences Act* provides offence provisions in relation to advertising rewards for stolen or lost property.

OPM Issue 113 Public Edition

2.5.5 Use of digital devices

Definitions

For the purpose of this section:

Digital device

means a Service-approved:

(i) device which records audio and/or video in digital form via the Axon Capture app;

(ii) a QLiTE device; or

(iii) body worn camera(see SMD).

Responsibilities of OICs of stations and establishments

Where a member at a station or establishment uses a digital device as a part of their duties, the OIC of the station or establishment is to ensure:

(i) the use of digital device; and

(ii) retention of digital data,

are identified as risks for that work unit's risk management plan. The OIC is to ensure appropriate action is taken in accordance with s. 3.5: 'Business continuity planning' of the MSM.

Use of a non-Axon digital device

ORDER

An officer is to only upload evidential or non-evidential digital data into Evidence.com using an Axon camera or via the Axon Capture app unless there is an emergent situation (see subtitle 'Use of privately-owned digital device in an emergent situation' of this section).

Uploading of evidential and non-evidential digital data via the Axon Citizen portal

An officer is to upload evidential or non-evidential digital data (e.g. photographs, video recordings including CCTV footage) from a victim or witness into Evidence.com, via the citizen portal in accordance with the guidelines outlined on the body worn camera (BWC) website on the Service intranet.

Before an officer makes a request via the citizen portal the officer should contact the witness or victim advising of the request.

Uploading of digital photographs/video data to be referenced with a system identifier

ORDER

Where an officer uploads digital:

(i) non-evidential; or

(ii) evidential,

data into Evidence.com or an approved storage facility (see s. 4.3: 'Storage, retention and production of portable recording device recordings' of the DERIE Manual), the officer is to reference the digital photograph or video recording with a system identifier (e.g. regional correspondence index number, QPRIME occurrence report number or CAD/IMS Job Number).

Digital non-evidential photographs/video recording

Digital devices may be used for the following non-evidential purposes:

(i) criminal intelligence gathering;

(ii) investigation briefings to assist investigators;

(iii) to photograph or video record a person when reporting in accordance with bail conditions for inclusion on QPRIME (see s. 602S: 'Power to detain and photograph' of the PPRA);

(iv) to photograph or video record a person for the purposes of a Photo Name Board, (see QPRIME User Guide: 'Photographs/Photo ID');

(v) to photograph or video record a reportable offender when reporting in accordance with s. 31: 'Power to take photographs' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* for forwarding to the Child Protection Offender Registry, Crime Command;

(vi) to photograph the face of a prisoner being held in a watch-house, escorted or guarded in hospital to assist with prisoner management (see s. 602S of the PPRA);

(vii) to photograph or video record a subject person/detainee under the authority of a Commonwealth control order or a Commonwealth or state preventative detention order (Note—these records are to be destroyed in accordance with the policy (see s. 17.3.26: 'Terrorist emergency' of this Manual));

(viii) any other function as articulated in QPRIME User Guide for inclusion on QPRIME;

(ix) administrative purposes (e.g. recording potential real estate acquisitions, recording progress on building projects identifying equipment items and defects and vehicle damage assessment); and

(x) desktop development of training, presentation and public affairs material.

Retention of evidential or non-evidential digital data on a regional or command file server

Officers in charge of regions or commands are to use Evidence.com as their primary data storage facility. However, if an OIC of a region or command uses another Service-approved data storage facility other than Evidence.com, the OIC is to consult with their relevant Regional Technology Support Manager, and develop regional or district instructions to ensure compliance with the Records Retention and Disposal Handbook.

Advice on storage is available from the Regional Technology Support Manager.

See also Chapter 4: 'Information Security' of the IMM for the policy relating to the security of the Service's electronic information holdings.

OPM Issue 113 Public Edition

Digital evidential photographs

ORDER

Original digital evidential images are not to be altered, manipulated or enhanced. A working copy is to be made for such purposes.

See also subsection titled 'Admissibility of photographs, audio and video recordings and film' of s. 2.4.11: 'Video and photographic evidence recorded during the commission of offences' of this chapter.

Digital evidential photographs (forensic officers)

Forensic officers may take evidential photographs with a digital still camera and store those photographs on the Forensic Register in accordance with Forensic Services guidelines.

Digital evidential photographs (Covert and Specialist Operations Group)

Officers attached to Covert and Specialist Operations Group, Crime Command may take evidential photographs with a digital still camera and store those photographs in accordance with regional instructions.

Digital evidential photographs (Forensic Crash Unit)

Officers performing Forensic Crash Unit duties may take evidential photographs with digital still cameras and store those photographs in accordance with station/establishment instructions.

Digital evidential photographs (other than forensic officers)

Investigating officers may take evidential photographs with a Service-approved digital device when:

(i) photographing the face of a deceased person for the purpose of complying with the identification continuity procedures of the relevant mortuary; or

(ii) after making an assessment, considers the investigation does not require forensic analysis (e.g. comparison of tool marks left at a crime scene, analysis of blood splash patterns).

If the investigating officer is unsure if a forensic officer should attend a crime scene, the officer is to contact their local forensic officer.

ORDER

Where an officer has taken evidential photographs or video recordings, the officer is to upload the data into Evidence.com and reference each photograph or video recording with a system identifier.

Use of privately-owned non-approved digital device in an emergent situation

When an emergent situation arises where crucial evidence is about to be:

(i) removed;

(ii) destroyed; or

(iii) lost,

as a result of:

(i) the weather: or

(ii) other factors that cannot be controlled by officers at the scene; and

(iii) a service digital device is unavailable to use,

an officer may use a privately-owned non-approved digital device for the purpose of recording evidence.

Where the officer has recorded crucial evidence on a privately-owned digital device the evidence is to be uploaded into Evidence.com as soon as reasonably practical, then deleted from the device.

ORDER

An officer is not to share digital photographs or video recordings using a privately-owned device with any other officer or person(s) unless it is specifically required in relation to the performance of their duty.

Retention of evidential digital photographs

The OIC, Forensic Services Group is responsible for managing the retention and disposal of digital evidential images on the Forensic Register in accordance with the RRDH.

Printouts of digital photographs taken of a deceased person for the purpose of complying with the identification continuity procedures of a mortuary are to be retained with the relevant coronial file.

OPM Issue 113 Public Edition

2.5.6 Removal of prisoners/children from corrective services facilities and youth detention centres

ORDER

Where it is necessary to remove a prisoner/child from a corrective services facility (CSF) or youth detention centre (YDC), officers are to comply with the relevant provisions of the PPRA, the *Corrective Services Act* (CSA) and the YJA.

Officers are required to coordinate with the person in charge of the CSF or YDC where the prisoner or child is detained and ensure adherence to the provisions outlined in this section.

Standard conditions for removal of prisoners from a CSF

When a prisoner is removed from a CSF, officers are to ensure compliance with the following conditions:

(i) the prisoner does not have unsupervised access to any communication device;

(ii) the prisoner does not have unsupervised access to any other person;

(iii) all interactions involving the prisoner's access to communication devices or other individuals must be documented. Any information that poses a threat to the security and good order of a CSF must be reported to Queensland Corrective Services (QCS);

(iv) the prisoner does not have access to any illicit substance or alcohol. Prescribed medication is only to be given according to details in the QCS form titled 'Removal of offender from a corrective services facility for law enforcement purpose';

(v) the CSF is notified of details of removal period extensions and the name of the authorising magistrate or justice before the original return date and time;

(vi) the prisoner is not used in controlled operations without prior approval of the Commissioner of QCS; and

(vii) the prisoner wears prison attire for the period of the removal.

Compliance with standard conditions will be monitored by QCS. Should QCS identify any non-compliance with conditions, they may refer the matter to an appropriate authority for further investigation.

Prisoners will be drug and alcohol tested by QCS immediately prior to removal and upon return to a CSF.

A prisoner's telephone calls are restricted and closely monitored while in a CSF. Some prisoners may attempt to use the opportunity when in police custody to make telephone calls they would not normally be allowed to make in a CSF (e.g. telephoning a victim of their crime or to arrange a criminal act). Contact with any other person or use of a communication device is not to occur unless approved by a commissioned officer. Such approval is to be recorded in the commissioned officer's official police diary. Officers are to ensure all telephone calls made by a prisoner removed from a CSF are appropriately supervised.

Removal of sentenced or remanded adult prisoner from police custody as a witness before transfer to CSF

Where an officer wishes to remove a sentenced or remanded prisoner held in police custody pending transfer to a CSF, officers are to comply with the provisions of s. 411B: 'Application for police assistance removal order' of the PPRA.

This section applies in relation to a person other than a child who wishes to provide information to help the Service to investigate an offence or gather intelligence in relation to a criminal activity on the basis that the person is:

(i) not a suspect for:

(a) the offence the subject of the investigation; or

(b) an offence involved in the criminal activity; and

(ii) able to provide the information only by being removed from the watch-house and taken to a place that is not a police establishment.

Where it is necessary to remove a sentenced or remanded prisoner held in police custody pending transfer to a CSF, an application for a removal order is to be made on a QP 1155: 'Application for police assistance removal order'. An officer is to:

(i) obtain the approval of an officer of at least the rank of superintendent who has been appointed as a detective;

(ii) inform the person that they may seek legal advice before deciding whether to give consent to their removal;

(iii) obtain written consent (see s. 411C: 'Consent of relevant person required' of the PPRA) of the relevant person;

(iv) if reasonably practical, electronically record obtaining the person's consent; and

(v) apply to a magistrate with the application, noting that an application may be refused if the magistrate considers more supporting information is required from the applicant officer.

The application must be:

(i) made in person; and

OPM Issue 113 Public Edition

(ii) sworn and state the grounds on which it is sought.

If the police assistance removal order (QP 1156: 'Police assistance removal order') is made by a magistrate, the applicant officer is to:

(i) update QPRIME occurrence detention log entry 'Detained under s. 410D of the PPRA—Police assistance removal order (court)' with wording '*On [DATE] a police assistance removal order was made by Magistrate [NAME of MAGISTRATE] for [FULL NAME/DOB of the relevant person] to be released into police custody to assist in [ADD BRIEF DETAIL OF THE ASSISTANCE BEING PROVIDED].'*

An officer may keep a relevant person in custody under a police assistance removal order for no more than 8 hours.

An officer may apply for an order extending the assistance period before the period ends (see s. 411I: 'When assistance period may be extended' of the PPRA), the application must be made to:

(i) a magistrate; or

(ii) a justice of the peace (magistrates court); or

(iii) if there is no magistrate or justice of the peace (magistrates court) available—another justice of the peace other than a justice of the peace (commissioner of declarations).

A relevant person may withdraw consent to help police at any time (see s. 411J: 'Withdrawal of consent' of the PPRA). On withdrawal of consent, the relevant officer must return the relevant person to the watch-house as soon as reasonably practicable.

Removal of prisoner/child as suspects or for law enforcement purposes generally

Where it is necessary to remove a prisoner/child from a CSF or YDC officers are to adhere to:

(i) the procedures in this subsection; and

(ii) either subsection titled 'Removal of prisoners as suspects', 'Removal of child as suspect' or 'Removal of prisoners for law enforcement purposes' of this section.

Prior to making application for removal the investigating officer is to:

(i) where the person is an adult, request an 'External Escort Intelligence Advice' form from the CSF;

(ii) complete the relevant application forms; and

(iii) seek approval to make such application from the relevant DI by providing:

(a) a copy of the completed application forms relevant to the removal;

(b) a copy of the 'External Escort Intelligence Advice' form provided by the CSF;

(c) the reason for the need for the prisoner/child's removal;

(d) the proposed location/s where the prisoner/child will be taken and for what purpose;

(e) the proposed security arrangements to be implemented together with the details of the officer nominated responsible for the conduct of the removal; and

(f) whether any known removal conditions may hinder police investigations or other planned law enforcement activities, and whether any changes are required.

Where the relevant DI of the investigating officer's region is not available, and the matter is urgent, approval may be sought from a relevant regional crime coordinator (RCC) or operations commander, Crime Command.

Upon approval from the relevant DI, the investigating officer is to:

(i) create a [1678] 'Prisoner Removals' occurrence in QPRIME and upload all documents relating to the removal process contained in Appendix 2.12: 'Prisoner removal audit checklist';

(ii) make application for the removal order to a magistrate or the CSF as appropriate;

(iii) upon granting of an order by a magistrate, fax, email or otherwise provide a copy to the general manager of the relevant CSF or director of the YDC; and

(iv) ensure appropriate arrangements are made relating to the security of the prisoner/child, including transport arrangements.

Where a prisoner/child is removed from a CSF or YDC, officers are to:

(i) enter the details of the prisoner into the relevant QPRIME Custody Report (Full), linking the relevant [1678] 'Prisoner Removals' occurrence, as a new entry and make Detention Log entries as appropriate, (see s. 16.8.8: 'Transfer of prisoners from Corrective Services' of this Manual);

(ii) record in QPRIME, the time they:

(a) accept custody of the prisoner/child;

OPM Issue 113 Public Edition

(b) are granted an extension to the detention in custody of the person and the relevant details, if applicable; and

(c) return the person to the CSF or YDC;

(iii) comply with the conditions of any removal order and the conditions outlined by the CSF;

(iv) consider the risk assessment from the CSF, or any risks identified by the YDC and take appropriate action to reduce any risks whilst the prisoner/child is in police custody;

(v) ensure appropriate security is maintained in light of information provided by QCS or the YDC;

(vi) wherever appropriate and when not required to be at any other location, the prisoner/child is to be held at a watch-house;

(vii) comply with the relevant provisions of s. 16.13.4: 'Provision of medication' of this Manual;

(viii) comply with the applicable provisions of Chapter 16: 'Custody' of this Manual; and

(ix) inform the relevant person in charge of the CSF or YDC, prior to any pre-arranged return time of the prisoner/child to the facility, of any changes to the pre-arranged return time, including the new time the prisoner will be returned and the approving magistrate.

When the prisoner/child is no longer required for questioning about an offence or investigation of an offence or the detention period ends, the prisoner/child is to be returned to the CSF or YDC.

After the prisoner/child is returned to a CSF or YDC, officers are to:

(i) complete any forms required by the CSF or YDC;

(ii) update and finalise the relevant QPRIME Custody Report (Full), ensuring documentation relevant to the removal is uploaded to the appropriate QPRIME occurrence, and make Detention Log entries as appropriate;

(iii) advise the DI who authorised the removal within 7 days of the removal taking place, by report through their OIC, of:

(a) the time and date the prisoner/child was taken into police custody;

(b) the place or places to which the prisoner/child was taken;

(c) a brief description of the result of the interview and any other investigations conducted;

(d) whether any reward or benefit was given or offered to the prisoner;

(e) the time and date the prisoner/child was returned to a CSF or YDC;

(f) if held overnight:

- details of where the prisoner was housed; and
- why the prisoner was required to be held overnight;

(g) details of any departures from previously approved arrangements (e.g. an emergent situation occurred requiring the prisoner to have a change of clothing);

(h) details of any contact with another person or the use of a communication device by the prisoner/child, and the details of the approval for such contact from a commissioned officer; and

(i) details of any issues with the application of the security arrangements for the removal; and

(iv) ensure they comply with the Human Source Management Policy as applicable.

Removal of prisoners as suspects

Where a prisoner is suspected of having committed an indictable offence and is in custody in a CSF, officers are to refer to Division 2: 'Removal of persons from lawful custody in prison or detention centre' (ss. 399–402) of Part 2 of Chapter 15 of the PPRA and s. 24: 'Applications for removal orders—Act, s 399' of the Police Responsibilities Code.

Where an officer intends on removing a prisoner from a CSF as a suspect, they are to adhere to the procedures in subsection 'Removal of prisoner/child as suspects or for law enforcement purposes generally' of this section as well as this subsection.

See the procedural flow chart in Appendix 2.10: 'Removal of Prisoners/Children from Corrective Services Facility/Youth Detention Centres as Suspects'.

Prior to making application to remove a prisoner, the investigating officer is to contact the QCS Intelligence office responsible for the CSF where the prisoner is located and request an 'External Escort Intelligence Advice' form in relation to the prisoner.

OPM Issue 113 Public Edition

Where the standard conditions outlined on the 'External Escort Intelligence Advice' form will inhibit police investigations or other planned law enforcement activities with the prisoner and it is believed the conditions should be amended, the DI may attempt to negotiate changes with the general manager of the relevant CSF.

Where changes are not able to be negotiated, or where an 'External Escort Intelligence Advice' form is not provided by QCS in sufficient time for consideration by the DI, the DI may consider whether to proceed with the prisoner removal, or whether the removal should be delayed until the provision of the information contained in the 'External Escort Intelligence Advice' form.

The application forms relevant to this type of removal are:

(i) QP 0719: 'Application for Removal Order'; and

(ii) QP 0720: 'Removal Order'.

Officers will be required to complete and comply with the QCS document titled 'Removal of offender from a corrective services facility for law enforcement purpose' upon removal and return of the prisoner at the CSF.

A removal order under s. 403(2): 'Initial period of detention for investigation or questioning' of the PPRA states the prisoner may be detained in the custody of the investigating officer for up to 8 hours. Where officers are seeking an extension to the initial 8 hours of detention, they are to:

(i) seek permission from the relevant DI to apply for an extension of time under s. 405: 'Application for extension of detention period' of the PPRA; and

(ii) where the relevant DI permits the application for an extension:

(a) make application to a magistrate or justice under s. 405 of the PPRA using QP 0721: 'Application for Extension of Detention Period'; and

(b) advise the DI of the outcome; or

(iii) where the relevant DI refuses the application for an extension return the prisoner immediately to the relevant CSF.

Removal of child as suspect

Where a child is suspected of having committed an indictable offence and is in custody in a CSF or YDC, officers are to refer to Division 2 (ss. 399–402) of Part 2 of Chapter 15 of the PPRA and s. 24: 'Applications for removal orders—Act, s 399' of the Police Responsibilities Code.

Where an officer intends on removing a child from a YDC as a suspect, they are to follow the policy outlined in subsection 'Removal of prisoner/child as suspects or for law enforcement purposes generally' of this section, as well as this subsection.

See the procedural flow chart in Appendix 2.10.

Upon receipt of approval from the relevant RCC or operation commander, the investigating officer is to advise the Chief Executive (Communities) or delegate in accordance with s. 400 of the PPRA (the relevant youth detention centre has contact details for the Chief Executive or delegate, see SMCD) and then make application for the removal order to a magistrate.

Upon granting of the removal order by a magistrate, the investigating officer is to advise the director of the relevant YDC of the proposed location and anticipated period of detention of the child.

The application forms relevant to this type of removal are:

(i) QP 0719; and

(ii) QP 0720.

A removal order under s. 403(2) of the PPRA states the prisoner may be detained in the custody of the investigating officer for up to 8 hours. Where officers are seeking an extension to the initial 8 hours of detention, they are to:

(i) request permission from the relevant DI to apply for an extension of time under s. 405 of the PPRA; and

(ii) where the relevant DI permits the application for an extension:

(a) make application to a magistrate or justice under s. 405 of the PPRA using QP 0721; and

(b) advise the DI of the outcome; or

(iii) where the relevant DI refuses the application for an extension, the child is to be returned immediately to the relevant YDC.

Removal of prisoners for law enforcement purposes

This situation applies where a prisoner is not a suspect but may assist with the investigation of an offence. Authority to remove a prisoner from a CSF for this purpose is contained in s. 70: 'Removal of prisoner for law enforcement purposes'

OPM Issue 113 Public Edition

of the CSA. In part, this section provides a person may, in the approved form, apply to the chief executive for a prisoner to be removed from a CSF to another place to enable:

(i) the prisoner to provide information to a law enforcement agency to help the agency perform its law enforcement functions (for example: to provide details of an incident witnessed or where the prisoner is to take part in a re-enactment of a scene or participate in a pretext telephone call); or

(ii) a law enforcement agency to question the prisoner about an indictable offence alleged to have been committed by the prisoner (note: officers are not to use s. 70 of the CSA to remove prisoners who are suspects, but are to use the provisions of Division 2: 'Removal of persons from lawful custody in prison or detention centre' (ss. 399–402) of Part 2 of Chapter 15 of the PPRA (see subsection titled 'Removal of prisoners/children as suspects' of this section).

Where an officer intends on removing a prisoner from a CSF for law enforcement purposes (not as a suspect), they are to follow the policy outlined in subsection 'Removal of prisoner/child as suspects or for law enforcement purposes generally' of this section, as well as this subsection.

See Appendix 2.11: 'Removal of Prisoners from Corrective Services facilities for Law Enforcement Purposes' of this chapter.

The chief executive may authorise the removal of the prisoner only if the prisoner, in the presence of an official visitor, agrees in writing.

A prisoner removed under s. 70 of the CSA is taken to be in the custody of the Commissioner of Police whilst absent from the CSF. Officers should ensure the applicable provisions of Chapter 16 of this Manual are complied with during the period the prisoner is absent from a CSF.

Prior to making application to remove a prisoner from a CSF or YDC, the investigating officer is to contact the QCS Intelligence office responsible for the corrective services facility where the prisoner is located and request a completed 'External Escort Intelligence Advice' form in relation to the prisoner.

Where the standard conditions outlined on the 'External Escort Intelligence Advice' form will inhibit police investigations or other planned law enforcement activities with the prisoner and it is believed the conditions should be amended, the relevant DI may attempt to negotiate changes with the general manager of the relevant CSF.

Where changes are not able to be negotiated, or where an 'External Escort Intelligence Advice' form is not provided by QCS in sufficient time for consideration by the relevant DI, the DI may consider whether to proceed with the prisoner removal, or whether in appropriate circumstances, the removal should be delayed until the provision of the information contained in the 'External Escort Intelligence Advice' form. The application forms relevant to this type of approval are:

(i) Form 012: 'Application for Removal of a Prisoner from a Corrective Services Facility for Law Enforcement Purposes'; and

(ii) Form 012A: 'Approval for Removal of a Prisoner from a Corrective Services Facility for Law Enforcement Purposes'.

When a prisoner is removed from a CSF under the provisions of s. 70 of the CSA, and the prisoner subsequently becomes a suspect for any indictable offence being investigated, the removal order under s. 70 of the CSA ceases to apply and the provisions of Chapter 15, Part 2 of the PPRA commence. In this situation, officers are to contact the relevant DI of the investigating officer's region or command or, if not available, the operations commander, Crime Command as soon as possible and seek permission for detention of the prisoner under these alternative provisions.

Where permission for detention under Chapter 15, Part 2 of the PPRA is:

(i) refused by the relevant DI, the prisoner is to be returned immediately to the relevant CSF; or

(ii) granted by the relevant DI, an application under s. 399: 'Application for removal of a person from lawful custody in prison or detention centre' of the PPRA (i.e. using forms QP 0719 and QP 0720) is not necessary, but the provisions of s. 403 of the PPRA are to be complied with as well as a relevant entry in the QPRIME Custody Report (Full) Detention Log.

Role of the relevant detective inspector

The DI who receives a request to approve an application for the removal of a prisoner/child suspected of having committed an indictable offence from a CSF or YDC, or for the removal of a prisoner from a CSF for law enforcement purposes is responsible for:

(i) evaluating the need for a prisoner/child's removal;

(ii) deciding whether prisoner/child removal applications should be made, approving the movements and activities to be undertaken whilst the prisoner/child is in police custody and advising the investigating officer of such outcomes;

(iii) evaluating whether the continued detention of a prisoner beyond the initial 8 hours where the prisoner has been removed under s. 403 of the PPRA is approved and advising the relevant investigating officer of the outcome;

OPM Issue 113 Public Edition

(iv) evaluating whether the continued detention of a prisoner under Chapter 15, Part 2 of the PPRA after removal of the prisoner ceases under s. 70 of the CSA is approved and advising the relevant investigating officer of the outcome;

(v) overviewing planned security arrangements for prisoner removal in light of information provided by QCS or the YDC;

(vi) ensuring service policy in relation to human sources is complied with, including the appropriateness of any benefits derived by the prisoner;

(vii) ensuring a process is implemented to monitor compliance with Service policy in relation to:

(a) QPRIME occurrence submitted for the prisoner removal;

(b) QPRIME Custody Report (Full), search, property and occurrence entries being commenced, maintained and updated and detention times are adhered to;

(c) official diary/notebook entries including the times relative to the removal;

(d) electronic recording of interviews and evidence including entry on the relevant QPRIME Interview Report; and

(e) the Human Source Management Policy (see also s. 2.9.2: 'Human Source Management' of this chapter);

(viii) ensuring a system is in place at regional level to record appropriate details for prisoner removals such as copies of removal orders and other relevant documentation;

(ix) ensuring audits are conducted of prisoner removals (see 'Audit of removals of prisoners/children as suspects and for law enforcement purposes' of this section);

(x) considering grounds to amend a QCS condition of prisoner removal and, if appropriate, negotiate an amendment with the general manager of the relevant CSF; and

(xi) where grounds to amend a QCS condition of prisoner removal are sought, advise the relevant investigating officer of the outcome.

The RCC or operations commanders are to ensure copies of all requests to make application for the removal of a prisoner/child and associated documents are retained for audit purposes.

In cases where an operations commander, Crime Command gives approval to make an application for the removal of a prisoner/child from a CSF or YDC, they are to forward a copy of the file to the RCC of the relevant region as soon as practicable.

Audit of removals of prisoners/children as suspects and for law enforcement purposes

Audits are to be conducted of removals of prisoners and children from CSF or YDC as suspects or for law enforcement purposes by:

(i) RCCs and operations commanders on a 6 monthly basis; and

(ii) the Assistant Commissioner, ESC, on a yearly basis and independently of the region/command audits.

Audits of removals of prisoners or children should include a review of related QPRIME occurrences to ensure all documentation required by law and policy for the removal is attached. Where documentation has not been attached to a QPRIME occurrence, the relevant RCC or operations commander, should take any action necessary to ensure exceptions are remedied. See Appendix 2.12: 'Prisoner removal audit checklist for QPRIME' of this chapter for a required checklist of documents to be attached to a QPRIME occurrence and audited.

The RCC and operations commander are to report to the relevant assistant commissioner twice annually certifying regular audits of prisoner removals have been conducted. Assistant commissioners are to report all prisoner removals to the Assistant Commissioner ESC twice annually. Reports are to be provided by 14 July of audits conducted between 1 January and 30 June, and by 14 January for audits conducted between 1 July and 31 December.

ORDER

Officers seconded to the QCS Intelligence Group (QCSIG) are to obtain a list of prisoners removed as suspects or for law enforcement purposes on a monthly basis from QCS. This list is to be disseminated directly to all RCCs, and operations commanders. A copy of the list is to be forwarded to the emails 'csiuopsleader@police.qld.gov.au' and 'ESC.Prisoner Removal' for information each month.

It should be noted the list provided by QCS may contain details of prisoner removals other than as suspects or for law enforcement purposes due to the limitations of the QCS record keeping system. The presence of a prisoner's name on the list does not necessarily indicate removal documents should have been prepared. The list is provided only as a reference point for RCCs and operations commanders to assist in their auditing process.

The RCCs and operations commanders should cross check the removals authorised in the relevant region or command. Confirmation of all removals are to be provided to the Assistant Commissioner, ESC.

OPM Issue 113 Public Edition

Where necessary, the Assistant Commissioner, ESC will make further inquiries with QCS to establish the circumstances of a removal which is not acknowledged by a region or command.

Removal of prisoners as defendants

The authority to remove a prisoner from a CSF to attend a court in accordance with a notice to appear (NTA) under the PPRA or a court order, is contained in s. 69: 'Transfer to court' of the CSA.

ORDER

When intending to serve a NTA on a prisoner detained in a CSF, officers are to:

(i) complete a NTA (see s. 3.5.3: 'Proceedings by way of notice to appear' of this Manual) for the relevant offence(s);

(ii) upon attending the CSF, inform the staff at the facility of the purpose of their attendance;

(iii) serve a copy of the NTA on the prisoner at the CSF; and

(iv) provide the person in charge of the CSF where the prisoner is detained with a copy of the NTA.

Where it is necessary to an investigation to obtain the identifying particulars or DNA of a prisoner detained in a CSF who has been served with a NTA for an 'identifying particulars offence' for an indictable offence, officers are to make an application to a magistrate for a forensic procedure order. The application for a forensic procedure order is to be made so the identification particulars and DNA sample may be taken at the same time as the prisoner's first appearance in court. See s. 2.23.2: 'Forensic procedure orders' of this Manual.

Section 19: 'General power to enter to make inquiries, investigations or serve documents' of the PPRA provides a police officer may enter and stay for a reasonable time on a place to serve a document.

When the person in charge of the CSF where the prisoner is detained is in possession of a copy of the NTA, the person in charge of the CSF will make appropriate arrangements for the transportation of the prisoner to the required court in accordance with the NTA.

Where proceedings are to be commenced for an offence by way of a NTA under the PPRA against a child detained in a YDC, officers are to refer to and comply with the procedures in s. 5.9: 'Commencing proceedings against a child' of this Manual.

Removal of prisoners as witnesses for magistrates and children's courts

Intrastate prisoners

Where a prisoner is required to attend court as a witness for the prosecution the arresting officer is to ensure appropriate arrangements are made for the attendance of the prisoner at court. Authority for the removal of a prisoner from a CSF to attend a court is contained in s. 69 of the CSA.

ORDER

When it is proposed to call a prisoner who is detained in a CSF in Queensland as a witness, officers are to:

(i) complete a Form 10: 'Summons of a Witness' under the *Justices Act* available in QPRIME, in accordance with s. 78: 'Power to issue summons to witness' of the *Justices Act*;

(ii) serve or arrange for the service of the Form 10 on the prisoner at the CSF where the prisoner is detained; and

(iii) provide the person in charge of the CSF where the prisoner is detained with a copy of the Form 10.

When the person in charge of the CSF where the prisoner is detained is in possession of a copy of the summons, the person in charge of the CSF will make appropriate arrangements for the transportation of the prisoner to the required court in accordance with the summons.

Where practicable, when officers are involved in the transportation of a prisoner required to appear at a court in accordance with a Form 10 the prisoner should be transported directly to the cells associated with the court where the prisoner is required to appear.

Where an order to produce a prisoner to give evidence in a proceeding has been made by a court under s. 69 of the CSA, officers are not required to further obtain or serve a Form 10 under the *Justices Act* as the order of the court will suffice.

Interstate prisoners

The *Service and Execution of Process Act* (Cwlth) (SEPA (Cwlth)) provides the process for the service of a subpoena issued by a court on a prisoner who is detained in a prison in a state or territory other than Queensland.

For this section the definitions provided in s. 329: 'Interpretation' of the SEPA (Cwlth) are relevant:

Subpoena

means a process requiring a person to do one or both of the following:

(i) to give oral evidence before a court, authority or person;

OPM Issue 113 Public Edition

(ii) to produce a document or thing to a court, authority or person,

but does not include a process requiring a person to produce a document in connection with discovery and inspection of documents.

Custodian

in relation to a person in prison, means the OIC of the institution or place at which the person is detained.

ORDER

When an officer proposes to call a prisoner as a witness in a proceeding, and the prisoner is detained in an interstate prison, the officer is to:

(i) contact the custodian of the prisoner and ascertain the allowances and travelling expenses reasonably associated with the attendance of the prisoner as a witness in the proceeding;

(ii) forward a report to the OIC of the police prosecutions corps who has carriage of the matter setting out the need to call the prisoner as a witness and the associated costs; and

(iii) ensure a complete copy of the brief of evidence accompanies the report.

The OIC of the relevant police prosecutions corps is to make a recommendation outlining the need to call the witness and forward the documentation to the OIC of the region or command for determination and approval.

When approval has been granted to subpoena an interstate prisoner as a witness for a proceeding, officers should:

(i) complete a summons to witness in original and 3 copies (using a Form 10 under the *Justices Act* available in QPRIME) ensuring the summons has an address for service on the witness; and

(ii) liaise with the OIC of the police prosecutions corps who has responsibility for the relevant court regarding an application for an order for production under s. 39: 'Order for production' of the SEPA (Cwlth).

Section 39 of the SEPA (Cwlth) provides a court may make an order that a prisoner be produced at the time and place specified in the subpoena if the court is satisfied:

(i) the giving of the evidence the prisoner is likely to give, or the production of a document or thing specified in the subpoena, is necessary in the interests of justice; and

(ii) there will be enough time for compliance with the order and to permit the prisoner to make an application to seek relief from the subpoena under s. 43: 'Application for relief from subpoena' and s. 44: 'Application for relief from order for production' of the SEPA (Cwlth).

An order for production made by a court under s. 39 of the SEPA (Cwlth) may be subject to specified conditions and must be addressed to the custodian of the prisoner.

Service of an order for production and subpoena on an interstate prisoner

Section 40: 'Service of order for production' of the SEPA (Cwlth) provides the processes to be undertaken when serving a prisoner detained in an interstate prison with an order for production made by a court under s. 39 of the SEPA (Cwlth) and a subpoena requiring the prisoner's attendance to give evidence in a proceeding.

When intending to serve an order for production and a subpoena on a prisoner detained in an interstate prison, officers are to:

(i) arrange for the order for production and the subpoena, or a copy of both, to be served on the custodian of the prisoner and copies are also to be provided to the prisoner;

(ii) ensure the service of the order for production and the subpoena is effected in the same way as a summons would be served on a person in Queensland as required by s. 56: 'Service of summonses' of the *Justices Act*;

(iii) ensure the subpoena contains an address for service of the officer at whose request the subpoena was issued;

(iv) complete and attach to the subpoena a Form 3: 'Notice to Witness (Person in Custody)' SEPA (Cwlth) in accordance with s. 41: 'Information to be provided' of the SEPA (Cwlth);

(v) ensure appropriate arrangements are made with the custodian of the prisoner for expenses reasonably associated with compliance of the subpoena (see s. 42: 'Expenses' of the SEPA (Cwlth)). Costs are the responsibility of the relevant region or command (see Service travel policies and procedures on the Witness Travel SharePoint page); and

(vi) make appropriate travel and custody arrangements of the prisoner, in accordance with Travel Services policies and procedures available on the 'Persons in Custody (PIC)' SharePoint page.

Where practicable, officers involved in the transportation of an interstate prisoner in accordance with a subpoena and an order for production issued under s. 39 of the SEPA (Cwlth), the prisoner is to be delivered directly to the cells associated with the court at which the prisoner is to appear.

For information on the powers of a custodian or any escort of the prisoner arranged by the custodian whilst the prisoner is outside the state in which the prisoner was in prison, see s. 46: 'Custody of prisoner etc.' of the SEPA (Cwlth).

OPM Issue 113 Public Edition

Removal of prisoners for district and supreme courts and the Court of Appeal

When it is proposed to call a prisoner as a witness, who is detained in a prison in a state or territory other than Queensland, the Crown prosecutor or Director of Public Prosecutions (DPP) legal officer who has carriage of the matter should arrange for the:

(i) subpoena to be prepared, like any other witness;

(ii) order for production to be obtained from the appropriate court; and

(iii) Form 3: 'Notice to Witness' under SEPA (Cwlth) to be obtained from the appropriate court.

ORDER

The officer responsible is to:

(i) arrange for the order for production and the subpoena, or a copy of both, to be served on the custodian of the prisoner and for copies to be provided to the prisoner;

(ii) ensure the service of the order for production and the subpoena is effected in the same way as a summons would be served on a person in Queensland as required by s. 56: 'Service of summonses' of the *Justices Act*;

(iii) ensure the subpoena contains an address for service of the Crown prosecutor or DPP legal officer at whose request the subpoena was issued;

(iv) attach the Form 3 under SEPA (Cwlth) to the subpoena in accordance with s. 41: 'Information to be provided' of the SEPA (Cwlth);

(v) ensure appropriate arrangements are made with the custodian of the prisoner for expenses reasonably associated with compliance of the subpoena (see s. 42: 'Expenses' of the SEPA (Cwlth)). Arrangements are to be made in consultation with the DPP Witness Coordinator and all costs are the responsibility of the DPP; and

(vi) make travel arrangements in consultation with the DPP Witness Coordinator, including arrangements for the custody of the prisoner, in accordance with Service travel policies available of the QPS Travel SharePoint page . The officer responsible is also to arrange for the transport/escort and security of the prisoner whilst in police custody.

Where practicable, officers involved in the transportation of an interstate prisoner in accordance with a subpoena and an order for production issued under s. 39 of the SEPA (Cwlth), the prisoner is to be delivered directly to the cells associated with the court at which the prisoner is to appear.

For information on the powers of a custodian or any escort of the prisoner arranged by the custodian whilst the prisoner is outside the state in which the prisoner was in prison see s. 46: 'Custody of prisoner etc.' of the SEPA (Cwlth).

OPM Issue 113 Public Edition

2.5.7 Removal of prisoners from a watch-house

A person arrested for an indictable offence and held in a watch-house but not charged, may be released into the custody of a police officer for the purposes of questioning or the investigation of any indictable offence without the need to apply for a removal order or the approval of a commissioned officer.

Prisoner waiting to appear in court

A prisoner in a watch-house who has been charged and is waiting to appear in court may only be released from a watch-house into the custody of a police officer for the purposes of questioning or investigation for any indictable offence with the approval of a commissioned officer (Note—a removal order is not required in these circumstances).

A prisoner on remand or under sentence is a Queensland Corrective Services prisoner

After appearing in court, a prisoner either on Queensland Corrective Services (QCS) remand or under sentence for any offence is, for the purpose of this policy, a QCS prisoner, and may only be released from the watch-house into the custody of a police officer after obtaining a 'release order' for questioning or investigation of the indictable offence nominated in the order.

Court order required to release prisoner into police custody

Despite s. 640: 'Transfer of persons in watch-houses' of the PPRA, if a prisoner is being held in a watch-house under a court order (e.g. being remanded in custody), a further court order is required to release that person into the custody of a police officer for questioning or other investigation purposes. Officers seeking the release of a person from custody are to comply with this section and Division 2: 'Removal of persons from lawful custody' (ss. 399–402) of Part 2 of Chapter 15 of the PPRA and s. 24: 'Applications for removal orders—Act, s 399' of the Police Responsibilities Code (see subsection titled 'Removal of prisoners/children as suspects' of this chapter).

The forms QP 0719: 'Application for Removal Order' and QP 0720: 'Removal Order' are to be used for this purpose.

See s. 2.5.6: 'Removal of prisoners/children from corrective services facilities and youth detention centres' of this Manual for relevant procedures.

Note, a prisoner who has only recently become a QCS prisoner (e.g. initial sentence or remanded in custody for the first time) may not have been assessed by QCS and may not have an 'External Escort Intelligence Advice' form. Notwithstanding, one is to be requested from QCS).

This section does not apply to prisoners held in a watch-house under terrorist interventions (i.e. control orders or preventative detention orders). For prisoners held in a watch-house under terrorist interventions (see s. 17.3.26: 'Terrorist emergency' of this Manual).

2.5.8 Entering school premises

POLICY

The Service recognises school principals are in charge of the relevant school and responsible for its students while the students are at the school. Wherever possible, officers entering a school under the provisions of s. 19: 'General power to enter to make inquiries, investigations or serve documents' of the PPRA, or under any other authority, are to advise the principal of the relevant school when entering.

In some situations, it will be necessary for officers to enter a school without advising the principal of the school. Where appropriate the principal of the school is to be advised of the incident as soon as possible.

Officers are to consider conducting interviews and making inquiries with students suspected of committing offences, or who are assisting in the investigation of an offence, at a time when the students are not required to be present at the school.

Where appropriate, officers should consider the assistance of the relevant school based police officer when entering school premises. Officers are to be aware that school based officers wear all accoutrements and they may be able to assist with, or have already responded to, critical incidents within a school.

For investigations relating to child harm see s. 7.6.4: 'Interviews at schools or places where child care is provided' of this Manual.

2.5.9 Offences committed at sea

Definitions

For the purposes of this section:

Adjacent area

means the whole of the area to which the cooperative scheme exists and includes:

(i) the inner adjacent area which includes a distance within 12 nautical miles from the baseline for the state; and

(ii) the outer adjacent area which means an area beyond the inner adjacent area up to a distance of 200 nautical miles from the baseline for the state or the outer limit of the continental shelf (whichever is the greater distance) (See Appendix 1: 'Indicative map' of the *Crimes at Sea Act* (Cwlth) (CSA(C)).

Australian ship

means:

(i) a ship registered in Australia; or

(ii) a ship that operates, or is controlled, from a base in Australia and is not registered under the law of another country; or

(iii) a ship that belongs to an arm of the Australian Defence Force.

Foreign ship

means a ship other than an Australian ship.

Maritime offence

means an offence against a law that applies in the adjacent area for a state under the CSA(C) scheme.

The Agreement

means the Intergovernmental Agreement—Crimes at Sea (see Appendix 2.4 of this chapter).

The Protocol

means the National Protocol for Receiving Reports of Crimes at Sea (see Appendix 2.5 of this chapter).

Offences committed in Queensland coastal waters

Queensland's maritime boundary is three nautical miles from the territorial sea baseline. The territorial sea baseline may be represented by following the low water mark or by following gazetted straight lines—which are straight baselines,

OPM Issue 113 Public Edition

river closing lines and bay closing lines. Any offences which occur within the maritime boundary are committed within Queensland.

Offences committed in waters surrounding Australia (inside the adjacent area)

Under international law, Australia's territory ends 200 nautical miles from the low water mark. Beyond that are international waters. The Commonwealth and the states have agreed to a cooperative scheme to apply the criminal law of the states extraterritorially in the areas adjacent to the coast of Australia. Under the Cooperative Agreement, the state has power to investigate and prosecute maritime offences notwithstanding that the offence occurs outside the territorial jurisdiction of the state.

Under the scheme, the criminal law of each state is to apply in the waters adjacent to the State:

(i) within the inner adjacent area, for a distance of 12 nautical miles from the baseline for the state—by force of the law of the state; and

(ii) within the outer adjacent area, beyond 12 nautical miles up to a distance of 200 nautical miles from the baseline of the State or the outer limit of the continental shelf (whichever is greater)—by force of the law of the Commonwealth.

Responsibility for administering criminal justice in the area covered by the scheme will be divided between the Commonwealth and the states under the scheme and the Agreement. Under the cooperative scheme the state has power to investigate and prosecute maritime offences notwithstanding that the offence(s) occurred outside the territorial jurisdiction of the state (see Part 2: 'Application of State criminal law to adjacent area' of *Crimes at Sea Act* (Qld)).

The purpose of the CSA(C) is to give legal force to the scheme (so far as it depends on the legislative power of the State) and to provide for consequential vesting of judicial and other powers.

The Agreement provides for the division of responsibility for administering and enforcing the law relating to maritime offences.

In conjunction with the Agreement, all Australian law enforcement agencies are signatories of the Protocol to improve the response to reported crimes occurring at sea. The agreement for the Protocol for receiving reports of crimes at sea (see Appendix 2.5 of this chapter) aims to ensure:

(i) an appropriate police response to crimes at sea reported to Australian law enforcement agencies who are participants in the agreement;

(ii) the rights and needs of victims and perpetrators of crimes at sea are protected;

(iii) evidence is obtained and or secured at the earliest opportunity in accordance with guidelines and policies of the jurisdiction investigating the crime;

(iv) where appropriate, prosecutions are commenced in accordance with existing laws and agreements/protocols; and

(v) a cooperative approach to the commencement of an investigation by the police jurisdiction receiving the report if required.

OPM Issue 113 Public Edition

The participating agencies have agreed that:

(i) when a crime at sea is reported to one of the parties, the party receiving the report will commence an investigation as soon as practicable;

(ii) consideration of the most appropriate jurisdiction for further investigation and prosecution will be undertaken after the investigation has commenced. This consideration should not in any way impede or delay any investigation;

(iii) they will assist other agencies in their investigation when requested and appropriate; and

(iv) they will engage with other jurisdictions in determining which party should have responsibility for continuing the investigation of the matter.

Due to the complicated nature of jurisdictional law arising from crimes committed at sea, legal support and advice should be sought at an early stage of the investigation and maintained throughout (see s. 1.13: 'Operational Legal Advice' of this Manual).

In compliance with Schedule 1: 'The cooperative scheme', Part 4, section 7: 'Commonwealth Attorney-General's consent required for certain prosecutions' of the CSA(C), a prosecution proceeding to a hearing (for a simple offence) or to a committal hearing (for an indictable offence), requires the written consent from the Commonwealth Attorney-General, when;

(i) the offence is alleged to have been committed on or from a foreign ship;

(ii) the ship is registered under the law of a country other than Australia; and

(iii) the country of registration has, under international law, jurisdiction over the alleged offence.

The requirement for consent is not to prevent or delay:

(i) the arrest or issue (and execution) of a warrant against the suspected offender;

(ii) the laying of a charge against the suspected offender;

(iii) proceedings for the extradition to Australia of the suspected offender; or

(iv) proceedings for remanding the suspected offender in custody or release on bail,

until such consent is obtained from the Commonwealth Attorney-General (see SMCD).

If the Attorney-General does not grant consent to continue proceedings, the court hearing any charges against the defendant must permanently stay any charges laid.

For criminal investigations, procedures and evidence related to offences in the adjacent areas of a state's baseline, officers must adhere to the provisions of the *Crimes at Sea Act* (Qld), the CSA(C), the intergovernmental agreement and the Protocol. When investigating maritime offences, officers are to confirm territorial jurisdiction and use all relevant provisions of state law applicable for Queensland, this includes the PPRA, *Evidence Act* and the *Justices Act*.

Offences committed outside Australian waters (outside the adjacent area)

Crimes which occur beyond the Australian territorial sea in international waters create very complex jurisdictional issues. The United Nations Convention on the Law of the Sea recognises various grounds upon which a state may claim jurisdiction. These consist of:

(i) next port jurisdiction, in which the jurisdiction is determined by the next port of a vessel on a journey;

(ii) flag state jurisdiction, in which the jurisdiction is determined by the flag state of a vessel;

(iii) nationality of the accused jurisdiction, in which the jurisdiction is determined by the nationality of the accused; and

(iv) nationality of the victim jurisdiction, in which the jurisdiction is determined by the nationality of the victim.

The Commonwealth will claim the following jurisdictions under CSA(C) where an offence is committed:

(i) on an Australian ship, on course of activities controlled from an Australian ship or by persons from such a ship—flag state jurisdiction;

(ii) by an Australian citizen (not crew) on a foreign ship—citizen as accused/nationality jurisdiction;

(iii) on a foreign ship, by activities controlled by a foreign ship or by persons temporarily leaving such a ship, if the first country at which the ship calls, or the person lands, after the criminal act in Australia or the external territory of Australia—next port jurisdiction.

Where Australia claims flag state jurisdiction, the consent of the Commonwealth Attorney-General is not a necessary pre-requisite to commence a prosecution. However, where a crime occurs on a foreign ship and Australia claims nationality jurisdiction or next port jurisdiction, the consent of the Commonwealth Attorney-General is a pre-requisite to the commencement of a prosecution.

Officers should refer to subsection 'Offences committed in waters surrounding Australia (inside the adjacent area)' above for further details and Schedule 1: 'The cooperative scheme', Part 4, section 7: 'Commonwealth Attorney-General's consent required for certain prosecutions' of the CSA(C)).

Any offences reported to police to have been committed in international waters, under the CSA(C), are to be investigated in compliance with the Protocol.

Investigation of offences committed at sea

In compliance with the Protocol, initial investigations in relation to offences committed within or outside the adjacent area reported to police are to be conducted using the Service policies and procedures. Under the CSA(C) cooperative scheme the substantial criminal law of the state applies up to 200 nautical miles from the baseline of the state or to the outer limit of the continental shelf whichever is the greater distance. An occurrence is to be created in QPRIME in accordance with s. 1.11.2: 'Recording an offence in QPRIME' of this Manual and an investigation commenced in accordance with s. 2.4: 'Incident management' of this chapter. The importance of collection of evidence, interviewing involved persons and investigating the occurrence is not to be delayed by determining jurisdictional authority.

Due to the complicated nature of jurisdictional law arising from crimes occurring at sea, legal support and advice should be sought at an early stage of the investigation and maintained throughout. Written consent from the Commonwealth Attorney-General is required for certain prosecutions (e.g. when offence is committed on or from a foreign ship). Each state has a nominated point of contact, responsible for negotiating with the law enforcement organisation ultimately responsible for carriage of the investigation. The Queensland point of contact is the State Water Police Coordinator, based at the Brisbane Water Police.

An officer receiving a report of an offence committed at sea, whether occurring within or outside the adjacent area, is to commence an investigation in compliance with this Manual, the Protocol and the Agreement as appropriate.

OPM Issue 113 Public Edition

The district officer responsible for the area where the offence is reported is to be briefed in relation to the matter. The district officer, in consultation with the State Water Police Coordinator will determine which agency is the appropriate agency to continue investigations and where necessary, commence negotiations regarding the continuation of the investigation with the law enforcement organisation responsible for the offence location.

2.5.10 Telecommunications interception

The provisions of the *Telecommunications (Interception and Access) Act* (Cwlth) (TIAA) prohibit the interception of a communication unless that interception is conducted under the authority of a warrant issued to a declared agency as defined by s. 34: 'Declaration of an eligible authority of a State as an agency' of the TIAA. The service is a declared agency under the TIAA.

Section 6: 'Interception of a communication' of the TIAA defines an interception of a communication passing over a telecommunication system. This section provides that listening to or recording, by any means, such a communication in its passage over that telecommunications system without the knowledge of the person making the communication, constitutes an interception of that communication.

Section 7: 'Telecommunications not to be intercepted' of the TIAA creates an offence for a person to intercept, or authorise, suffer or permit another person to intercept, or do any act or thing that will enable him or her or another person to intercept a communication passing over a telecommunication system and includes a number of exemptions applicable to an officer. The exemptions are contained in subsections 7(4), (5), (6), (6A) and (7) of the TIAA.

Section 63: 'No dealing in intercepted information or interception warrant information' of the TIAA provides that no person shall communicate or make a record of any communication that was intercepted in contravention of s. 7 of the TIAA nor release or make use of any interception warrant information. However s. 63A: 'Dealing in connection with existing proceeding' of the TIAA allows a person to make use of, record or give evidence in a proceeding of a communication or warrant information for a purpose under an interception warrant.

Section 105: 'Contravention of section 7 or 63' of the TIAA provides the punishment for a contravention of s. 7.

In essence, if equipment or other apparatus were attached to the telecommunication system to listen to or record a telecommunication passing over that system, it would be an interception. Therefore, such an interception is only to be undertaken when the other party to the communication is advised that the communication is being recorded.

However, it is permissible for a party to, or with the permission of a party to a communication, to record a conversation providing that the recording equipment is not attached to the telecommunication system (e.g. holding a recorder close to the telephone handset during a conversation). If a recording of a conversation is conducted in this manner, it is not deemed to be an interception under the provisions of the TIAA. In this instance see the *Invasion of Privacy Act*, and s. 2.5.11: 'Use of listening devices and application for surveillance device warrants', specifically subsection 'Surveillance devices warrants' of this chapter.

The Telecommunications Interception Unit (TIU), Covert and Specialist Operations Group (CSOG), Crime Command is responsible for the conduct of lawful interceptions of telecommunications and coordinating the management, security and reporting requirements of telecommunications intercepted within the Service. Crime and Intelligence Legal Services (CILS) is responsible for making the application for a warrant on behalf of officers.

Members are not to intercept a communication passing over a telecommunication system without appropriate authority or in contravention of the provisions of the TIAA.

When an interception is being made, the other party to the communication is to be advised that the communication is being recorded unless s. 6 of the TIAA applies.

Intercepted information or warrant interception information must be used for permitted purposes only as outlined in the provisions of Part 2-6: 'Dealing with intercepted information etc.' of the TIAA.

Initial consultation

Where it is considered necessary to intercept a communication passing over a telecommunication system without the knowledge of the person(s) making the communication, an application is required to be made for a warrant under Part 2-5: 'Warrants authorising agencies to intercept telecommunications', ss. 34 to 61A of the TIAA.

Prior to making an application, officers are to, in the case of regional areas, consult with their regional crime coordinator (RCC) through their normal chain of command or in the case of Crime Command, their supervising detective inspector, to assess the grounds upon which the warrant is to be sought, and to determine whether:

(i) the offence/s being investigated comes within the categories of offences defined under s. 5D: 'Serious offences' of the TIAA;

(ii) all conventional methods of policing have been exhausted, or would not be effective; and

(iii) based on current information and intelligence, the use of a telecommunications interception will be productive, effective and efficient.

Officers should also consult with the:

(i) TIU, to determine operational capacity; and

OPM Issue 113 Public Edition

(ii) CILS, to determine if their investigation meets the requirements of the TIAA.

Request for specialist resource

If, after consultation, there is a need for a warrant, investigating officers (IO) are to:

(i) complete a 'Request for Cross Operations Check' web form (see the subsection titled 'Cross operations index' of s. 2.10.5: 'Central register of operations' of this chapter);

(ii) arrange for the applicant's respective intelligence office to request:

(a) an operation identification name from the Queensland Operations Register (see s. 2.10.5: 'Central register of operations' of this chapter); and

(b) complete an Organised Crime Risk Assessments (OCRA) (previously known as a Titan) (see subsection titled 'Organised Crime Risk Assessments (Titan)' of s. 2.10.5 of this chapter);

(iii) complete a 'Request for telecommunications interception assistance' form available on the TIU SharePoint page; and

(iv) forward the completed 'Request for telecommunications interception assistance' form and the OCRA assessment through the officer's immediate supervisor to the RCC or delegate, or in the case of Crime Command, the responsible commissioned officer for consideration.

In instances where the case officer believes an OCRA assessment is not required, see subsection 'Organised Crime Risk Assessments (Titan) exemptions of s. 2.10.5 of this chapter.

Should officers identify the nominated persons, addresses or organisations of interest on the cross operations index need modifying during the investigation, they are to email QPS Operations.Register[ICM] to request the modifications (see the subsection titled 'Cross operations index' of s. 2.10.5 of this chapter).

If the RCC or responsible commissioned officer approves the request, they are to:

(i) complete a QP 0878: 'Application for Technical and Specialist Resources';

(ii) forward the following completed forms via email to SRC.Application[ICMC] for the attention of the Detective Superintendent, State Intelligence Group, Crime Command for consideration by the Specialist Resource Committee (SRC):

(a) the completed QP 0878;

(b) OCRA assessment; and

(c) request for telecommunications interception assistance form; and

(iii) forward the completed 'Request for telecommunications interception assistance' via email to TI.Operations[ICM] to provide TIU with the necessary background information.

If the matter is urgent, an 'Out of Session' meeting of the SRC may be held. The SRC may only be circumvented in emergent circumstances (e.g. some homicides) (see also s. 2.9: 'Covert operations involving law enforcement participants' of this chapter).

Warrant application

Applications approved by SRC relating to telecommunications interception resources will become the responsibility of the Detective Superintendent (or delegate), CSOG, who will coordinate its progression in conjunction with the relevant applicant's RCC or responsible commissioned officer.

The Director, CILS is to ensure that applications for telecommunications interception warrants are dealt with in accordance with the provisions of the TIAA, and to ensure that appropriate advice and assistance is provided to members of the Service.

Officers should liaise with CILS for advice and assistance in completing the necessary pre-warrant documentation, including the affidavit.

The IO is to:

(i) prepare a draft affidavit required under s. 42: 'Affidavit to accompany written application' of the TIAA;

(ii) forward the draft affidavit to the regional crime coordinator or in the case of Crime Command, their supervising Detective Inspector for preliminary assessment and approval (the warrant applicant will be a commissioned officer, or someone acting in that position); and

(iii) forward the draft affidavit to CILS for review and finalisation in consultation with the warrant applicant.

CILS will supply a copy of the finalised affidavit to TIU for consideration and approval by the Telecommunications Interception Committee (TIC).

OPM Issue 113 Public Edition

The role and responsibilities of the TIC are outlined in the TIU District Instruction 'Telecommunications interception committee—governance framework'. Draft applications must be approved by the TIC before the application may proceed before an eligible judge or nominated Administrative Authority Tribunal member.

Where it is not practicable to obtain a Part 2-5 warrant prior to the interception, members are to cause an application to be made for a Part 2-5 warrant as soon as practicable after the doing of an act in relation to a communication under the provision of s. 7(4) or (5) of the TIAA.

It is the responsibility of the regional crime coordinator or responsible commissioned officer to provide advice to the Detective Superintendent, State Intelligence Group, Crime Command concerning the final outcome of the investigation process.

Officers should comply with the regional instructions 'Telecommunications Interception Service Warrants' and 'Telecommunications Interception Named Person Warrants' on the TIU SharePoint page.

Revocation of Part 2-5 warrants

Officers who believe that the grounds upon which a Part 2-5 warrant was issued cease to exist, are to:

(i) in the case of regional areas, immediately notify their RCC or in the case of Crime Command, the supervising detective inspector; and

(ii) complete a 'warrant action request' form available on the Telecommunications Interception Unit SharePoint page and forward via their regional crime coordinator or for Crime Command, their supervising detective inspector, via email TI.Operations[ICM] to the TIU.

The TIU will forward the request to a certifying officer of the Service (see Delegation D 32.10), who may, in writing, revoke the warrant, if satisfied that the grounds upon which a Part 2-5 warrant was issued cease to exist. See s. 57: 'Revocation of warrant by chief officer' of the TIAA.

Evidentiary certificates and copies of warrants

Officers requiring evidence relating to telecommunication intercepted information or interception warrant information for court purposes, may obtain evidentiary certificates under the provisions of s. 61: 'Evidentiary certificates' of the TIAA. This section allows for evidentiary certificates to be obtained from the relevant telecommunications carrier and from a certifying officer of the Service. Section 61A: 'Certified copy of warrant' of the TIAA provides for a true copy of the warrant certified in writing by a certifying officer to be received in evidence as if it were the original warrant, see Delegation D 32.10.

To obtain evidentiary certificates or copies of warrants, officers should contact the TIU for advice and assistance.

Obtaining telecommunications interception material from external agencies

Officers are to ensure all lawfully intercepted information obtained from external interception agencies is provided in the first instance to TIU. This ensures the processing, continuity and security of the product is maintained and the recording and reporting obligations are consistent. This process will also ensure destruction notification requirements are attained and information is provided back to the originating agency when this material is no longer required by the Service.

Telecommunications Interception Unit will be responsible for:

(i) the creation of an Interstate Assistance [1800] Occurrence within QPRIME to monitor the receipt of this information and to ensure comprehensive statistical information is provided annually by the service as required under the TIAA; and

(ii) the dissemination of all lawfully intercepted information received from external interception agencies to the responsible officer and will manage this process within QPRIME.

When such information is passed from the external interception agency directly to the investigator, thereby by-passing TIU, officers are to ensure a message is forwarded to TIU via email to TI.Operations[ICM] advising that the Service has possession of such material. This message is to contain the:

(i) name of operation/investigation;

(ii) external interception agency from which lawfully intercepted information has been acquired;

(iii) relevant telecommunications interception warrant number;

(iv) format and quantity of the digital media provided; and

(v) QPS investigating officers name, rank, registered number, station/establishment responsible for this material (responsible officer).

Responsible officers who receive lawfully intercepted information are to ensure they comply with exhibit handling procedures as outlined in Chapter 4: 'Property' of this Manual, and upon lodgement at an appropriate property point, the responsible officer is to:

(i) seal the material in an envelope or other suitable packaging so the material cannot be viewed by an unauthorised member; and

OPM Issue 113 Public Edition

(ii) endorse the package and ensure a notation is made within the relevant exhibit entry that the material is not to be released without the prior notification of the responsible officer.

Where the material is required to be examined or released to the courts, police prosecutions corps, Director of Public Prosecutions or defence lawyers, the exhibit is to be in the secure possession of the responsible officer and presented by that officer directly to those interested parties.

The responsible officer is to:

(i) ensure the lawfully intercepted information is kept in a secure place where it is not accessible to persons other than persons who are entitled to deal with it;

(ii) maintain records outlining the use made of this material and any communication of this material either internally or externally, in accordance with s. 15: 'Other part 2-5 warrant records to be kept by eligible authority in connection with interceptions under part 2-5 warrants' of the *Telecommunications Interception Act* (QLD), and report that information to the TIU in order for the Service to fulfil its legislative obligations; and

(iii) advise TIU when the lawfully intercepted information in their possession is no longer likely to be required for a permitted purpose so the appropriate destruction notification can be sent to the originating agency responsible for the dissemination of this material.

Providing telecommunication interception material to external agencies

Lawfully intercepted information or interception warrant information may be communicated to another agency under either:

(i) s. 67: 'Dealing for permitted purpose in relation to agency' of the TIAA which applies in circumstances where such communication is in furtherance of the agency's own investigation; or

(ii) s. 68: 'Chief officer may communicate information obtained by agency' of the TIAA which applies when the purpose of the communication is not to further the agency's own investigation but relates, or appears to relate, to the commission of a relevant offence in relation to another agency,

(for definitions see ss. 6E: 'Lawfully intercepted information', 6EA: 'Interception warrant information' and 'permitted purpose' under s. 5: 'Interpretation' of the TIAA).

Under s. 67 of the TIAA any officer of the agency may for a permitted purpose communicate to another person, make use of, or make record of lawfully intercepted information or interception warrant information. Prior to communicating this information officers are to:

(i) obtain approval from a commissioned officer; and

(ii) record the name of the approving commissioned officer in the relevant telecommunications interception warrant 'Log of Use, Communication, Evidence and Effectiveness' (LUCEE) for the interception warrant.

Where lawfully intercepted information is provided to an external agency under s. 67 of the TIAA the officer providing the information is to make a record in the relevant 'Log of Use, Communication, Evidence and Effectiveness' as soon as practicable (see s. 15: 'Other part 2-5 warrant records to be kept by eligible authority in connection with interceptions under part 2-5 warrants' of the *Telecommunications Interception Act* (QLD)).

Under s. 68 of the TIAA only delegated officers are authorised to communicate lawfully intercepted information or interception warrant information to another agency when the purpose of the communication is not to further the agency's own investigation but relates, or appears to relate, to the commission of a relevant offence in relation to another agency (see Delegation D 32.12). The delegated officer may communicate this information to:

(i) a member of the Australian Federal Police;

(ii) an officer of a police force of a state; or

(iii) in any other case, the chief officer of another agency (for definition of chief officer see s. 5 of the TIAA).

Where lawfully intercepted information is provided to an external agency under s. 68 of the TIAA the delegated officer is to make an appropriate record in accordance with local instructions as soon as practicable (see s. 15 of the *Telecommunications Interception Act* (QLD)).

Where officers require clarification on whether they can communicate information to a particular agency, they are to seek advice from the TIU.

2.5.11 Use of listening devices and applications for surveillance device warrants

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

2.5.12 Cybercrime reporting and investigation

ReportCyber is a national policing initiative of the Commonwealth, state and territory governments enabling members of the public to easily report instances of cybercrime (see SMD) via the ReportCyber website

OPM Issue 113 Public Edition

(www.cyber.gov.au/acsc/report). Reports will be assessed by ReportCyber administration and if determined appropriate for referral, forwarded to the appropriate agency for consideration and possible investigation.

Cybercrime reports are automatically referred to the Service where:

(i) offenders have been identified as residing/operating in Queensland;

(ii) the location of the offender is unknown and the victim resides in Queensland; or

(iii) computer infrastructure located within Queensland has been attacked.

Additionally, reports relating to Queensland and:

(i) not warranting further criminal investigation; or

(ii) where the reporting person does not make a formal complaint,

may also be received by the Service solely for the purpose of intelligence reporting.

In addition to initial reporting of cybercrime, the ReportCyber website www.cyber.gov.au/acsc/report also provides advice to the public relevant to improving proactive recognition and avoidance of common cybercrimes.

Reporting cybercrime

A member of the Service who is contacted by members of the public reporting instances of cybercrime, including foreign and interstate cybercrime, should refer them to the ReportCyber website to self-report. Victims of cybercrime are to be provided with appropriate ReportCyber advice including an advisory brochure (see ReportCyber—Report cybercrime online on the Service Intranet).

Circumstances may arise where a member of the Service is to take and report a cybercrime complaint on behalf of the complainant. This can be completed directly on ReportCyber via accessing the hyperlink on the Service Intranet.

There is no requirement for cybercrime to be investigated and recorded in QPRIME in the first instance.

Policelink

Cybercrime referrals received by the Service requiring possible investigation by the Service will be forwarded via email to Policelink who are to ensure that reports are entered into QPRIME with cross-linking of the occurrence and ReportCyber reference numbers. Cybercrime reports are to be entered as crime occurrences or intelligence submissions, as applicable.

Policelink data entry personnel should record the cybercrime report in QPRIME in accordance with the Policelink Manual.

Policelink personnel who receive telephone calls from members of the public wishing to report incidents of cybercrime are to refer them to:

(i) the ReportCyber to self-report; or

(ii) when unable to self-report, advise them to attend a police station to report the complaint.

ORDER

Policelink personnel are not to take cybercrime complaints over the telephone.

Investigating cybercrime

ORDER

When an officer has been assigned a ReportCyber initiated QPRIME occurrence to investigate, timely contact with the complainant is to be made confirming the provision of the QPRIME and ReportCyber occurrence/reference numbers and to provide the investigators contact details.

Investigators of cybercrime are responsible for conducting relevant inquiries including identifying and contacting; internet service providers (ISP), banking agencies, 'PayPal' etc. The Cyber and Identity Crime Investigation Unit (CICIU), Crime Command, are available to provide guidance and contact details for these inquiries. Further information can be obtained from the CICIU SharePoint page.

Where available, officers involved in the investigation of cybercrime offences should obtain the advice and assistance of their District Electronic Evidence Technicians (DEET). General information on DEET, including locations is available on the DEET's SharePoint page.

Where an officer investigating cybercrime identifies that a ReportCyber initiated complaint establishes that the offence has occurred in another jurisdiction, the officer is to:

(i) update the QPRIME occurrence accordingly and submit a supplementary report requesting the occurrence be cancelled; and

(ii) submit a report including all statements and evidence obtained to a commissioned officer, for forwarding to the relevant interstate police station where the incident occurred.

OPM Issue 113 Public Edition

2.5.13 Pretext conversations

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

2.5.14 Investigative interviewing

POLICY

Investigation is a core duty of policing. Service investigative interviewing is designed to support procedural justice by ensuring all interviewees are listened to, not pre-judged and appropriately questioned. Interviewing of victims, witnesses and suspects is central to a successful prosecution with the aim to obtain the most complete, accurate and reliable information. To achieve this, the highest standard of investigative interviewing skills are to be used.

The Service investigative interviewing strategy consists of different levels of interviewer training with each level building on the experience, skills, and previous training of each officer. Interviewing is a skill requiring regular maintenance, monitoring, and evaluation. When conducting investigations, officers should consider the use of an appropriately trained suspect or witness interviewer.

Officers at all levels when conducting adult interviews should incorporate the 'PEACE' model as a broad framework when planning for and conducting an interview.

For significant adult witnesses, special witnesses (see s. 21A of the *Evidence Act*) and suspects, investigating officers should plan an interview using the investigative interviewing methodology and may consider video recording these interviews. Significant witnesses may include those who may have been, or claim to have been, an eye witness or a witness to the immediate event in some other way, or those who stand in a particular relationship to the victim or have a central position in the investigation.

For further information on Service interviewing, including suspect and witness interview guides, training, interview preparation, and interview techniques see 'Investigative Interviewing' on the Detective and Specialist Investigation Training Webpage available on the Service Intranet.

2.5.15 Sexual assault counselling privilege

The purpose of the sexual assault counselling privilege (SACP) laws contained in Part 2, Division 2A of the *Evidence Act* (EA) is to acknowledge the important role counselling has in assisting victims of sexual assault to recover, and appropriately protect the confidentiality of counselling communications, while balancing the public interest in the accused's right to a fair trial. The SACP has broad application, and the Service is committed to fulfilling the purpose of the laws at all times, regardless of whether or not a proceeding is to be, or has been, commenced.

ORDER

During any investigation officers are not to seek to access or obtain the counselling records of a person who is, or has at any time been, a victim or alleged victim of a 'sexual assault offence' (see s. 14B: 'Other definitions for division' of the EA), unless there are exceptional circumstances (see ss. 14A: 'Meaning of protected counselling communication' and 14B of the EA). 'Exceptional circumstances' is a high threshold.

Officers are not to obtain, or attempt to obtain, 'consent' from a counselled person to access the person's counselling records by any means (note: there is no form to enable an investigating officer to obtain consent from a counselled person to access the person's counselling records).

Sexual assault counselling privilege

If a person is:

(i) or has at any time been, a victim or alleged victim of a 'sexual assault offence' (see s. 14B of the EA);

(ii) receiving, or has at any time received, counselling from a 'counsellor' (see s. 14B of the EA) (note: the counselling does not have to be about a sexual assault offence); and

(iii) or likely to be, a victim, defendant or a witness in an investigation,

the person is, for the purposes of this policy, a **counselled person** (see s. 14B of the EA).

Where an investigation directly or indirectly involves a counselled person, the SACP may impact upon:

(i) how an investigation is conducted;

(ii) the development of a brief of evidence; and

(iii) what evidence can be relied upon in any subsequent legal proceedings.

The SACP:

(i) applies to:

(a) criminal proceedings for any offence (note: the offence does not have to be related to a sexual assault offence); and

OPM Issue 113 Public Edition

(b) civil proceedings for a protection order under the DFVPA; and

(ii) restricts access to or use of a record which is a 'protected counselling communication' (see s. 14A of the EA).

The SACP does not apply to records related to a physical examination of a counselled person by a health practitioner in the course of an investigation into an alleged sexual assault offence (see s. 14A of the EA).

Further information about the intent and objectives of the SACP laws can be found on the Crime Command SharePoint page.

Officers should refer to the Queensland Government Interagency Guidelines for Responding to People who have Experienced Sexual Assault.

Accessing or obtaining counselling communications

ORDER

Unless there are exceptional circumstances, an officer investigating an offence or preparing an application for a protection order before a proceeding is commenced is not to seek to access or obtain any counselling communications relating to a counselled person from a counselling service or from the counselled person.

In determining whether exceptional circumstances exist, an officer is to consider:

(i) all the facts and circumstances of the investigation;

(ii) the sufficiency of evidence and public interest tests (see s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual);

(iii) the matters prescribed in s. 14H: 'Deciding whether to grant leave' of the EA; and

(iv) if the SACP has been lost (see s. 14J: 'Loss of privilege if communication made in commission of offence' of the EA).

Where an officer believes exceptional circumstances exist, the officer is only to seek to access or obtain a counselled person's counselling communications if:

(i) the decision to access or obtain the counselling records has been approved by the officer's supervising commissioned officer. The approving commissioned officer is to sign a completed QP 1115: 'Sexual assault counselling privilege—Confirmation of exceptional circumstances' and the officer is to upload the signed QP 1115 to the relevant QPRIME occurrence;

(ii) the counsellor or counselling service which holds the counselling communications has been provided with a 'Protecting sexual assault counselling records' information sheet (see Forms Select); and

(iii) the counselled person has been offered a referral to the Counselling Notes Protect Service (CNPS) for legal advice via a police referral (see s. 6.3.14: 'Police Referrals' of this Manual).

Counselling communications should be stored in an envelope clearly identifying the contents as subject to the SACP until a waiver of privilege is obtained.

Where a criminal proceeding, or a civil proceeding for a protection order under the DFVPA, has already been commenced an officer is not to seek to access or obtain any counselling communications relating to a counselled person, unless the court has granted leave to do so (see ss. 14F: 'Sexual assault counselling privilege', 14G: 'Application for leave' and 14H of the EA).

Brief of evidence preparation

ORDER

SACP material can present in various formats and is not always obvious to prosecutors without a thorough perusal of the brief. Investigating officers are only to include SACP material in a brief of evidence submitted to prosecutions if the privilege has been waived, and the 'record of waiver' policy complied with.

Investigating officers are responsible for ensuring any potential SACP is:

(i) clearly identified; and

(ii) placed in envelope clearly marked 'SACP',

before being provided to prosecutions and to alert the prosecutor prior to disclosure.

Waiver of privilege

A counselled person who is:

(i) under the age of 16; or

(ii) a person with an impaired capacity for giving consent,

cannot waive the SACP (see s. 14I: 'Waiver of privilege by counselled person' of the EA).

To determine whether a counselled person waives the SACP, an officer is to:

OPM Issue 113 Public Edition

(i) give the counselled person a 'Protecting sexual assault counselling records' information sheet (available on Forms Select); and

(ii) offer the counselled person a referral to the CNPS for legal advice via a Police referral (see s. 6.3.14: 'Police Referrals' of this Manual).

Any waiver of the SACP provided must comply with the record of waiver policy below.

Where:

(i) an officer is in possession of counselling communications; and

(ii) a counselled person has not:

(a) provided consent for a referral to the CNPS; and

(b) obtained independent legal advice about the waiver of privilege,

an officer is to:

(i) make a record of the person's refusal to provide consent for a referral and obtain independent legal advice in the relevant QPRIME occurrence;

(ii) give the counselled person a 'Protecting sexual assault counselling records' information sheet (available on Forms Select);

(iii) ensure the documents are stored in an envelope clearly identifying the contents as subject to the SACP and are not for disclosure; and

(iv) as soon as practicable, advise the prosecutor or relevant prosecution corps the counselled person has not waived the SACP and a QP 1070: 'Notice (Protected Counselling Communication)' should be issued.

Where:

(i) a criminal proceeding has been commenced;

(ii) the prosecution is in possession of any protected counselling communications; and

(iii) a counselled person has not waived the SACP,

members are to comply with s. 3.14.4: 'Mandatory disclosure' of this Manual.

Record of waiver

Any waiver of the SACP must:

(i) be received in writing, unless the counselled person cannot give written consent because of a disability; and

(ii) expressly state the counselled person:

(a) consents to the production or adducing of evidence of the protected counselling communication; and

(b) has had the opportunity to seek legal advice about the giving of that consent.

See s. 14I of the EA.

On receipt of written advice that a counselled person has waived the SACP, a member is to ensure a copy is uploaded to the relevant QPRIME occurrence.

Members must ensure the record of waiver accompanies any counselling communications provided to the prosecutor.

Inadvertent disclosure or unsolicited receipt of counselling communications

Counselling communications may come into an officer's possession inadvertently or unsolicited. For example, a complainant may provide their counselling records voluntarily when making the initial complaint, or a complainant's counselling records could be provided to an officer by mistake.

ORDER

Where an officer is in receipt of voluntarily or mistakenly disclosed counselling communications, the officer is to:

(i) place the documents in an envelope clearly identifying that the contents as subject to the SACP; and

(ii) comply with the policies 'Accessing or obtaining counselling communications,' 'Waiver of privilege,' and 'Record of waiver' above.

Service liaison with Counselling Notes Protect Service

The Detective Inspector, Child Abuse and Sexual Crime Group, Crime Command will be an ongoing liaison point to facilitate cooperation between the Service and the CNPS.

OPM Issue 113 Public Edition

2.5.16 Reportable incidents by aged care providers

The *Aged Care Act* (Cwlth) (ACA) and the associated Aged Care Quality Standards place a requirement on approved aged care providers to report serious incidents (see s. 16: 'Meaning of Reportable incident' of the ACA) to:

(i) the police where the incident is of a criminal nature (see s. 1.11: 'QPRIME Occurrences', subsection 'Receiving reports for non-urgent matters' of this manual); and

(ii) the Aged Care Quality and Safety Commissioner.

'Priority 1' reportable incidents must be reported within 24 hours and 'Priority 2' incidents within 30 days (see 'Reportable incidents' section of the 'Serious Incident Response Scheme' on the webpage of the Australian Government Aged Care Quality and Safety Commission website).

The above website also contains a serious incident response scheme 'SIRS decision support tool' which gives approved aged care providers advice about when to report an incident to police.

The obligation to report reportable incidents are contained in Chapter 5 Part 2 of the Aged Care Rules (Cwlth).

The investigation of a reportable incident

An officer who receives a reportable incident complaint (see s. 16: 'Meaning of reportable incident' of the ACA) is to commence an investigation to determine whether any criminal offences have been committed (see ss. 2.5: 'Investigation' and 2.6.3: 'Sexual offences' of this chapter).

Any investigation should be conducted in accordance with s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual.

Any proceeding or investigation undertaken by an approved aged care provider or the Aged Care Quality and Safety Commission (Cwlth) does not preclude the investigating officer from commencing a criminal proceeding.

Victim may be considered a person who is vulnerable or disabled

The victim may be a person with a vulnerability or disability due to the potential of memory loss, dementia or other cognitive impairment. The investigating officer is to consider obtaining the assistance of an independent person or a representative of the victim (see Chapter 6: 'Persons who are Vulnerable, Disabled or have Cultural Needs' of this Manual).

Victim's representative to be updated on the progress of an investigation

Where the victim has an:

(i) enduring power of attorney; or

(ii) appointed guardian; or

(iii) administrator,

the investigating officer is to keep the victim's representative properly informed of the progress of the investigation.

Where a victim does not wish or is unable to make a formal complaint

Where a victim of a reportable incident is unwilling or unable to make a complaint, the investigating officer should:

(i) where possible, ensure an appropriate independent person (see s. 6.3.4: 'Independent persons' of this Manual) or the victim's representative is present during the interview;

(ii) ensure the investigation, court and witness support procedures are explained to the victim and independent person or victim's representative;

(iii) where practicable:

(a) electronically record the conversation; or

(b) make a record of the conversation in an official police notebook or official diary, where the conversation cannot be electronically recorded; and

(iv) ensure the relevant QPRIME occurrence is updated.

More information on reportable assaults can be found on the Domestic, Family Violence and Vulnerable Persons Unit, 'Elder Abuse' SharePoint page.

2.6 Specialist investigation

This section provides:

(i) general information regarding specialist investigations; and

OPM Issue 113 Public Edition

(ii) additional responsibilities relevant to first response officers attending scenes of specified offences where appropriate.

General principles dealing with incident management, including first response procedures, evaluation, preservation and guarding of incident scenes etc. are dealt with under s. 2.4: 'Incident Management' and matters dealing with investigations are outlined in s. 2.5: 'Investigation' of this chapter.

2.6.1 Fire investigation

Initial response

Sufficient numbers of police are to attend the scene of a fire to preserve order and to assist Queensland Fire Department (QFD) in discharging their functions and exercising powers under the *Fire Services Act* (FSA).

It is the duty of police officers at a fire to provide assistance as requested by a fire officer (see s. 793: 'Helping at fire or hazardous materials emergency' of the PPRA).

The actions required by officers when responding to the scene of a fire will vary. Generally, the initial role of police is to control crowds and traffic to minimise risks to the public and fire officers whilst facilitating the arrival and departure of emergency vehicles.

Where a fire results in a death, see s. 8.13.9: 'Deaths resulting from fires' of this Manual.

For bushfires see s. 17.2.6: 'Bushfires' of this Manual.

See SMCD for the QFD State Fire Investigation Unit (SFIU).

Fires are categorised as:

(i) suspicious (incendiary), where the evidence indicates that a fire was deliberately lit; or

(ii) undetermined, when an investigation cannot determine if the cause and origin of the fire was deliberate, accidental or negligent; or

(iii) non-suspicious, where the evidence reveals that the cause of the fire was by natural or accidental means and there was no deliberate human intervention.

Crime scene procedures

Where officers have a reasonable suspicion a fire is suspicious, they are to commence investigations and comply with crime scene procedures in s. 2.4.5: 'Major investigations' of this chapter. Officers are to consider the provisions of the *Work Health and Safety Act* regarding safety issues and entry to unsafe areas.

Person attempting to enter a fire scene before declared safe

Section 149I: 'Powers of authorised fire officer in dangerous situations' of the FSA authorises a fire officer to take any reasonable measures to protect persons or property from danger or potential danger caused by a fire. A number of hazards will exist during and after the incident, including structural hazard and toxic waste. Members of the public should not enter a fire scene prior to the senior fire officer declaring the scene to be safe. If any person attempts to enter a fire scene before it is declared safe, the officer is to seek a direction from the fire officer to exclude any person from entering or interacting with the scene.

Fire scene forensic examination

Where a scenes of crime officer (SOCO) is requested to attend a scene, it is to be secured and preserved until their arrival.

The SOCO is to perform an initial assessment of the scene. After consultation with the Superintendent, Forensic Services Group (FSG) and the investigating officer, the SOCO is to request the attendance of a scientific officer if necessary.

Expert fire scene examiners are available from FSG (see s. 2.19.6: 'Forensic Services Group' of this chapter). Their services are to be used due to the complex nature of scenes. Where a decision has been made to involve a fire scene examiner, the scene of the fire is to be secured, preserved and not disturbed until the arrival of that officer.

Collection and packaging of physical evidence or clothing from a suspect or witness for ignitable liquid analysis is to be conducted by a forensic officer unless there is a possibility that the physical evidence may be damaged or destroyed before a forensic officer arrives. Where an officer is required to collect physical evidence to prevent its loss, a forensic officer is to be contacted for advice on appropriate collection and packaging.

Incorrect packaging of exhibits for analysis of flammable fluids, may result in vapour loss or contamination.

ORDER

Investigating officers are not to enter fire scenes without the appropriate personal protective equipment.

First response responsibilities

First response responsibilities when attending a fire incident include:

OPM Issue 113 Public Edition

(i) When notified of a fire, note:

(a) the time when the fire is reported; and

(b) the identity of the person reporting the fire.

(ii) When approaching a fire scene, note:

(a) weather conditions;

(b) particulars of vehicles leaving the scene;

(c) particulars of individuals leaving the scene; and

(d) the general appearance of the scene and fire.

(iii) After arriving at the scene, note:

(a) time of arrival;

(b) location and extent of the fire;

(c) area of most intense burning;

(d) flame colour;

(e) smoke colour;

(f) unusual odours;

(g) whether there are separate fires (e.g. multiple individual fires);

(h) fire spread;

(i) if windows are open or broken;

(j) persons at the scene and if possible take photographs or video the crowds; and

(k) the presence of power lines, gas bottles or any other flammable materials.

Vehicle fires

There are additional first response and investigative responsibilities for vehicle fires. Officers attending vehicle fires are to make inquiries to determine if any reasonable suspicions exist with regard to the origin and cause of the fire.

Whilst at a vehicle fire scene, officers are to note:

(i) description of the vehicle e.g. registration plates, chassis number, compliance plates, etc.

(ii) identity of the owner/driver;

(iii) particulars of witnesses;

(iv) location of the vehicle and physical features of terrain;

(v) combustible materials close to or under vehicle;

(vi) the apparent point of origin and probable cause of the fire;

(vii) evidence of collision damage and general condition;

(viii) appearance of wheels and tyres—old tyres on a new car, mismatched rims, wheel nuts loose or missing or hubcaps removed;

(ix) position of windows;

(x) if the petrol cap is on, off or missing (if missing, attempt to locate);

(xi) any foreign objects in the filler neck to the fuel tank;

(xii) any containers near the vehicle, check to determine if any contain traces of accelerant. Containers are to be seized, labelled, sealed and treated as exhibits;

(xiii) items nearby which may have come from the vehicle;

(xiv) oil slicks, skid marks, wheel rim tracks, tyre tracks, or footprints;

(xv) holes or obvious damage to petrol tank, engine block, oil pan, transmission or differential;

(xvi) missing vehicle parts, particularly battery, voltage regulator, distributor, alternator, carburettor or fuel pump;

(xvii) contents of the interior, boot, ashtrays and glovebox;

(xviii) interior appearance including the extent of consumed combustible material; position and appearance of door and boot locks, smoke deposits on door hinges and evidence of liquid accelerant;

OPM Issue 113 Public Edition

(xix) appearance of ignition;

(xx) debris under ignition lock for possible presence of key; and

(xxi) the condition of electrical system.

Additional investigative responsibilities (vehicle):

(i) exercising crime scene powers if appropriate. Consideration must be given to identification and preservation of evidence in and around vehicle;

(ii) engaging with QFD SFIU to ensure a qualified and experienced fire investigator has established the cause and origin of the fire;

(iii) engaging with scenes of crime and/or FSG to ask for assistance in documenting the scene and seizure of exhibits in consultation with the fire investigator;

(iv) lodging vehicle as an exhibit and liaising with the insurance company;

(v) door knocks of surrounding areas to establish a time line and identification of potential witnesses;

(vi) CCTV inquiries with traffic control centres, shopping centres, etc;

(vii) inquiries with nearby service stations for CCTV footage including purchases of jerry cans and small amounts of fuel;

(viii) identify how many keys exist and request their presentation;

(ix) consider downloading any on-board computer/GPS system;

(x) identification of owner to establish if vehicle has been stolen, to detect possible vehicle substitution, to determine if owner has lodged a false report or concealment of a hit and run accident;

(xi) obtain detailed statement from vehicle owner. Consider:

(a) ownership history;

(b) details of insurer, history of insurance, value of insurance, recent claims, recent policy changes and personal particulars of policy holders;

(c) service and maintenance records, traffic incidents, security features; and

(d) details of finance company, loan amounts, repayment arrangements, any arrears, balloon payments, etc;

(xii) thorough financial investigation of interested parties including finances, debts owed, bank account analysis, income, expenditure, business interest, shares and assets.

OPM Issue 113 Public Edition

Ship fires

Officers attending a fire on a ship are to advise the local water police and the nearest harbour master as soon as possible.

For additional information concerning marine incidents see s. 13.8: ‘Marine Environment’ of this Manual.

Structural fires

There are additional first response and investigative responsibilities for structural fires. Officers attending a structural fire are to make inquiries to determine if any reasonable suspicions exist with regard to the origin and cause of the fire.

Responding officers, as soon as practicable after arrival, are to:

(i) obtain statements, using an electronic recording device if possible, from:

(a) owner/occupants about how the fire started and attempt to determine whether the fire was deliberate, accidental or undetermined. Also establish what electrical appliances were in use at the time of ignition;

(b) reporter/discoverer of the fire for description of the appearance and location at the time of discovery;

(c) fire fighters for observations at the time of arrival, reaction of fire in bringing it under control, if doors/windows were opened or locked at time of arrival, if forced entry was made, and any suspicions of incendiary conditions or human involvement;

(d) witnesses located at the scene or from door knock inquiries to ascertain any activity at or around the incident location prior to, during or after the fire that may indicate possible human involvement in the ignition; and

(e) obtain any video or photographic evidence.

(ii) appraise the exterior of the building:

(a) to ensure electricity and gas supplies are rendered safe;

(b) for signs of forced entry;

(c) evaluate the premises from a distance to ascertain a general overview;

(d) establish the rooms located in the damaged area of the structure and obtain details of the contents of each room; and

(e) note the area of most intense burning on windows, doors and exterior walls;

(iii) look for all obvious signs or indicators of incendiarism, including:

(a) windows covered to delay fire detection;

(b) position of doors and windows at time of fire and if they were locked or unlocked;

(c) obstacles blocking emergency services entry;

(d) non-operational, damaged or removed fixed fire protection systems;

(e) multiple, separate or unconnected seats of fires;

(f) incendiary devices or containers that may have contained accelerant; and

(g) traces of accelerant or on the clothes/shoes of owner/occupiers or suspects.

Additional investigative responsibilities (structural fires):

(i) exercising crime scene powers if appropriate. Consideration must be given to identification and preservation of evidence in and around structure;

(ii) engaging with QFD SFIU to ensure a qualified and experienced fire investigator has established the cause and origin of the fire;

(iii) engaging with scenes of crime and/or FSG and request assistance in documenting the scene and seizure of exhibits in consultation with the fire investigator;

(iv) examining the interior of the structure, starting with areas that have the least damage:

(a) identify general characteristics including age, materials, construction and level of damage;

(b) note any absence of contents, items or equipment associated with type and use of facility that may have been removed prior to the fire. This can also include family pets;

(c) identify any measures taken to accelerate the spread of burning e.g. trailers, holes in walls or ceilings, interior doors propped open, pour patterns or containers indicating use of accelerant;

(d) look for any remnants of matches, candles, rags or paper;

(e) note indications of multiple seats of fire; and

(f) identification of electrical devices that were in operation at the time of the fire.

(v) eliminating common accidental causes of fire including open flame sources (e.g. candles, stove tops or fire places) and heating units. Check for evidence of heating and controlling devices wired or rigged open, examine flue and exhaust pipes, oil and gas lines for breaks and defects, wiring for beading, fusing or other indications of overheating and fuse boxes for signs of electrical malfunction;

(vi) conducting door knocks of surrounding areas to assist in establishing time line and identification of potential witnesses;

(vii) conducting CCTV inquiries—Traffic control centres, petrol stations, shopping centres, nearby houses/businesses etc.;

(viii) conducting inquiries with nearby service stations for any CCTV footage including purchases of jerry cans and small amounts of fuel;

(ix) inquiring at hospitals to see if any persons have presented with burn injuries around the time of the fire;

(x) identifying how many keys there are to the structure and requesting their presentation;

(xi) downloading alarm or security systems to identify patterns of alarm history;

(xii) identifying all interested parties including owner (past/present), tenant, boarders, employees or anyone with a financial stake or vendetta against the business or property;

(xiii) obtaining detailed statements from all interested parties, consider:

(a) location of person at time of fire;

(b) fire protections systems, alarms and security measures in place;

(c) ownership and renovation history;

OPM Issue 113 Public Edition

(d) details of insurer, history of insurance, value of insurance, recent claims, recent policy changes and personal particulars of policy holders;

(e) details of finance company, loan amounts, repayment arrangements, any arrears, balloon payments, etc; and

(f) details of any persons that had access to the structure;

(xiv) conducting thorough financial investigation of interested parties including finances, debts owed, bank account analysis, income, expenditure, business interest, shares and assets.

Authorisation for the lighting of fires issued under Section 145A of the Fire Services Act

Section 145A: 'Authorisation of fires by commissioner' of the FSA provides the Commissioner, QFD with the power to authorise the lighting of fires for purposes and circumstances specified by notification in the Queensland Government Gazette.

In circumstances where police attend an outdoor fire, inquiries are to be made to establish whether the fire was subject to a notification, permit or notice in accordance with Chapter 4A, Part 1: 'Control and prevention of fires' of the FSA.

Where inquiries establish that the fire is unauthorised and it is suspected that its lighting may have contravened the provisions of s. 145: 'Offences to light unauthorised fire' or s. 145J: 'Offences re lighting fires' of the FSA or other local government law relating to the lighting of fires, officers are to ensure that the matter is referred to the relevant authority.

Where the matter relates to:

(i) an offence under the FSA, the officer in charge of the nearest QFD station; or

(ii) a contravention of a local government law, the relevant local government authority.

Where the QFD or a local government authority request assistance in ensuring compliance in relation to the provisions of the FSA or local government law relating to the lighting of fires, officers are to refer to s. 13.3: 'Public officials' of this manual. See also Chapter 1, Part 3, Division 2: 'Helping public officials' of the PPRA.

Non-suspicious fires

When initial investigations are completed, and the fire has been deemed non-suspicious because:

(i) a qualified fire investigator, scenes of crime or scientific officer has confirmed the cause and origin of the fire is non-suspicious; or

(ii) there is no evidence to indicate that the fire is suspicious,

officers are to take no further investigative action once the fire has been extinguished and the scene has been rendered safe.

Reporting of fires

All fires investigated by the Service are to be recorded in QPRIME, irrelevant of if the fire is deemed suspicious or non-suspicious. Officers are to ensure a QPRIME occurrence is created in accordance with s. 1.11.2: 'Recording of offence in QPRIME' of this Manual prior to terminating duty.

Officers attending fire incidents within their area of responsibility are to notify the DDO and CIB as soon as practicable in cases of:

(i) major fires involving substantial property loss;

(ii) fires where arson or insurance fraud is suspected; and

(iii) fires where loss of life or serious injury occurs.

Arson Investigators Hub

The Arson Investigators Hub of Crime Command provides specialist support and assistance statewide for fire investigations. The role and function of the Arson Investigators Hub is outlined on the Financial and Cyber Crime Group (FCCG) SharePoint page.

The desk offers Level 3 engagement for suspicious and undetermined structural and vehicle fires. At this level of engagement, the Arson Desk will provide advice, monitor and overview the investigation, with the region responsible for the investigation and all resources including the arrest of offenders and subsequent court proceedings.

Assistance can be sought directly from Crime Command during working hours. The OIC of a region is to apply in writing to the Detective Inspector of FCCG for Arson Desk deployment.

The Arson Rewards Scheme is available to persons providing information resulting in a conviction of an offender for arson-related offences (see s. 2.5.4: 'Rewards for information leading to the apprehension and conviction of offenders' of this chapter).

OPM Issue 113 Public Edition

2.6.2 Homicide

After a death has been determined by police to be suspicious, the Detective Inspector, Homicide Investigation Unit (HIU) is to be advised by the Regional Crime Coordinator (RCC) of the death as soon as practicable (see s. 2.7.2: 'Notifying Crime Command' of this chapter).

Additional investigative responsibilities for homicides include:

(i) ensuring the containment and security of the crime scene, including maintaining a log of events;

(ii) ensuring the Forensic Manager (FM) (or delegate) is advised and attends the crime scene;

(iii) ensuring the establishment of an investigation centre with appointments to the following considered:

(a) OIC of investigation—has overall command of the investigation;

(b) Investigation Coordinator—has responsibility for the direction of the investigation;

(c) Crime Scene Manager—with the FM, controls and manages the forensic examination of the crime scene;

(d) Reader—assists investigation coordinator in assessing all information gathered during the investigation;

(e) Doorknock Coordinator—ensures all premises within the immediate area are canvassed and relevant information forwarded to the investigation coordinator;

(f) CCTV Coordinator—ensures all premises and government agencies within the immediate area and all other areas or routes of interest are canvassed with relevant footage preserved, obtained and forwarded to the investigation coordinator;

(g) Exhibit Officer—has responsibility for the management of all exhibits seized during the investigation; and

(h) Family Liaison Officer (if applicable)—assists the victim's family during the investigation and court process;

(iv) ensuring the coroner is advised of the death and Form 001: 'Police Report of Death to a Coroner' is completed within the relevant QPRIME occurrence;

(v) ensuring a QP 0001: 'Life Extinct Form' is issued (see s. 8.14.2: 'Life extinct form' of this Manual);

(vi) ensuring the next of kin are advised (see s. 8.3.5: 'Advising next of kin' of this Manual);

(vii) ensuring an investigator and forensic officer familiar with the crime scene attend the autopsy, which is to be suitably recorded;

(viii) interviewing and obtaining statements from all witnesses who may possess information relevant to the investigation;

(ix) interviewing all persons suspected of being involved in the offence;

(x) where applicable, completing the relevant forms in accordance with s. 2.6.9: 'Violent/Sexual Crime Database' of this chapter and creating a corresponding IMAC task;

(xi) providing regular situation reports to the OIC of the region or command;

(xii) attending to all associated matters as required by the coroner. These are contained in Chapter 8: 'Coronial Matters' of this Manual; and

(xiii) where the deceased is a child, referring to Chapter 7: 'Child Harm' of this Manual.

No body, no parole procedures

Section 193A: 'Deciding parole applications—no body-no parole prisoner' of the *Corrective Services Act* (CSA) outlines the parole board and Service requirements when an application for parole is made by a prisoner convicted of a homicide offence where the body or remains of a victim have not been located.

Section 193A(2) of the CSA requires the parole board to refuse an application for parole unless satisfied the prisoner has cooperated satisfactorily in the investigation to identify the victim's location. To make a determination, the parole board must ask the Commissioner to provide a written report as to whether the prisoner cooperated satisfactorily in the investigation to identify the victim's location, and if so, an evaluation of the nature, extent, timeliness, truthfulness, completeness and reliability of any information or evidence provided, as well as the significance and usefulness of the cooperation.

To ensure the Commissioner can comply with a parole board request for a homicide investigation, the Detective Inspector HIU will nominate a member to assist and conduct inquiries.

OPM Issue 113 Public Edition

ORDER

All inquiries relating to 'No body, no parole' are to be coordinated through the Homicide Investigation Unit and approval is required by the Detective Inspector, HIU before officers approach a prisoner to seek cooperation. For the detailed requirements for Service response, see the 'No body, no parole' procedures contained on the HIU SharePoint page.

Organ/tissue donation in homicides and suspicious deaths

The Service is committed to supporting organ and tissue donation in suitable donors, including victims who have suffered life-threatening injuries which may lead to criminal charges. The Service recognises a proposal to donate may originate from the victim's family or from medical staff in an intensive care unit; and in criminal cases the family's wishes should be balanced with the need for a full and thorough criminal investigation (see s. 8.17.2: 'Organ and tissue donation' of this Manual).

If a death may be reportable under the *Coroners Act*, a coroner must give consent under s. 24: 'Consent by coroner' of the *Transplantation and Anatomy Act* before organ or tissue donation can proceed. In practice, coroners rely on forensic pathologists and, in criminal cases, police to assess whether donation might jeopardise the coronial or criminal investigation. The State Coroner's Guidelines provide more details (see Chapter 4.7: 'When can organ and tissue donation take place?' of the State Coroner's Guidelines on the Coroner's Court website).

It is essential all relevant information concerning the investigation and proposed donation be provided to the Coroner to enable a properly informed decision. All stakeholders, including the Forensic Pathologist, the Organ and Tissue Donation Specialist Co-ordinator and, in criminal cases, police have a role to play in an exchange of information and briefing the Coroner.

ORDER

In circumstances where a person has suffered life-threatening injuries which may lead to criminal charges and a request for organ and tissue donation has been made, the RCC is to ensure, in appropriate circumstances, all action required to facilitate organ and tissue donation occurs.

In such circumstances, the relevant RCC must be advised of the request for organ or tissue donation.

Regional crime coordinator responsibilities for organ/tissue donation

The RCC should contact the appropriate forensic pathologist where the coronial autopsy is to be performed, usually the on-call forensic pathologist and the on-call Organ and Tissue Donor Coordinator (see SMCD). Where possible, the RCC should facilitate an exchange of information between all stakeholders and should include which clinical tests have been conducted as part of the organ donation assessment process and which further tests could be conducted to assist the pathologist and Coroner in determining the cause and circumstances of death.

The RCC should brief the pathologist on the:

(i) circumstances of death and level of suspicion;

(ii) status of the police investigation;

(iii) expected investigative / evidentiary value of the autopsy;

(iv) clinical tests conducted as part of the organ donation assessment process, including any further tests to be conducted to assist in determining the cause and circumstances of death; and

(v) police view of whether donation should proceed.

The RCC, through consultation with the pathologist, should determine:

(i) whether there is a potential conflict between the organs or tissues proposed for donation and the likely requirements of the autopsy, in the light of the on-going coronial and criminal investigation; and

(ii) whether any further tests or examinations could be undertaken in the intensive care unit to assist the Pathologist in determining the cause and circumstances of death, potentially negating the need for a full autopsy.

After the above consultation, the RCC should seek recommendation from the pathologist whether the proposed donation can proceed without jeopardising the coronial or criminal investigation, or if not, whether it could do so if the extent of donation was restricted to specific organs or tissue.

The RCC should then contact the Coroner (or after business hours the On-Call Coroner), summarising the police and pathologist's views on the donation. The Coroner may wish to consult the pathologist and other medical specialists directly before making a decision whether to give consent to donation under s. 24 of the *Transplantation and Anatomy Act*.

The RCC should:

(i) communicate the Coroner's decision to the medical team requesting donation; and

(ii) ensure a QP 0528: 'Supplementary Form 1 (Police Report of Death to Coroner)' is completed, summarising the above consultation and decision-making process, including whether donation will/will not proceed and the reasons.

OPM Issue 113 Public Edition

Regional crime coordinator assistance responsibilities

In every case of homicide, the RCC for the region in which the homicide occurred is to ensure:

(i) the family member apparently responsible for arranging the funeral of the victim is advised of the financial assistance available under the *Victims of Crime Assistance Act*, and with consent a Police Referral to Victim Assist Queensland is submitted (see ss. 2.12: 'Victims of crime' and 6.3.14: 'Police Referrals' of this Manual) and;

(ii) in cases of homicide resulting from an act of domestic and family violence as defined in the *Domestic and Family Violence Protection Act*, ensure:

(a) a QPRIME notification task is assigned, as soon as practicable, to the relevant district vulnerable persons unit (VPU). The task is to contain:

- the name of the victim (if known);
- the name of the offender (if known);
- the name of the investigating officer and a contact email address and telephone number; and
- brief particulars of the incident;

(b) the QPRIME occurrence DV indicator has been selected; and

(c) where disciplinable conduct is identified, ESC is to be notified and engaged to work in collaboration with the:

- relevant homicide investigators, if required; and
- VPU to conduct a review of the DFV history and police response.

OIC CIB or CPIU responsibilities

In every case of homicide, the local OIC CIB or CPIU where the homicide occurred is responsible to ensure that:

(i) a completed 'QHVSG – Victims of Homicide Notification Form' is sent by email to the Queensland Homicide Victims Support Group (QHVSG) (see SMCD) within 24 hours of the commencement of the investigation. Where the next of kin of the deceased has consented to the release of their personal particulars to QHVSG, these details are to be included in the form;

(ii) the RCC and Detective Inspector Homicide are advised that the 'QHVSG – Victims of Homicide Notification Form' has been emailed to QHVSG; and

(iii) where there is a request for assistance with the cleaning of the crime scene, officers are to refer to subsection 'Services available to an affected victim' of s. 2.12.1: 'Victims' Commissioner and Sexual Violence Review Board Act and Victims of Crime Assistance Act' of this chapter.

Unsolved homicide handover

Where the relevant OIC of a region or command determines further investigations of a homicide would be fruitless or where the Deputy Commissioner, Regional Operations otherwise directs, responsibility for the investigation and all investigation material (including exhibits) are to be handed over to the Homicide Group, Crime Command. The investigation subsequently becomes the responsibility of the Cold Case Investigation Team (CCIT), Homicide Group.

Further investigations into a suspicious death may be considered fruitless if after investigation:

(i) a suspect has not been identified; or

(ii) a suspect is identified but there is insufficient evidence to prosecute; or

(iii) new information is required for the investigation to proceed further; and

(iv) a government reward has been obtained, or it is outlined in the handover report the suitable reason why a government reward has not been obtained; and

(v) the matter has been reported to the coroner and the coroner has determined all investigative strategies have been exhausted at this time.

When a regional homicide investigation is to be handed over to the CCIT, the following is to occur:

(i) all original investigation files and exhibits including:

(a) running log;

(b) electronic copy of investigation;

(c) statement folder;

(d) document folder;

(e) media folder;

OPM Issue 113 Public Edition

(f) Crime Stoppers file;

(g) transcripts;

(h) copy of Briefing Notes;

(i) electronic interviews;

(j) copy of notebook entries pertaining to investigations;

(k) copy of diary entries pertaining to investigations;

(l) copy of the Coroner's report;

(m) copy of any inquest transcripts and/or findings;

(n) exhibit list;

(o) exhibits; and

(p) a complete list of present whereabouts and contact numbers of previous principle investigators;

are to be obtained by the OIC of the investigation;

(ii) further information obtained or inquiries received after handover are to be referred to CCIT, Homicide Group;

(iii) a formal handover report to the CCIT, Homicide Group, is completed (a sample report is available on the Homicide Group SharePoint page;

(iv) all exhibits relevant to the matter are to be transferred to Evidence Management (Exhibits), Crime Command, except where otherwise negotiated; and

(v) a formal handover process of all original investigation files and exhibits is to take place between the relevant RCC and Detective Inspector, Homicide Group.

Review of unsolved homicide and suspicious missing person investigations

Where a homicide or a suspicious missing person investigation remains unsolved 3 months after the commencement of an investigation, the investigation will be considered for review.

The decision whether to commence an investigation review will be made in accordance with the 'Homicide Investigation Unit Engagement Policy' available on the Homicide Group, Crime Command SharePoint page. If the HIU is engaged at Level two, the decision to commence a review will be made at the discretion and agreement of the Detective Inspector, HIU and the respective RCC.

The objective of a formal review of unsolved homicides and missing person investigations is to:

(i) improve service delivery;

(ii) reduce the risk of problems escalating to the detriment of the investigation;

(iii) ensure high standards of investigation are maintained,

which will improve public confidence by:

(i) identifying and developing investigative opportunities to progress an investigation;

(ii) implementing quality assurance practices in relation to the content and process of an investigation; and

(iii) identifying, developing and disseminating good investigative practices.

A decision to initiate an investigation review will be based on factors relevant to the individual circumstances of the investigation. Issues for consideration may include whether the investigation has identified any suspects and if the investigation is progressing to the satisfaction of the HIU and regional investigators.

The provisions of this section do not replace the obligations of the Missing Persons Unit under ss. 8.13.12: 'Missing person reasonably suspected of being deceased' and 12.4.6: 'Report to coroner where missing person reasonably suspected of being dead' of this Manual.

The Detective Inspector, HIU and the respective RCC will record their joint decision to initiate or delay a review on a QP 1054: 'Critical Decision Record'. The QP 1054 is to be recorded within the IMAC case management system.

The Detective Inspector, HIU and the respective RCC are to revisit their decision to review active unsolved homicide investigations and suspicious missing person investigations at the following intervals:

(i) 3 months after an investigation has commenced; and

(ii) every 6 months if the investigation remains unsolved.

An investigation review is mandatory in the circumstances where a homicide investigation or a suspicious missing person investigation remains unsolved 12 months after it was commenced, and an investigation review has not yet been initiated.

OPM Issue 113 Public Edition

Where the Detective Inspector, HIU and the respective RCC determine a review is required:

(i) suitably experienced investigators, independent to the investigation, will be appointed to review the investigation;

(ii) the investigation coordinator will ensure the reviewing officers are provided with access to all investigative holdings;

(iii) upon completion of the review, the reviewing officers are to complete an outcome report for the attention of the Detective Inspector, HIU and the respective RCC. The report is to include:

(a) the status of the investigation;

(b) the direction of the investigation;

(c) suggestions to improve the efficiency and quality of the investigation;

(d) suggestions for improved investigation strategies; and

(e) comments on the quality of the investigation.

The outcome of the review will be forwarded to the Office of the State Coroner as a preliminary briefing and consideration.

2.6.3 Sexual offences

The Queensland Police Service Sexual Violence Response Strategy outlines the Service's commitment to responding to sexual violence complaints with respect, professionalism, and a victim-centric trauma-informed (VCTI) approach.

Members are to provide victims with clear information about the reporting and investigative processes, explain the options available to them, and provide ongoing support throughout the investigation to support informed decision-making. Members should recognise that victims of sexual violence present with a broad range of emotional and behavioural responses and are to tailor their approach to the individual circumstances, needs and wishes of the victim.

A report of a sexual offence does not necessarily mean that a victim wishes to participate in a full investigation or pursue court proceedings at that time. Members are to discuss all available pathways and support options with victims and work with them to determine the course of action that best meets their needs.

Where required, guidance on investigating sexual offences can be obtained from CASCG. Members may also access additional resources via the CASCG SharePoint pages, Forensic Medical Examinations (Sexual Assault) and Sexual Violence Resources.

Victim-centric and trauma-informed approach

The Service defines a VCTI approach as the way of engaging with victims which prioritises listening, seeks to avoid re-traumatisation, and systematically focuses on safety, rights, wellbeing, expressed needs and their choices. It acknowledges the impact of trauma on a person's thoughts, beliefs and behaviour and is grounded in a strengths-based understanding of, and responsiveness to trauma. The approach emphasises physical, psychological, and emotional safety and creates opportunities for victims to rebuild a sense of control and empowerment.

All members involved in sexual offence investigations are responsible for applying a VCTI approach. Responsibilities at each stage of a sexual violence investigation are outlined in the following subsections:

(i) first response officer responsibilities;

(ii) investigating officer responsibilities;

(iii) sexual violence liaison officer responsibilities;

(iv) ESC, Internal Investigation Group responsibilities; and

(v) regional crime coordinator responsibilities.

Sexual assault—interagency guidelines

Interagency Guidelines for responding to sexual assault and child sexual abuse victims are available on the Child Abuse and Sexual Crime Group 'Sexual Violence Resources' SharePoint page. These guidelines set out the responsibilities of relevant government agencies (e.g. Department of Justice, QPS, Queensland Health, Department of Youth Justice and Victim Support).

Members are to:

(i) refer to the 'Responding to sexual assault and child sexual abuse' Guidelines when dealing with victims of rape and sexual assault; and

(ii) ensure information, including local support agencies, is made available to victims of rape and sexual assault. Queensland Health maintains a list of local support agencies on their 'Sexual Assault' webpage.

OPM Issue 113 Public Edition

Sexual assault online resources and investigative packages

The Adult Sexual Assault page, available on the Service website, provides information for members of the Service, victims, sexual assault support counsellors, government and non-government service providers and members of the public. The page includes information for:

(i) alternative reporting options;

(ii) what to do if following a sexual assault;

(iii) understanding the police investigation process;

(iv) support services;

(v) understanding sexual assault;

(vi) frequently asked questions; and

(vii) the right to review requests.

Additional resources are available to members via the Sexual Violence Resources SharePoint page, managed by CASCG, Crime Command. This page includes information on:

(i) affirmative consent;

(ii) the historical sexual offences handbook;

(iii) forensic medical examinations;

(iv) sexual assault counselling privilege; and

(v) the sex work industry.

Reporting options—adult sexual assault

Victims may find it difficult to report their sexual assault to police. To support accessibility and personal choice, multiple reporting pathways are available for victims and support persons. An adult victim (or another adult on behalf of the victim) may report a sexual assault offence to police by:

(i) submitting a report online using the sexual assault online reporting form;

(ii) contacting PoliceLink on 131 444 (available 24/7 with interpreter services available where required); or

(iii) attending any Queensland Police station in person.

Some victims may wish to report a sexual assault to police without making a formal complaint, completing a formal statement, or requesting an investigation. In some circumstances, a victim may wish to remain anonymous and provide information for intelligence or historical record purposes only.

The Alternative Reporting Options (ARO) form has been developed to provide victims with an alternative method of reporting sexual assault without making a report in person or by telephone.

The ARO form is available through the QPS Adult sexual assault website by selecting the 'Report' tab on the homepage and then selecting 'Adult sexual assault'.

Collect and store—Queensland Health examinations

Collect and Store examinations are a Queensland Health process undertaken without police involvement or knowledge. This examination process, which is similar to a forensic medical examination collection kit, is completed in consultation with the victim and a doctor. The Collect and Store collection sample remains untested and may be held by Queensland Health for up to 24 months before destruction. This process may support a victim's sense of dignity and control allowing time to decide whether to report the matter to police and make a criminal complaint.

See 'Collect and Store examination' information on the Forensic Medical Examinations (Sexual Assault) SharePoint page.

Witness intermediaries

Officers investigating allegations of child sexual offences within the Brisbane and Cairns District and Supreme Court jurisdictions, where the prosecution witness may have communication difficulties, should consider accessing the services of the Queensland Intermediary Scheme (QIS).

For policy in relation to QIS eligibility and the requesting processes, see s. 7.6.1: 'Preparation for an interview with a child (including special witnesses 16 to 17)' of this Manual.

Drug facilitated sexual assaults

First response officers and investigating officers are to consider the possibility that drugs may have been used to facilitate the commission of a sexual assault. Where drug facilitation is suspected, officers are to:

OPM Issue 113 Public Edition

(i) ensure appropriate testing is considered to maximise the likelihood of detecting relevant substances. The government medical officer or doctor conducting the examination is to be advised so that appropriate blood and/or urine samples are correctly obtained. The decision to test for these remains a clinical decision made by the victim in consultation with the doctor;

(ii) advise the victim of the need to examine the clothing worn when the drug was administered and when the sexual assault occurred. These items may contain traces of the drug used by the offender, which may provide corroboration of the victim's account. Seized items are to be packaged separately in appropriate exhibit bags to avoid cross-contamination of evidence;

(iii) exercise care when interviewing the victim. Investigating officers are to be mindful that a victim may subconsciously attempt to fill gaps in memory and may become suggestible when answering questions; and

(iv) consider locating potential witnesses and identifying associated crime scenes.

Crime scenes may include the premises where the drug may have been administered to the victim or where it was stored and/or prepared by the suspect.

Officers should search crime scenes for:

(i) drugs that may have been administered, including prescription medication;

(ii) devices used to administer the drug, such as syringes or eye droppers etc.;

(iii) receptacles and packaging used to store the drug;

(iv) CCTV footage, where the crime scene is a licensed premises; and

(v) any property belonging to the victim that may be in the suspect's possession.

See subsections below, titled 'Forensic Medical Examination—sexual assault offences' and 'Investigating officer responsibilities' of this section for guidance on Toxicology Collection Kits (TOX) and Clothing Collection Kits (CCK) which are used by Queensland Health hospitals.

First response officer responsibilities

Where first response officers identify a sexual offence, consideration should be given to contacting the relevant district Sexual Violence Liaison Officer (SVLO) to provide an initial briefing and arrange the assignment of an investigating officer in accordance with local arrangements and the responsibilities of an SVLO outlined in this section.

A complainant's first contact with police will generally be through a first response officer, who is responsible for managing the initial interaction and obtaining preliminary details of the complaint.

Additional responsibilities of first response officers for sexual offences include:

(i) ensuring the safety and welfare of the victim. This includes offering medical assistance where required and relocating the victim to a safe private space to discuss the matter (see Schedule 1: 'Charter of victims' rights' of the *Victims' Commissioner and Sexual Violence Review Board Act* (VCSVRBA), s. 2.12.1: 'Victims' Commissioner and Sexual Violence Review Board Act and Victims of Crime Assistance Act' and Chapter 7: 'Child harm' of this Manual);

(ii) confirming whether the victim has a preference regarding the gender of the investigating officer, and accommodating that preference where possible;

(iii) establishing whether the victim is a vulnerable person, a person with disability, or a person with cultural needs (see s. 6.3.1: 'Circumstances which constitute a vulnerability, disability, or cultural need' and s. 6.3.2: 'Establishing whether a person is vulnerable, disabled or has a cultural need' of this Manual);

(iv) identifying any person to whom the victim may have disclosed the offence following its occurrence, i.e. preliminary complaint and any other possible witnesses;

(v) offering the victim the opportunity to have a support person present during various stages of the investigation, including the taking of the victim's statement (see also s. 7.6: 'Interview with a child' of this Manual), and, where appropriate during medical procedures. Victims should be advised that witnesses or potential witnesses cannot act as a support person, but can include:

(a) a friend or relative; or

(b) a person from a sexual assault support service; and

(vi) obtaining the victim's personal particulars and identifying the offence to be investigated (e.g. rape or sexual assault), in consultation with local DDO, CIB, CPIU officers where necessary;

(vii) obtaining a brief account of the offence, including:

(a) the location of the offence;

(b) the time and date of the offence;

OPM Issue 113 Public Edition

(c) the presence of injuries and whether medical treatment is required;

(d) any conversations with the suspect—including details relating to any ongoing threats made to the victim; and

(e) any other preliminary details (e.g. indicia, sequence of events) to enter the relevant occurrence type in QPRIME, without requiring the victim to provide an in-depth recount of events;

(viii) obtaining sufficient information to assist in identifying the suspect(s), including where appropriate:

(a) whether the suspect(s) is known to the victim or any witnesses;

(b) an accurate description of the suspect(s);

(c) whether CCTV or security footage is available (see s. 2.4.11: 'Video and photographic evidence recorded during the commission of offences' of this chapter);

(d) any information that may assist investigators to locate and identify the suspect(s); and

(e) arranging a broadcast of suspect(s) where necessary;

(ix) avoiding leading questions when speaking with the victim about the complaint;

(x) offering a police referral to the victim (see s. 6.3.14: 'Police Referrals' of this Manual); and

(xi) informing the victim of the anticipated timeframe (duration) for contact by the investigating officer. Where the investigating officer is not immediately available and the delay is expected to be:

(a) brief, and the victim is willing to wait, offering to relocate the victim to a private and comfortable space; or

(b) significant, or unable to be determined, ascertaining the victim's preferred method of contact and offering interim support as the point of contact with the Service.

Investigating officer responsibilities

The investigating officer is responsible for conducting the investigation in a manner that minimises re-traumatisation to the victim. Where resources permit, the investigating officer should act as the victim's primary point of contact to foster rapport and minimise the need for the victim to repeatedly recount their experience.

The responsibilities of investigating officers in sexual offence investigations include:

(i) providing an objective account of the investigative and judicial process to ensure the victim is well informed of these processes;

(ii) discussing with the victim their needs and concerns in relation to the investigative process, including:

(a) whether the victim has a preference regarding the gender of officers who may be present during the investigation, with that gender preference accommodated where possible;

(b) advising the victim of their right to have a support person present during the statement or medical examination process, noting that the support person may be a friend, relative or person from a sexual assault support service, but cannot be a potential witness or suspect (see also s. 7.6: 'Interview with a child' of this Manual); and

(iii) keeping the victim informed throughout the investigation, including:

(a) what can and cannot be disclosed at each stage of the investigation;

(b) any decision to prosecute; and

(c) the officer's contact details, while encouraging the victim to make contact if they have any further questions; and

(iv) addressing concerns regarding consent, including where appropriate discussing s. 348: 'Consent' of the CC and relevant provisions concerning affirmative consent, mistake of fact, and circumstances in which a person has no capacity to consent:

(a) s. 24: 'Mistake of fact' of the CC whereby the defence provision is not automatically taken to apply under the legislated affirmative consent model (e.g. a person who does not offer physical or verbal resistance to an act is not, by reason only of that fact, taken to consent to the act—defendants must prove they took reasonable steps to obtain consent);

(b) having no capacity to consent, meaning a person cannot legally consent. No capacity to legally consent includes, but is not limited to:

- if the victim was asleep;
- unconscious;
- underage (under 16 years-of-age);

OPM Issue 113 Public Edition

- significantly incapacitated by drugs (including alcohol); or
- participated because of acts of coercion, blackmail, or intimidation;

(see also s. 348AA: 'Circumstances in which there is no consent' of the CC).

(v) complying with the Charter of Victims' Rights of the VCSVRBA (see s. 2.12: 'Victims of crime' of this chapter);

(vi) informing the victim of the importance of preserving forensic evidence. However, officers should not discourage victims from washing bodily fluids from the vaginal or anal where there is a risk of infection from potentially life-threatening communicable diseases;

(vii) advising the victim that counselling communications will be protected from disclosure under Part 2, Division 2A: 'Sexual Assault Counselling Privilege' of the *Evidence Act* and will not be requested unless there are exceptional circumstances (see also s. 2.5.15: 'Sexual assault counselling privilege' of this Manual);

(viii) discussing with the victim the outcome they are seeking from their complaint. Not all victims wish to proceed with the full investigative or judicial process. Where this is the case, investigating officers should discuss alternative resolution pathways such as Adult Restorative Justice Conferencing (see s. 3.3: 'Adult Restorative Justice Conferencing' of this Manual);

(ix) where appropriate, arrange for a forensic medical examination to be completed by a forensic physician, doctor or forensic nurse (see subsection below titled 'Forensic Medical Examinations—sexual assaults'). Consideration should be given to discussing the 4 modular forensic evidence collection kits used by Queensland Health Hospitals:

(a) Forensic Medical Examination Kit (FMEK)—used for collection of DNA evidence following alleged sexual assault;

(b) Contamination Reduction Kit (CRK)—used in conjunction with a FMEK to establish a controlled setting where DNA collection is minimised;

(c) Clothing Collection Kit (CCK)—for gathering and preserving external clothing (or other) for DNA evidence; and

(d) Toxicology Collection Kit (TOX)—for collection of urine and blood evidence following a suspected drug facilitated sexual assault;

(x) where possible, obtain photographs of the victim which illustrate any injuries or other evidence, advising the victim that this photography process may occur during the medical examination process;

(xi) arranging for the collection of toxicology samples during the medical examination if there is any suspicion that the offence involves any stupefying or overpowering drug;

(xii) requesting the medical practitioner to collect a DNA person sample from the victim as part of the examination and ensuring that the victim completes the consent form included in the FMEK consenting to the provision of their buccal reference sample for the sole purpose of investigating their complaint;

(xiii) where additional biological evidence is taken from the victim, including clothing collected by the medical practitioner using a CCK, it is to be retained by the investigating officer and:

(a) consideration should be given to the circumstances surrounding the case, including the potential probative value of physical evidence from exhibits other than the FMEK (e.g. underwear, clothing, bedding);

(b) highly probative exhibits, including underwear that is not within a FMEK and that offers the same evidence as the FMEK, should be examined and probative samples submitted to FSQ. It is not necessary to wait for the FMEK results. If the FMEK provides probative results that are greater or equal to the probative value of the samples, the analysis of these samples may be stopped by FSQ or DNA Management Section. If the analysis of these samples is required to continue, investigating officers are to contact DNA Management Section to request continuation of testing, providing a rationale to support the request;

(c) exhibits with probative value that is additional or alternate to contents of the FMEK, should be examined. It is not necessary to wait for the FMEK results; and

(d) if the FMEK analysis fails to add evidentiary value, any remaining exhibits should be considered;

(xiv) where identified, collection of DNA reference samples from other sexual partners or witnesses for the purpose of assisting analysts with the interpretation of complex mixed DNA profiles and improving the timeliness of results (see s. 2.25.6: 'Obtaining samples for DNA analysis from a victim/complainant/witness' of this chapter);

(xv) ensuring the victim's clothing and underclothing which may assist in the investigation (e.g. bodily fluids such as saliva, semen or blood) are collected as per s. 2.25.20: 'Items of clothing worn by a complainant' of this chapter. In circumstances where the victim presents to the hospital wearing clothing that may contain forensic evidence, the clothing will be collected by the medical practitioner using a CCK;

(xvi) arranging for the examination of the crime scene by forensic personnel as soon as possible, ensuring the scene is not disturbed until the examination is completed (see Chapter 7, Part 3: 'Crime scenes' of the PPRA).

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Where forensic examination requires the collection of items such as discarded clothing, bed linen which may provide forensic evidence to support the investigation and forensic personnel are not available to attend the scene, they are to be collected in accordance with s. 2.25.19: 'Collection and preservation of potential forensic evidence when a Scenes of Crime Officer is unavailable' of this chapter;

(xvii) making, if appropriate, a detailed plan of the crime scene. Where the investigation includes a drug facilitated sexual assault, consideration is to be given to the fact that the crime scene may include a second location for where the drug was administered to the victim, or where the drug was prepared (see subsection above titled 'Drug facilitated sexual assaults' of this section and s. 2.4.5: 'Major investigations' of this chapter);

(xviii) obtaining a detailed statement from the victim (see subsection below titled 'Statement process with victims of sexual assault').

(xix) where necessary, arranging for photographs to be taken of the crime scene and any exhibits;

(xx) collating, labelling, and securing all exhibits in accordance with the provisions of Chapter 4: 'Property' of this Manual;

(xxi) maintaining the Occurrence Enquiry Log (OEL) within QPRIME to assist in the management of the investigation. This includes any communication between the investigating officer and the victim and any investigative decision with a documented reason as to why the decision was made;

(xxii) if the identity of the suspect is not known, arranging a Comfit and ensuring the completed Comfit is attached to the relevant QPRIME occurrence (see s. 2.11.8: 'Comfit identification (computer generated images)' of this chapter);

(xxiii) if the identity of the suspect is known, locating and interviewing the suspect as necessary;

(xxiv) conducting any necessary searches to obtain any evidence from the suspect or from any other place;

(xxv) offering a Police Referral for support services and financial assistance. Victims Assist Queensland can assist with providing counselling, medical costs, security to place of residence, clothing and bedding. Inform the victim of alternative support options, including referrals to independent legal services and any other locally identified support services (such as Queensland Health's—Services by location webpage); and

(xxvi) advising the victim of investigative decisions and the reasons for those decisions (see subsection below titled 'Right to review—sexual violence investigations).

Further guidance for investigators can be located on the CASCG's Forensic Medical Examinations (Sexual Assault) and Sexual Violence Resources SharePoint pages.

Sexual Violence Liaison Officers

Officers In Charge (OIC) of Criminal Investigation Branches (CIB) and Child Protection Investigation Units (CPIU) are responsible for undertaking the Sexual Violence Liaison Officer (SVLO) role. There are also SVLOs within the Crime Command (CC), Emergency Response and Coordination Command (ERCC) and Ethical Standards Command (ESC).

SVLOs are responsible for overseeing and managing all sexual violence offences reported to the Service. SVLOs act as a liaison point between the Service and sexual assault support services.

SVLOs are to provide advice and guidance, where required, on best practice responses in all sexual violence matters.

See the 'Sexual violence liaison officer (SVLO) responsibilities' subsection below for the role and responsibilities of an SVLO.

Sexual violence liaison officer (SVLO) responsibilities

SVLO responsibilities relate to victims over the age of consent (16 years or older) and includes victims of historical sexual offence matters.

Where a sexual violence offence is reported to the Service, the SVLO is to ensure:

(i) the first point of contact for the victim is with an appropriately trained investigator following initial advice of a reported sexual violence offence. This process is to be established by the SVLO based on local resourcing arrangements;

(ii) all interactions between police and victims are recorded in the QPRIME Occurrence Enquiry Log (OEL). The SVLO should monitor occurrence OELs to ensure the relevant investigative information is recorded. Unnecessary or irrelevant information should not be recorded as this may undermine trust with the victim and may be subject to disclosure requirements;

(iii) investigators interact with victims in a manner that maintains dignity and minimises re-traumatisation. When monitoring these interactions, the SVLO should ascertain if the investigator has provided an honest and transparent account of the investigation and judicial processes with the aim of ensuring the victim can make an informed decision, without placing undue or negative emphasis on the process or encouraging the victim to withdraw the complaint;

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(iv) that at all stages throughout the investigation, and where operationally practical and appropriate, the victim is informed of and afforded the opportunity to have a support person present during all in-person contact with an investigating officer;

(v) feedback from victims is collected and collated at key investigative decision points, with a view to empowering victims to contribute to the investigation process and inform future improvement strategies;

(vi) a referral to an appropriate support service is offered to all sexual violence victims;

(vii) where a matter cannot be progressed to prosecution, advice is provided in person to the victim by the investigating officer, and the victim has been informed of their 'Right to Review' process in accordance with the below subsection 'Right to review—sexual violence investigations';

(viii) a withdrawal of complaint is not formally progressed from the victim within 14 days from the date the offence is reported to the Service unless approved by the SVLO and in accordance with the victim's wishes;

(ix) additional support and referrals are offered to a victim who wishes to withdraw their complaint within the first 48 hours after making a complaint;

(x) all withdrawals of complaints relating to sexual violence offences are electronically recorded. Any recording is to cover the entirety of the interaction with the victim not just the completion of the withdrawal of complaint documentation;

(xi) a monthly review of withdrawal of complaints is conducted with an entry made on the OEL in QPRIME indicating compliance or non-compliance with this policy;

(xii) a random audit of sexual offence investigations within the associated district is conducted for the purpose of quality assurance;

(xiii) a local escalation process is established to ensure the SVLO is the first point of contact should a victim or sexual assault support service employee wish to raise concerns for the response provided by the investigator or the Service; and

(xiv) relationships with the local sexual assault support services are built and maintained and information is shared between agencies to improve responses to victims in line with the VCTI approach (see subsection above titled 'Sexual Assault—Interagency Guidelines' of this section);

(xv) right to review requests for investigative decisions, are actioned in accordance with the 'Right to review—sexual violence investigations' subsection outlined below in this section; and

(xvi) support and mentoring are provided to investigators, identifying suitable learning opportunities and advising on best practice for sexual assault investigations.

Where appropriate the SVLO may delegate some of the above responsibilities to appropriately trained officers.

Ethical Standards Command SVLO responsibilities

ESC have designated SVLOs who are responsible for undertaking the role of SVLO for investigations of a Service member involved in sexual allegations and offences. This includes historical sexual allegations and offences investigated by Internal Investigations Group, and State Case Management Unit, ESC, including allegations and offences investigated through the professional practice manager (PPM) network.

If a Service member involved in sexual allegations and offences comes to the attention of the region, it must be immediately reported directly to the Detective Superintendent, IIG, ESC. The role and responsibilities of ESC SVLOs are outlined in a localised instruction.

Regional crime coordinator responsibilities

ORDER

In cases of serious or complex sexual assaults the regional crime coordinator (RCC) is to notify the Detective Inspector, Sexual Crimes Unit, Child Abuse and Sexual Crime Group, Crime Command who will assist the RCC in overseeing the investigation. RCCs are responsible for reviewing the investigation and are to:

(i) provide strategic oversight;

(ii) ensure appropriate allocation of resources;

(iii) facilitate interagency coordination where necessary;

(iv) conduct regular quality assurance reviews to identify district training needs; and

(v) ensure the region provides a VCTI response.

Forensic Medical Examination—sexual assault offences

Where the victim of a sexual assault is a child, members are also to comply with s. 7.7: 'Medical examination of children' of this Manual.

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Forensic medical examinations (FME) can be deeply intrusive. Where an investigating officer determines that a FME is required as part of their investigation, the investigating officer is to assist with coordinating the FME with an authorised clinician. Clinicians authorised to perform FMEs on adults include:

(i) Forensic Medical Officers (FMO);

(ii) Forensic Physicians (FP);

(iii) Sexual Assault Nurse Examiners (SANE);

(iv) Government Medical Officers (GMO);

(v) Senior Medical Officers (SMO); and

(vi) medical officers who have received training in forensic examinations.

Investigating officers are to assist the FME clinician by providing a clear explanation for the purpose of the FME, the FME process, and the victim's rights to make informed decisions. This includes understanding the victim's rights to have a support person present during the examination, their right to consent to the FME procedure, and their right to decline or withdraw consent prior to, or during the FME procedure.

In supporting a FME clinician, the investigating officer is to:

(i) explain to the victim that written and signed consent should be given via a Forensic Medical Examination Record (FMER), and the consent process is contained within the Forensic Medical Examination Kit (FMEK) for:

(a) any clinical or forensic examination;

(b) the collection of specimens by the doctor;

(c) the release of any specimens taken or relevant laboratory results;

(d) the taking of necessary photographs; and

(e) the collection of a DNA reference sample;

(ii) provide the victim with the option of having a support person present during the examination;

(iii) advise the victim that there is no legal requirement for an officer to be present during a medical or forensic examination. Officers should confirm with the victim whether they or the clinician request for the officer's presence during the examination process;

(iv) discuss what key evidence highlights the commission of the crime and why it should be obtained by the FME process with the victim;

(v) ensure the victim is advised that the FME clinician may obtain intimate photographs of genitalia and other intimate regions that may illustrate any injury or evidence relevant to the investigation;

(vi) explain that there may be circumstances where the clothing worn to the hospital may contain forensic evidence and is to be collected using 'Clothing Collection Kit' (CCK). This does not include underwear, as that is collected as part of the FMEK;

(vii) determine whether additional samples are required to assist the investigation. This may include:

(a) collection of toxicology samples if there is a suspicion the offence involved a stupefying or overpowering drug. The decision to collect toxicology samples remains a clinical one and is made in consultation with the victim (see subsection above titled 'Drug facilitated sexual assaults' of this section); and

(b) collection of a DNA sample (buccal reference sample) from the victim, for the sole purpose of elimination and assisting in identifying the DNA profile of the suspect;

(viii) take possession of the completed FMEK, and Toxicology Kit (TOX) if applicable, ensuring they are:

(a) recorded in QPRIME and tagged as property;

(b) entered into the forensic register and a barcode attached to the exhibit prior to lodgement;

(c) stored in compliance with s. 2.19.6: 'Forensic Services Group (FSG)' of this chapter, subsection 'Sample analysed by Forensic Science Queensland (FSQ)'; and

(d) delivered to the forensic property point at FSQ, 39 Kessels Road, Coopers Plains (see s. 2.19.6: 'Forensic Services Group (FSG)' of this chapter, subsection 'Delivery of samples at Queensland Public Health and Scientific Services').

Forensic Medical Examination Kit (FMEK)—Victim sample retention and disposal

Where a victim wishes to withdraw their complaint and has undergone forensic medical examination, the FMEK is to be retained for a minimum period of two years from the date of withdrawal before it may be lawfully destroyed. Where the victim is under 18 years of age, the FMEK is to be retained until the victim turns 18 and then for at least two years thereafter.

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In all instances, informed consent is to be sought from the victim during the withdrawal of complaint process for sexual assault offences where an FMEK has been performed. Officers are to advise the victim that consent for the sample to be retained or destroyed after the specified period, will occur without the need for additional contact (informed consent).

Retention and disposal periods of the victim's FMEK sample is to be:

(i) upon initial receipt, stored and delivered in accordance with s. 2.19.6: 'Forensic Services Group (FSG)' and subheading 'Sample analysed by Forensic Science Queensland (FSQ)' of this chapter;

(ii) where victim finalises the withdrawal of their complaint prior to the FMEK sample being delivered to FSQ, the sample is no longer able to be delivered to FSQ for analysis and is to instead be retained by the Service as per specialised storage provisions;

(iii) where FSQ is in possession of the sample at the time of the withdrawal being made, the investigating officer is to contact the DNA Liaison and Major Crime Unit and advise the analysis of the sample is no longer required;

(iv) where FSQ has returned the sample to the Service for retention, the sample is to be stored at room temperature and in accordance with Chapter 4: 'Property' of this Manual; or

(v) where minimum retention period has elapsed, the FMEK sample can be disposed of via the property officer's disposal procedures in accordance with s. 4.6: 'Disposal of property' of this Manual.

FMEK samples are not to be destroyed without documented evidence on the relevant QPRIME occurrence that informed consent has been obtained from the victim. Specifically, the documented withdrawal of complaint is to evidence an acknowledgement from the victim that FMEK retention and disposal conditions have been explained and discussed with the victim. Informed consent may be obtained from the victim by:

(i) completing a QP 0458: 'Withdrawal of complaint', which includes an acknowledgement for understanding the Service's FMEK retention and disposal periods;

(ii) completing an official police diary/notebook entry, which includes a signature of the victim wishing to withdraw the complaint and acknowledging the Service's FMEK retention and disposal periods has been discussed with the victim; or

(iii) audio or video recording on the officer's BWC, outlining the victim wishes to withdraw the complaint and acknowledging the Service's FMEK retention and disposal periods have been discussed with the victim.

See also s. 1.11.11: 'QPRIME offender action status type and requirements' subheading 'Victim withdraws complaint' of this Manual.

Statement process with victims of sexual assault

This section is to be read in conjunction with s. 2.13: 'Statements' of this chapter.

Taking a statement from a victim of sexual assault should be undertaken using a VCTI approach that recognises the profound and often complex impact that sexual assault can have on a victim-survivor. The statement process should prioritise the victim-survivor's safety, dignity, and psychological wellbeing, and create an environment where they feel heard and respected, allowing them to recount their experience in their own words and at their own pace.

Prior to commencing the statement process with a victim, members should:

(i) discuss a suitable timeframe for completing the statement, taking into consideration the victim's need to mentally prepare for recounting the events of the offence;

(ii) consider the provisions of Chapter 6: 'Persons who are vulnerable, disabled or have cultural needs' of this Manual;

(iii) consider the provisions of s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the EA (Admissibility of statements by a child or a person with an impairment of the mind). Statements taken in this format should, where possible, be taken by officers who have completed an ICARE or ISACURE course and in accordance with s. 7.6.5: 'Recording of statements under 93A of the Evidence Act' of this Manual;

(iv) ascertain whether the victim wishes to have a support person present during the statement, e.g. a friend, family member or a community support worker who is not identified as a possible witness;

(v) ensure if the victim has a disability/impairment, a representative from the appropriate agency or a support person, where available, is present during the interview and they are not identified as a possible witness;

(vi) ensure, where the victim is not conversant with the English language, where available, an appropriate and accredited interpreter is present (see s. 6.3.7: 'Interpreters' of this Manual);

(vii) consider the use of a Queensland Intermediary Scheme (QIS) intermediary to assist witnesses with communication difficulties during the interview process for child sexual offence investigations, eligibility provisions apply (see s. 7.6.3: 'Procedures for interviewing a child' of this Manual);

PM Issue 113 Public Edition

(viii) tailor communication styles to the victim's needs when engaging with persons from diverse backgrounds, including but not limited to:

(a) First Nations peoples: recognise historical, cultural and social impacts and approach interactions with cultural humility, sensitivity and respect. Offer and support any request to have a community elder or cross-cultural liaison officer present (see s. 6.4.3: 'Cross cultural liaison officer' of this Manual);

(b) persons with a disability or cognitive impairment: consider the varied needs and capacities that persons with disability or impairment may encounter. Flexibility by the officer may be required to accommodate accessibility needs, linguistic needs, or appropriate support options;

(c) LGBTQIA+ persons: respect diverse identities, privacy and confidentiality, offer and support LGBTQIA+ liaison officer involvement (see s. 1.7.10: 'Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual plus Liaison Program' of this Manual). Where relevant, members should familiarise themselves with the 'Policing for people from LGBTQIA+ communities' Service guidelines;

(d) culturally and linguistically diverse (CALD) person: consider limited English proficiency and cultural misconceptions about what constitutes sexual assault. Consider the need to engage an accredited interpreter;

(e) persons engaged in sex work; demonstrate respect and empathy to the victim by providing non-judgemental environment for reporting. Address the offence committed against them rather than assuming consent based on occupation, and noting the sex work industry was decriminalised in August 2024 (see s. 13.11: 'Sex work industry' of this Manual); and

(ix) acknowledge that the impact of sexual violence differs from person to person and ensure the victim is comfortable prior to commencing the statement.

When taking a statement from the victim, members should:

(i) where possible, conduct the statement in a private and trauma informed setting (i.e. a soft room) such as a DFV safe space;

(ii) create an environment of trust with the victim by informing the victim of the investigative and statement processes to be undertaken;

(iii) advise the victim about the format for taking the statement and how it will be conducted;

(iv) answer and clarify any questions asked by the victim;

(v) take care when asking questions with the victim. The investigating officer is to be mindful that a victim may subconsciously attempt to fill gaps in their memory and may become suggestible when answering questions;

(vi) consider the inherently intrusive nature of sexual offences, where it is necessary to ask an intrusive question (e.g. questions to assist identification of offence) provide context to mitigate the risk of misconceptions towards police (e.g. the victim is left feeling not believed);

(vii) provide opportunities for rest breaks, therefore allowing time for the victim to process their thoughts, feelings, emotions as they are asked to recall events of the offence;

(viii) record accurately the victim's responses;

(ix) ensure the statement is signed by the victim in accordance with the *Justices Act* or *Oaths Act* provisions;

(x) keep all drafts and transcripts secured and together;

(xi) ensure a copy of the statement is given to the victim;

(xii) advise the victim that if the matter proceeds to court, the legal representative for the defence will be receiving a copy of the statement; and

(xiii) advise the victim that if the matter proceeds to court, they may be afforded rights granted to a special witness, e.g. the pre-recording of evidence, see s. 21A: 'Evidence of special witnesses' of the EA and s. 3.10.6: 'Special witnesses' of this Manual.

Right to review—sexual violence investigations

This subsection covers the right to review a Service member's investigative decision.

For decision matters involving the ODPP, see Victims' Right to Review page on the Office of the Director of Public Prosecutions Queensland website.

Victims are to be informed of the right to request a review, at the time of being informed of the outcome of an investigation (see Schedule 1: 'Charter of victims' rights' of the VCSVRBA).

For the purposes of this subsection,

OPM Issue 113 Public Edition

Reviewing officer

means:

(i) an officer nominated by the relevant regional crime coordinator (RCC) or detective inspector (DI), with no prior involvement in the initial investigation or decision process. The reviewing officer will be:

(a) an SVLO;

(b) stationed in a different crime group to the original investigating officer; and

(c) of a higher rank than the original investigating officer; or

(ii) for matters involving an allegation against a Service member, the reviewing officer will be nominated by the Detective Superintendent, Internal Investigation Group (IIG), ESC.

Reviewable decision

means a decision to:

(i) not charge a suspect, where a suspect has been identified;

(ii) unfound a matter;

(iii) discontinue a charge or prosecution; or

(iv) substantially change or reduce a charge.

Victims may request a review of any relevant decision (reviewable decision) which pertains to the sexual violence investigation itself or the prosecutorial decisions for matters before the court. Applications for the Right to Review, may be submitted to the Service by the applicant by:

(i) submitting the Right to Review online application using the QPS internet website—'Sexual Violence Right to Review' page;

(ii) downloading a QP 1136: 'Right to Review Request Form' from the QPS internet website and mailing the completed QP 1136 to the Service (Attention to: Sexual Violence Response Team, GPO Box 1440 Brisbane Qld 4001);

(iii) emailing a copy of the completed QP 1136 to SexualViolenceReviews@police.qld.gov.au;

(iv) attending in person to a station or establishment and completing the online form with the assistance of a Service member; or

(v) directing a request to the investigating officer or prosecutor to complete the online form on their behalf.

Applications to review a relevant decision, will be assessed for eligibility and allocated to a reviewing officer by the Sexual Violence Response Team (SVRT). Where possible the allocation from SVRT, in consultation with the relevant RCC or DI for review matters not involving Service members, will be assigned:

(i) for adult victim-survivors, to CIB OICs; and

(ii) for child victim-survivors, to CPIU OICs.

Where SVRT identify the original investigator is positioned in the role of OIC (appointed or relieving) and the assignment of the review to the OIC may be a conflict, SVRT will assign the review to an officer of more senior rank to the investigator or to an alternative plain clothes OIC.

Right to Review matters involving Service members will be allocated by SVRT in consultation with the Detective Superintendent, IIG, ESC to a commissioned officer or legal officer siloed from the original investigation.

The following persons are eligible to apply for a review:

(i) the victim-survivor;

(ii) a parent or guardian of the victim-survivor, where the victim-survivor is under 16 years of age or is under legal guardianship;

(iii) a support person or carer of the victim-survivor where the victim-survivor consents.

Where the victim-survivor has concerns outside the scope of the Right to Review process, the reviewing officer is to provide details of alternative complaint avenues. These avenues, not limited to, are:

(i) by lodging a formal complaint via the QPS internet website; and

(ii) if relevant, by lodging a breach of Charter of Victims' Rights via the Office of the Victims' Commissioner website (see also s. 2.12.1: 'Victims' Commissioner and Sexual Violence Review Board Act and Victims of Crime Assistance Act' of this chapter).

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SVRT, Child Abuse and Sexual Crime Group, manage the Service's sexual violence resources and may provide advice to reviewing officers regarding sexual violence investigations. Further guidance can also be obtained from the Sexual Violence Right to Review SharePoint page.

ORDER

In accordance with the Right to Review policy and the Right to Review internal guide, the reviewing officer is to:

(i) contact the victim-survivor applicant (or parent, guardian, support person / eligible person) to provide them the officer's contact details;

(ii) advise the victim-survivor applicant about their rights and services available in accordance with the Charter of Victims' Rights;

(iii) complete a review of the original sexual violence investigation, including considerations, which are not limited to:

(a) determining compliance of investigative responsibilities outlined in this Chapter;

(b) determining thoroughness of evidence exploration and collection, considering if it has been properly interpreted;

(c) determining the application of the sufficiency of evidence and public interest test pursuant to the provisions of s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual;

(iv) reach an independent conclusion as to the appropriate outcome of the investigation, either:

(a) the reviewing officer agrees with the original decision and no further action is taken; or

(b) the reviewing officer disagrees with the original decision and recommends the investigative decision is reconsidered;

(v) complete a QP 1334: 'Right to Review Statement of Reasons' outlining the reviewing officer's decision, reasoning, and recommendations (if any);

(vi) forward the completed QP 1334 to the relevant DI for consideration. The relevant DI is to ensure consultation with the original investigating officer, the officer's OIC, and the reviewing officer occurs to discuss the reviewing officer's outcome. Where consultation results in:

(a) agreeance that the original decision is to be reconsidered, the original investigating officer's OIC will allocate a senior investigator to recommence investigations into the matter; or

(b) agreeance with the original decision, the DI is to note the decision in writing and ensure the outcome is recorded on the relevant QPRIME occurrence;

(vii) ensure the victim-survivor applicant is notified of the outcome within 28 days of the file allocation, unless an extension has been sought and the applicant advised; and

(viii) ensure the outcome is explained in a way that is easily understood by the victim and in a communication method as nominated by the victim in the Right to Review request (e.g. by email, telephone).

Where further information or additional time is required to achieve a review outcome, the reviewing officer is to notify the victim-survivor applicant of the need to apply for the time extension and keep the victim-survivor informed of progress.

In notifying the victim-survivor of the Right to Review outcome, the reviewing officer is to ensure:

(i) all communication between the reviewing officer and the victim-survivor is recorded by OEL entries in the relevant QPRIME occurrence;

(ii) where requested, a written copy of the outcome is provided to the victim-survivor;

(iii) if the victim requests a face-to-face meeting to discuss the outcome, ensure:

(a) the victim is aware of the opportunity to have a support person attend with them to the meeting; and

(b) consider the use of an interpreter where required (see s. 6.3.7: 'Interpreters' of this Manual).

2.6.4 Fraud

This section outlines the additional responsibilities of officers who investigate suspected fraud offences.

Additional investigative responsibilities include:

(i) taking possession of any document passed by the offender as it will be required as an exhibit, being mindful not to handle the exhibit excessively as possible fingerprints may be obliterated;

(ii) obtaining a detailed statement from the complainant, setting out all particulars connected with the commission of the offence, including:

OPM Issue 113 Public Edition

(a) date, time and place any representations were made which may involve several representations made over a period of time and involving various documentation, and which may be made by words or otherwise;

(b) why the complainant parted with the 'property';

(c) full description of the offender and identity if known; and

(d) what property was used or obtained;

- what benefit or advantage was gained?;
- what detriment was caused?;
- what lawful act the victim was induced to do or abstain from doing?; or
- how the offender made off with the property?;

(iii) when interviewing the suspect, ensuring the interview covers the elements of the offence and that any defences raised are taken into consideration and the suspect is questioned appropriately in order to fully explain any such defences. In particular cover the element of 'dishonestly'. This element may be proved either by admissions or by reference to other facts which have been proven or both;

(iv) where a handwriting specimen comparison may be useful in identifying an offender, obtaining samples and seeking the assistance of Service handwriting experts;

(v) ensuring that evidence contained in computers and associated or similar equipment and devices are examined in accordance with s. 2.6.10: 'Electronic evidence examination' of this chapter; and

(vi) if applicable, taking possession of property subject of the offence.

In cases involving the passing of cheques, officers should:

(i) obtain the:

(a) date, time and place where the cheque was passed (the cheque should be identified and described);

(b) circumstances under which the cheque was accepted and acted on as genuine, and any conversation that took place;

(c) whether the offender verbally informed the complainant that the cheque was good and would be met on presentation;

(ii) ascertain the origin of the cheque and to whom it was originally issued by the bank on which it was drawn;

(iii) obtain a statement from the owner of the cheque if the cheque has been stolen and issued on the owners account or on a non-existent account. In addition to the charge of fraud, the possibility of preferring a charge of stealing (in respect to the cheque) and of forgery (if the signature of the owner of the cheque has been forged thereon) should be considered;

(iv) where the drawer of the cheque is the person to whom the cheque was issued by the bank, make inquiries from the bank and the drawer of the cheque on the following points:

(a) the state of the account at the time the cheque was made out, passed to the complainant, and presented at the bank;

(b) whether the offender was aware of the state of the particular account, and if so how the offender was aware;

(c) whether there was any reasonable expectation by the offender that funds may have been deposited to the relevant cheque account. If so, full details of these reasonable expectations should be obtained;

(d) whether the offender's account had been active. How the offender had operated on the account. Whether the offender for example, made an initial deposit and withdrew it in a short time. Whether other valueless cheques have been presented;

(v) inquire as to whether the offender (if located) has possession of any remaining cheques. These may provide evidence, e.g. serial numbers, handwriting to connect that person with the offence; and

(vi) identify any endorsement(s) that have been placed on the reverse side of the cheque by the bank (e.g. 'refer to drawer', 'present again', 'account closed', etc.).

Officers investigating fraud related offences are to advise their regional crime coordinator (RCC) of any known circumstances which could indicate that an immediate and urgent response by Financial and Cyber Crime Group (FCCG), Crime Command is required. The RCC is to assess whether the investigation falls within the terms of engagement of FCCG and, if so assessed, notify the Detective Inspector, FCCG.

Where computer or other electronic means are used to commit a fraud see s. 2.6.8: 'Specialist cybercrime investigations' of this chapter.

OPM Issue 113 Public Edition

2.6.5 Armed robbery

If offenders are identified within the premises or alternatively if a hostage or dangerous situation arises, officers are to establish a perimeter and contain the situation to enable negotiation to take place.

Additional investigative responsibilities include:

(i) the crime scene is preserved including the security of physical exhibits, e.g. demand notes, projectiles or other articles and the protection of areas requiring scientific examination;

(ii) ensuring any CCTV or security surveillance camera vision is secured and transported for examination, as soon as possible (see s. 2.4.11: 'Video and photographic evidence recorded during the commission of offences' of this chapter;

(iii) obtaining detailed statements from all witnesses including:

(a) full description of offender(s) including clothing worn;

(b) exact conversation used by offender(s);

(c) description of firearm or weapon used; and

(d) description of any get-away vehicle(s);

(iv) in the event that the get-away vehicle(s) is/are located in proximity to the scene:

(a) attending and ensuring the crime scene is preserved for forensic examination;

(b) arranging for the attendance of forensic officers;

(c) establishing if the get-away vehicle(s) has been reported stolen and if so making contact with the owner;

(d) obtaining a statement from the owner of the stolen vehicle if applicable;

(e) arranging for inquiries to be made in the vicinity where the vehicle was stolen and where it was located; and

(v) ensuring any release of information to the media does not include:

(a) any mention of the amount of money or property stolen; and

(b) CCTV or security surveillance camera vision where the identity of all staff members or customers of the business is not obscured.

Where the identity of staff or customers cannot be concealed, the authority of a commissioned officer is required, which is only to be provided if consent is obtained from all staff members or customers whose identity cannot be concealed.

The engagement of Crime Command in the investigation of an armed robbery will be at the discretion of the regional crime coordinator and Drug and Serious Crime Group, Crime Command.

OPM Issue 113 Public Edition

2.6.6 Clandestine illicit drug laboratories

This section outlines the additional responsibilities of officers who attend a suspected illicit drug laboratory.

Definitions

For the purposes of this section:

Qualified officer

means an officer who has completed the Clandestine Laboratory Investigation Course and holds a current approval by the Detective Inspector (DI) State Drug Squad (SDS), Crime Command to assess and process a clandestine illicit drug laboratory.

Site control officer

is a member of the Synthetic Drug Operations Unit (SDOU), SDS, Crime Command or a qualified officer attached to the Major & Organised Crime Squad (MOCS) (Northern or Far Northern), Crime Command.

Synthetic Drug Operations Unit

The SDOU (formerly known as the Illicit Laboratory Investigation Team), SDS, Crime Command investigates the illicit manufacture of synthetic drugs. SDOU members are trained in the safe handling, processing and transportation of clandestine drug laboratory related exhibits, workplace health and safety issues, and the use of self-contained breathing apparatus.

Any officer who locates or receives reliable information relating to the location of:

(i) a clandestine illicit drug laboratory; or

(ii) chemicals, apparatus, and/or paraphernalia:

(a) reasonably suspected for use; or

(b) has been used,

in the production of a dangerous drug, is to immediately notify their shift supervisor and RDO or DDO who are to then notify the OIC, SDOU using the on-call number on the Synthetic Drug Operations Unit SharePoint page or the DI, SDS, Crime Command.

First response officer responsibilities

Officers, other than members of the SDOU and qualified officers attached to the MOCS (Northern or Far Northern), who locate a clandestine illicit drug laboratory are to:

(i) preserve and secure the scene;

(ii) remove persons including police from the immediate vicinity;

(iii) ensure that no smoking takes place or naked flames are used within the general area of the laboratory;

(iv) ensure that no device that may cause a spark is operated e.g. a mobile phone or radio;

(v) ensure no part of the laboratory is touched or interfered with in any manner. No attempt is to be made to:

(a) remove, touch, manipulate or operate any part of the machinery or apparatus;

(b) turn off electricity to the machinery or premises/place;

(c) turn off water flowing through any apparatus; or

(d) turn off any fan in use while the machinery or apparatus is operative;

(vi) ensure all persons remain upwind of any such laboratory and exercise extreme caution. Note that chemicals and gases present in such laboratories have the potential to cause death or serious injury, fire and explosion and/or damage to property;

(vii) leave any containers of chemicals untouched;

(viii) leave any electrical switches as found and not switch any lights on or off;

(ix) consider the attendance of Queensland Ambulance Service and Queensland Fire Department, and where appropriate arrange their attendance; and

(x) immediately contact their shift supervisor and RDO or DDO who are to then immediately notify the OIC, SDOU using the on-call number in accordance with s. 2.7.2: 'Notifying Crime Command' of this chapter,

(officers may use the on-call number located on the Synthetic Drug Operations Unit SharePoint page during normal business hours to contact with the OIC SDOU in relation to general advice for investigation strategies involving suspect clandestine drug laboratories or the illicit manufacture of synthetic drugs. However, the number is not to be used after hours for general investigative advice).

Under no circumstances are the premises to be entered, re-entered or approached until advised that it is safe to do so by:

(i) the Site Control Officer, SDOU;

(ii) a qualified officer attached to the MOCS (Northern or Far Northern) who has been approved by the DI, SDS to process the scene; or

(iii) a chemist attached to Forensic Sciences Queensland (FSQ), at Queensland Public Health and Scientific Services (QPHSS) campus.

Where officers who have successfully completed the Clandestine Laboratory Course are available, such officers are to contact the OIC, SDOU on the on-call number and discuss the option of attending the scene to assess the situation prior to the arrival of a qualified site control officer. If the officer then attends the site in that capacity, they must be aware of their duties under s. 28: 'Duties of workers' of the *Work Health and Safety Act* with regards to the safety of themselves and other persons at the scene.

Officers investigating offences in relation to clandestine illicit drug laboratories should be aware of s. 13.6: 'Unlawful taking of electricity' of this Manual.

Property

Stations and property points generally are not equipped to store clandestine drug laboratory exhibits. Officers should be aware of s. 4.8.6: 'Minimum storage requirements' of this Manual. No clandestine drug laboratory exhibits are to be lodged at a station or property point without the approval of the OIC, SDOU using the on-call number, or the OIC MOCS (Northern or Far Northern).

OPM Issue 113 Public Edition

Laboratories located in Northern or Central Region

Where a suspected clandestine illicit drug laboratory is located within the Northern Region, qualified officers attached to MOCS (North or Far Northern) should take the role of the site control officer and site safety officer until advised by the DI, SDS whether members of the SDOU will attend the scene. Where a suspected clandestine illicit drug laboratory is located within the Central Region the OIC MOCS (Northern) and the DI, SDS are to liaise to establish who will take the role of site control officer.

Where a qualified officer attached to the MOCS (Northern or Far Northern) takes the role of the site control officer, they are to:

(i) take command of the scene;

(ii) conduct a risk assessment of the scene (the site safety officer is to monitor the health of all personnel who are at the site and arrange appropriate medical attention if needed);

(iii) contact the OIC SDOU and provide a comprehensive briefing on the situation; and

(iv) ensure their respective regional crime coordinator is briefed in relation to any clandestine illicit drug laboratory located in the region.

Where the DI, SDS determines the SDOU will:

(i) attend the scene, the site control officer attached to the MOCS (Northern or Far Northern) is to ensure the scene is preserved and secured until the arrival of the SDOU; or

(ii) not be attending the scene, the site control officer attached to the MOCS (Northern or Far Northern) is to coordinate the processing of the scene by qualified members of the MOCS (Northern or Far Northern).

Clandestine laboratory exposure

Any officer who attends a clandestine illicit drug laboratory and, as a result of their attendance:

(i) suffers an illness or injury; or

(ii) suspects that they or another officer in attendance have been exposed to contamination,

should record the details on the Incident/Injury Notification & Reporting System in accordance with 'Injury Illness Management Policy' within Safety and Wellbeing of the HR Policies and Procedures SharePoint page (see also s. 3.6: 'Workplace health and safety considerations' of the MSM, and the Safety and Wellbeing SharePoint page).

Where children have been present at a clandestine illicit drug laboratory see s. 7.10: 'Suspected Child Abuse and Neglect (SCAN) Team System' of this Manual.

OPM Issue 113 Public Edition

2.6.7 Illicit drug crops

Within this policy, a crop refers to a plantation or an area used to cultivate a significant number of illicit plants including cannabis or other dangerous drugs.

The Detective Inspector, State Drug Squad, Crime Command is to be advised as soon as possible by a member who:

(i) receives reliable information relating to a substantial commercial scale illegal drug crop;

(ii) locates an illicit drug crop of more than 1000 plants; or

(iii) where there is an apparent or suspected interstate or organised crime link to any illicit drug crop.

The information is to be forwarded by email using the Detective Inspector, State Drug Squad contact information on the SDS SharePoint page and include:

(i) the date and location of the crop;

(ii) if the crop is located on private property or crown land;

(iii) the identity of any suspects;

(iv) the existence or suspected existence of any man traps;

(v) the approximate area of the crop;

(vi) the number of plants;

(vii) the height of the plants;

(viii) the method of production, whether fenced or interspersed throughout vegetation;

(ix) the type of surrounding country and details of vegetation, rain forest, hardwood forest, open grazing land, scrubland, lantana, pine forest, sugar cane, vegetable crops, etc.;

(x) any persons who support police activity in the area;

(xi) what equipment was found at the crop site, e.g. irrigation equipment, machinery, accommodation;

(xii) the particulars of fertilisers or insecticides used and details of their origins;

(xiii) any apparent interstate or organised crime link if known; and

(xiv) the QPRIME occurrence number if applicable.

Where officers locate hydroponic cannabis crops where it appears electricity is being used, they are to immediately contact the local electricity authority and request the attendance of an electricity officer appointed under the provisions of the *Electricity Act* to:

(i) ensure that the area is rendered safe; and

(ii) assist police to gather evidence with respect to possible offences involving electricity (see s. 13.6: 'Unlawful taking of electricity' of this Manual).

ORDER

Officers are not to approach or interfere with any apparatus until advised by an electricity officer that the area has been rendered safe.

2.6.8 Specialist cybercrime investigations

Electronic and cybercrime includes crimes:

(i) directed at computers or other devices (such as hacking); and

(ii) where computers or other devices are integral to an offence (such as online scams and fraud).

Common types of cybercrime include online scams and fraud, identity theft, attacks on computer systems and illegal or prohibited online content.

Cyber and Identity Crime Investigation Unit (CICIU), Crime Command will conduct cybercrime investigations requiring specialist capabilities that are beyond the usual scope of regional policing. The CICIU should only be tasked investigations in compliance with s. 2.7.1: 'Role of Crime Command upon engagement in investigations with regions' of this Manual.

CICIU is able to provide guidance, advice and the contact details of relevant industry, national and international law enforcement contacts.

Officers investigating cybercrime incidents which require the involvement of CICIU are to notify their regional crime coordinator as soon as possible. Where the regional crime coordinator considers that CICIU specialist investigation skills are required, the Detective Inspector, Financial and Cyber Crime Group (FCCG), Crime Command is to be advised of the circumstances requiring assistance in an investigation. The region and Crime Command are to negotiate the appropriate level of CICIU engagement in accordance with s. 2.7.1 of this Manual.

Where there is a need to take possession of a computer and any associated property in relation to an investigation, see s. 2.6.10: 'Electronic evidence examination' of this Manual.

OPM Issue 113 Public Edition

Cyber Hub

In accordance with this section and s. 2.7.1 of this Manual, the FCCG, Crime Command has established a Cyber Hub (Hub).

The operational capabilities of the Hub will include:

(i) the capacity to conduct covert internet-based controlled operations including for the purpose of identification of offences and offenders;

(ii) the capacity to conduct overt investigations of a range of offending; and

(iii) the gathering of evidence for the prosecution of offenders who utilise electronic communication devices to commit offences.

The Hub will be located within Crime Command and will be administered and maintained by CICIU, FCCG. The Hub will be subject to the command and supervision of the Operations Commander, FCCG (OCFCCG) and structured pursuant to their requirements. The Hub will have the capacity to conduct and support proactive and reactive investigations of serious and organised crime and be able to utilise covert assumed identities to conduct investigations in the online space.

The Hub may be utilised to assist investigations roles including:

(i) proactive—investigations concerning serious and organised crime initiated by CICIU;

(ii) reactive—external to CICIU, police request to investigate criminal activity; and

(iii) support—external to CICIU, police utilise the infrastructure of the Hub independently to investigate criminal activity.

Any member external to CICIU wishing to utilise the capability of the Hub in the support role must, prior to being permitted access to the Hub, provide documentary evidence to the OCFCCG that all involved prospective users have successfully completed an approved course as nominated by the OCFCCG.

Once the nominated course has been completed and the person undertaking the course is deemed competent, that member may be authorised by the Operations Manager CICIU, FCCG or their delegate to utilise the Hub under the following conditions;

(i) the member must not utilise the Hub for a period exceeding one year;

(ii) the member must maintain currency in the investigative field; and

(iii) the nominated course must be re-undertaken if the user has not actively engaged in the approved covert capacity within the one-year period.

In all cases the OCFCCG or their nominated delegate will be responsible for the administration and management of Hub capabilities and devices.

2.6.9 Violent/Sexual Crime Database

The Violent/Sexual Crime Database is a national computer database designed to capture information relating to predatory crimes of violence such as murder and sexual assaults.

Crime data from all Australian states and territories is stored on the database which can be accessed to identify similar offences committed by serial offenders on intrastate, interstate and at international levels.

The Behavioural Specialist Unit is located within State Intelligence Group, Intelligence, Counter Terrorism and Major Events Command and is responsible for the collection, collation, analysis and dissemination of information relating to predatory crime and offences of an unusual and/or serial nature. The officer in charge of the Behavioural Specialist Unit is the State Coordinator for the Violent/Sexual Crime Database.

POLICY

For the purposes of this section, the term ‘predatory crime’ includes any crime involving violence against the person which is apparently random, motiveless, known or suspected of being part of series, and/or motivated in whole or in part by sex. The offender may or may not be known to the victim.

The Violent/Sexual Crime Database includes the following offence types:

(i) selected solved and unsolved homicides and attempts;

(ii) selected solved and unsolved sexual assaults;

(iii) missing persons where circumstances indicate foul play;

(iv) unidentified human remains; and

(v) non-parental abduction and attempts.

PROCEDURE

Investigating officers are to enter the necessary information on the Violent/Sexual Crime Database, through the Australian Law Enforcement Intelligence Network (ALEIN) webpage, located on the Service Intranet. A Violent/Sexual Crime Database case report is only required if the investigating officer receives a QPRIME Task from Behavioural Specialist Unit staff.

Information concerning accessing and completion of case reports on the Violent/Sexual Crime Database is available in the User Guide, which is located on the Behavioural Specialist Unit webpage on the Service Intranet.

Officers without ALEIN access will be provided with a restricted password to gain access to the system.

The system allows for the inclusion of multiple victims and/or offenders in the same case report. Violent/Sexual Crime Database case reports are to be completed and submitted for both solved and unsolved offences.

Once the case report is complete the investigating officer is to create a QPRIME Supplementary Report outlining the Violent/Sexual Crime Database ID number.

The investigating officer should ensure copies of all statements, running logs, photographs and other relevant information is uploaded to the relevant QPRIME occurrence to assist in the analysis process.

ORDER

Investigating officers are to ensure case reports are completed:

(i) within 30 days of receipt of the QPRIME Task sent to their org unit requesting a Violent/Sexual Crime Database case report in the case of:

(a) murder or attempted murder;

(b) abduction or attempted abduction;

OPM Issue 113 Public Edition

(c) sexual assaults; and

(d) unidentified human remains; or

(ii) immediately an investigation is commenced involving a missing person where foul play is suspected of occurring.

POLICY

Officers in charge of regions and commands are to ensure officers under their control complete required Violent/Sexual Crime Database case reports in the specified time period as published on the Behavioural Specialist Unit webpage on the Service Intranet.

The investigating officer's supervisor is to ensure case reports are completed in accordance with the instructions in the relevant QPRIME Task.

Release of information

POLICY

All inquiries and requests for analysis of Violent/Sexual Crime Database case reports are to be made by investigating officers, to the Officer in Charge, Behavioural Specialist Unit. The investigating officer will be notified of any identified potential lead, and it will be the investigating officer's responsibility to make further investigations relating to these.

All information recorded on the Violent/Sexual Crime Database is classified as protected. Information will only be released through the Behavioural Specialist Unit. The Behavioural Specialist Unit is not to release details of an investigation without the prior consent of the investigating officer. The information recorded on the national database will be accessible to other State behavioural units for the purpose of national searches.

2.6.10 Electronic evidence examination

For the purposes of this section:

Authorised officer

means an officer:

(i) trained in the examination of the particular type of electronic device in possession of police (e.g. laptop computer, mobile telephone, vehicle computer system, USB stick etc.); and

(ii) authorised by the Electronic Evidence Unit (EEU), Forensic Services Group, Security, Counter-Terrorism and Forensic Services Command to examine electronic devices and extract information.

The role and function of the EEU, is outlined on the unit's SharePoint page.

Seizure of electronic evidence

When intending to seize computers and related property as part of an investigation, officers should refer to 'At the Scene', on the EEU SharePoint page.

Devices containing electronic evidence (primarily computers and mobile phones) are to be seized and retained in accordance with the requirements of s. 2.8.11: 'Seizure' and Chapter 4: 'Property' of this Manual. No property is to be delivered directly to the EEU. Property is to be delivered to Evidence Management—Exhibits and Electronic Media or by regional arrangement.

Where property has been seized, which cannot be examined within thirty days of seizure, an application under s. 695: 'Application for order in relation to seized thing' of the PPRA is to be made by the investigating officer for retention of the thing, if required, until the investigation in relation to which the thing may be relevant is complete.

Where property has been seized, and an examination of the device is required, officers are to request an authorised officer within their region to conduct the examination to the extent of their training. If an authorised officer is not available, or the officer does not have the necessary skills or training to extract information from the seized device, EEU members should be requested to examine the property.

If an officer requires access to the contents of an electronic device in emergent circumstances and an authorised officer is not available within the time frame of the incident they are to seek advice from EEU or a District Electronic Evidence Technician (DEET).

ORDER

Officers who are not authorised officers are not to:

(i) attempt to retrieve electronic information from an electronic device;

(ii) unnecessarily handle the device; or

(iii) attempt to 'use' the device (type at keyboard, make telephone calls, or copy photographs or messages),

due to the risk of electronic information being corrupted or lost from the device.

OPM Issue 113 Public Edition

Prior to making a request to the EEU, officers are to:

(i) in the case of regional areas, consult with their regional crime coordinator through their chain of command; or

(ii) in the case of Crime Command, their supervising detective inspector,

to assess the grounds upon which the request is to be sought and to determine whether:

(i) all conventional methods of policing have been exhausted, or would not be effective; and

(ii) based on current information and intelligence, an examination of an electronic device by the EEU will be productive, effective and efficient.

Where an officer seeks the examination of the property by the EEU or a DEET, the officer is to send a QPRIME task to the EEU [ORG Unit 3030] with a QP 0127B: 'Request to Examine Computer Evidence' attached to the task describing the examination requirements in detail. The property can then be delivered to Forensic Services Group or by regional arrangement.

Where assistance from the EEU is required at the scene of an investigation the Inspector, Forensic Imaging Section, Forensic Services Group or the local Forensic Manager (FM) is to be contacted at the earliest possible time.

Where assistance from EEU or a DEET is required for a planned operation (such as execution of a warrant), officers are to complete an onsite assistance request, which is located on the EEU SharePoint page.

Investigating officers are to notify the Inspector, Forensic Imaging Section, Forensic Services Group of circumstances requiring urgent attention in an investigation.

Officers should be aware that electronic storage devices can be used to contain other items (e.g. weapons, explosives, drugs or money). Officers should also be aware of electrical hazards and biohazards when dealing with electronic storage devices. If it is established that the device is a hazard due to contamination (e.g. blood or irritants) the investigating officer must ensure that the device is:

(i) handled appropriately;

(ii) contained in appropriate receptacles; and

(iii) clearly labelled using official biohazard stickers.

Members are to ensure the use of appropriate personal protective equipment such as latex/rubber gloves when required.

ORDER

Officers are not to intentionally delete or modify the contents of digital devices that may contain evidence (this includes mobile phones and other devices used to record police in accordance with s. 2.8.10: 'Seizure of electronic storage devices used to record police activities' of this chapter).

OPM Issue 113 Public Edition

Encryption

Electronic devices including mobile phones and personal computers can be encrypted. The evidence stored behind this encryption may only be accessible while the device is turned on during seizure of the device. Powering the device off can permanently restrict access to the evidence stored on the device.

Where an investigator believes that electronic evidence may be available during the course of an investigation, an application for a warrant from a magistrate under ss. 150: 'Search warrant application' and 154: 'Order in search warrant about information necessary to access information stored electronically' of the PPRA is to be made.

The investigator is to require from the person the warrant is executed upon, any passwords and other methods used to access the information stored on a subject device at the time the warrant is executed.

When seizing electronic devices that are powered on, officers are to establish if the device is encrypted before powering the device off.

If questioning or visual 'hands off' examination of the device does not establish if encryption is active on the device, contact EEU for advice.

Integrity of seized wireless and mobile devices

Mobile phones, wireless capable laptops, tablet computers and similar devices with the ability to communicate wirelessly are capable of being accessed remotely. This access could be used to modify or remove evidence. To remove this risk, such devices need to be isolated from wireless and mobile phone network access. This can be achieved by putting the device into 'airplane mode', placing the device in a sealed metal container (faraday cage) such as an arson tin or paint tin, or if no encryption is present and the device passcode is known, turn it off.

To reduce the risk of such a device losing power or being accessed remotely, mobile phone and tablets computers should be examined as soon as practical.

Mobile and wireless devices are to be isolated from the mobile phone network. Where the method of isolating the device is not known to the seizing officer, contact Electronic Evidence Unit, Forensic Services Group for assistance.

Mobile phones, tablet computers and wireless devices are to be examined as soon as practical by authorised officers. Where mobile phones, tablet computers and wireless devices are not examined within the shift, they are to be powered while stored. Where practical these devices are to be isolated from wireless and phone connectivity while stored.

Cloud computing

Where evidence is stored on remote computers (cloud computing) the investigator can make an application for a search warrant under ss. 150 and 154 of the PPRA. Contact EEU in relation to the copying and preservation of remotely stored evidence (see also s. 4.11: 'Transmission and return of seized things between states and territories' of this Manual).

Vehicles

Vehicles have the ability to store electronic information that may be evidence. As long as there is power to the vehicle it is possible that information is still being recorded and may overwrite existing evidence.

Where an investigator believes there is electronic evidence stored within a vehicle, the investigator is to complete or cause the following to be completed prior to moving the vehicle, unless an emergent situation exists:

(i) shut down the vehicle;

(ii) remove battery power from the vehicle or put the vehicle into transport mode.

Where the method of shutting down the vehicle is not known by the investigating officer, contact EEU for assistance.

Access by owner of property

Where the owner of the property seeks access to the property under the provisions of s. 623: 'Right to inspect seized documents' of the PPRA, the Inspector, Forensic Imaging Section, Forensic Services Group should be advised. Access is not to be given until advice has been received from EEU (see s. 623(3) of the PPRA).

All requests by the owner of the property, or the owner's legal representative for:

(i) access to have the seized property or exhibit independently tested, examined or analysed; or

(ii) electronic copies of any:

(a) child abuse/pornographic material; or

(b) material containing or displaying an image of a person(s) that:

- is obscene or indecent; or
- where the disclosure of such an image without the imaged person's consent, would interfere with the imaged person's privacy or would adversely affect the family or associates of the imaged person(s),

are to be directed to the Assistant Commissioner, Crime Command, who will refer the matter to Crime and Intelligence Legal Services (CILS), Legal Division.

The Senior Legal Officer, CILS should liaise with the Inspector, Forensic Imaging Section, Forensic Services Group and the arresting officer concerning the appropriateness of the request and any terms or conditions under which the request might lawfully be accommodated. The Senior Legal Officer, CILS, is then responsible for negotiating the drafting of an appropriate consent order and ensuring the consent order is filed with the Magistrates Court Registry pursuant to the *Justices Act*.

Return to owner of electronic devices and storage media (high risk data)

ORDER

Devices and storage media containing illegal data are not to be returned to an owner unless the provisions of s. 4.6.12: 'Disposal of electronic devices and storage media' of this Manual are met.

If the device contains material of which possession is an offence (e.g. child exploitation material), officers should comply with 'Forfeiture orders' in s. 4.6.2: 'Forfeiture of property including orders' of this Manual and s. 719(2): 'Order for forfeiture of relevant things connected with offences' of the PPRA.

2.6.11 Workplace and electrical incidents

Workplace Health and Safety Queensland (WHSQ) and the Electrical Safety Office (ESO) are part of the Office of Industrial Relations and are responsible for investigating workplace and electrical incidents.

An officer is to advise the Office of Industrial Relations, Assessment Services if the incident is:

(i) a notifiable workplace incident (including a work-related recreational water activity incident) (see s. 35: 'What is a notifiable incident' of the *Work Health and Safety Act* (WHSA));

(ii) a dangerous electrical event (see s. 12: 'Meaning of dangerous electrical event' of the *Electrical Safety Act* (ESA)) at workplaces or residences;

OPM Issue 113 Public Edition

(iii) a serious electrical incident (see s. 11: 'Meaning of serious electrical incident' of the ESA) at workplaces or residences;

(iv) reported to the Service and the Office of Industrial Relations has not been notified by the QAS communications centre or any other party,

for further information see the Memorandum of Understanding (MOU) on the Strategic Policy and Legislation SharePoint page.

ORDER

First response officers attending a workplace or electrical incident, in addition to carrying out their first response duties (see s. 2.4: 'First response procedure at an incident scene' of this chapter) are to ensure:

(i) they recognise the danger that may be present, e.g. high voltage electricity, chemicals, heat sources etc. It may be necessary to secure the scene and prohibit entry until it has been declared safe by an appropriate qualified person;

(ii) the Office of Industrial Relations, Assessment Services is immediately notified of any workplace or electrical incident resulting in a fatality or serious bodily harm, if the investigating officer becomes aware the QAS or any other party has not made the notification;

(iii) the appropriate electrical supply entity is contacted in the case of an electrical incident (Energex or Ergon Energy),

through the duty officer, Brisbane Police Communications Centre or local communication centre;

(iv) unless permission of a WHSQ or ESO inspector is given to the officer (by telephone or otherwise) or interference is necessary to save life:

(a) they isolate and secure the site of the workplace or electrical safety incident, including relevant machinery, equipment and materials involved or likely to have been involved in the incident, to prevent interference prior to the WHSQ or ESO inspector's arrival;

(b) they prohibit entry to the secured incident scene unless access is:

- required to assist an injured person; or
- essential to make the site safe or minimise the risk of a further incident (e.g. disconnect electrical supply); and

(v) until the scene of an electrical incident is declared safe by a representative of the local electrical entity, all entry to the incident scene is prohibited unless access is necessary to save life; and

(vi) they commence an investigation to determine whether any criminal offences have been committed.

The Forensic Crash Unit, Disaster and Emergency Management are to be contacted when officers attend a workplace or electrical incident resulting in a fatality or serious bodily harm.

OPM Issue 113 Public Edition

Notifications prior to the release of a crime scene

The WHSQ or ESO inspector is to be notified of the expiry date of any crime scene warrant and any subsequent extensions of the warrant, prior to the release of a crime scene.

In regional Queensland, a WHSQ or ESO inspector may be unable to attend the workplace or electrical incident site within a reasonable time. If requested, officers should undertake preliminary investigations on behalf of the relevant inspector, which may include photographing the scene, obtaining witness details and statements, collecting evidence and notating observations of the scene.

Statement and interviews

When taking statements from witness, officers are to comply with subsection 'Statements and interviews' Part 4—Investigation management of the MOU.

Incident investigation

In workplace or electrical incidents where a fatality is not expected to occur, and it is no longer considered a criminal investigation, WHSQ or ESO inspectors are responsible for leading any investigation. At a fatal, criminal, workplace or electrical incident, the Service is responsible for leading the investigation (see s. 8.13.3: 'Fatal workplace or electrical incidents' of this Manual).

Workplace and electrical incidents are to be recorded in QPRIME.

ORDER

An investigating officer is to liaise with WHSQ or ESO inspectors when investigating a workplace or electrical incident resulting in a fatality or serious bodily harm.

Liaison is to include informing the relevant inspector of the status of any investigations and prosecutions. Officers requiring information on the status of any investigation or prosecution undertaken by WHSQ or ESO inspectors are to

contact the relevant inspector. If a crime scene is declared, officers are to allow WHSQ or ESO inspectors access to the scene when it is appropriate and safe.

Workplace Health and Safety Queensland inspectors have power to enter, search, inspect, remove items, make inquiries and seize evidence at workplaces under the WHSA. Electrical Safety Office inspectors have similar powers under the ESA.

Where a WHSQ or ESO inspector seeks assistance from the Service to exercise these powers, officers are to assist in accordance with s. 16: 'Helping public officials exercise powers under other Acts' of the PPRA.

Evidence collection and examination

Officers and WHSQ and ESO inspectors have the power to seize property as evidence at a workplace or electrical incident. The Service remains the lead agency when searching and seizing property in any criminal investigation.

Where officers have seized evidence, which is held at a station/establishment, reasonable access is to be granted to WHSQ or ESO inspectors when requested.

Where WHSQ or ESO inspectors have seized evidence, officers are to contact the relevant inspector to arrange reasonable access to the exhibit.

Evidence seized from a workplace or electrical incident may require an external examination or test to be performed for investigative or court purposes. Regardless of which agency is holding the evidence, if:

(i) the Service requires the examination; the Service is to pay the associated costs;

(ii) WHSQ or ESO inspectors require the examination, the costs are to be met by their agency; and

(iii) both agencies require an external examination on any evidence, the cost may be shared.

Information exchange

Information relevant to the investigation of workplace or electrical incidents may be released to inspectors and investigators from WHSQ or ESO as they are declared as law enforcement agencies (see s. 5.6.15: 'Requests for information from other law enforcement agencies' of the MSM.

Officers requesting information from WHSQ or ESO are to comply with s. 7.1.6: 'Requesting information from Workplace Health and Safety Queensland or the Electrical Safety Office' of the MSM.

2.6.12 Extortion and product contamination

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

2.6.13 Kidnapping for ransom

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

2.6.14 Joint investigations with external agencies

There may be circumstances where officers consider it necessary to conduct a joint investigation with an agency external to the Service including law enforcement agencies (see SMD) and other government departments whether State or Commonwealth e.g. Office of Fair Trading, Australian Taxation Office.

In situations where:

(i) officers contact an external agency with a view to conducting a joint investigation; or

(ii) an external agency contacts an officer with a view to conducting a joint investigation; or

(iii) officers attend an incident along with an external agency and a joint investigation is commenced/conducted; and

(iv) the joint investigation involves any of the following areas:

armed holdup

arson

organised crime

auto theft

child abuse

child exploitation (including paedophilia)

correctional institution offences

OPM Issue 113 Public Edition

covert operations

drugs (including clandestine illicit laboratories)

electronic and computer crime

extortion

forensic computer examination

fraud

homicide

missing persons

perjury (fraud related)

criminal proceeds confiscation

product contamination

prostitution

sexual offences (including rape)

stock offences

stolen property (including second hand goods)

surveillance

terrorism

technical operations

unlawful gaming

waterfront crime

wildlife protection

Officers are to contact their regional crime coordinator who is to advise the detective superintendent of the relevant Group, Crime Command of the circumstances (see s. 2.7.2: 'Notifying Crime Command' of this section). Where practicable, advice is to be given to Crime Command prior to the joint investigation commencing.

When advised of the circumstances, the relevant detective superintendent, Crime Command will determine the response or engagement from Crime Command where appropriate.

The regional crime coordinator or detective superintendent, Crime Command is to advise the Operational Review Committee of any joint operation, including a proposed joint operation, as soon as possible.

This policy does not include situations:

(i) where assistance is provided to external agencies, such as the processing of Commonwealth prisoners in police watch-houses;

(ii) such as attending incidents at the request of an external agency in order to control breaches of the peace;

(iii) where officers from Ethical Standards Command conduct joint investigations with external agencies; or

(iv) where assistance is received from external agencies, such as receiving information from the Australian Taxation Office.

2.6.15 Firearm offences

Firearms theft

The diversion of firearms through theft poses a significant risk to community safety. Strict gun control measures have reduced access to firearms, making both opportunistic and planned firearm thefts a critical policing issue.

Statewide audits

Regular audits (as determined by Weapons Licencing Group) are to be conducted to ensure licensees comply with legislative storage requirements.

Initial response

Officers attending the scene of firearms thefts are to ensure that a Firearm Theft Report is completed in QPRIME.

Officers are also required to contact the OIC of their local CIB who will determine if investigators should attend the scene. If the firearm theft is deemed significant, investigators or the OIC CIB are to notify the Illicit Firearms Team (IFT), Drug and Serious Crime Group, Crime Command.

OPM Issue 113 Public Edition

Significant thefts are not limited to the number of firearms stolen and include incidents involving:

(i) handguns;

(ii) category C or D firearms;

(iii) individuals associated with criminal organisations;

(iv) theft from a government entity (e.g. councils, National Parks, Queensland Corrective Services);

(v) licensed dealers and armourers; and

(vi) firearms stolen in transit.

Officers investigating firearm thefts are to consider whether the:

(i) storage facilities complied with legislative requirements;

(ii) theft appears suspicious (e.g. a fraudulent attempt to divert firearms); or

(iii) theft is deemed significant.

If storage facilities are found to be non-compliant with legislation, officers should initiate proceedings against the licensee.

ORDER

Officers attending the scene of firearm thefts are to notify the OIC of the local CIB.

Privately made firearms

The illicit manufacture of privately made firearms (PMF) represents a serious threat to community and officer safety. These firearms bypass the regulated firearm industry, circumventing established licensing and registration controls. PMFs often lack essential safety features, making them prone to unintentional discharge or catastrophic failure, which can result in serious injury or death.

Officers who locate or receive credible intelligence regarding the presence of the following are to take immediate action:

(i) PMF workshop; or

(ii) PMF parts or caches.

Officers are required to advise the OIC of their local CIB. The OIC CIB is to brief the detective inspector of the crime group and contact the Operations Leader, Illicit Firearms Team (IFT) using the on-call number on the IFT SharePoint page. If the suspected offence is significant, officers are to escalate the matter to the Detective Inspector, State Drug Squad (SDS) using the contact information on the SDS SharePoint page.

'Significant' is not limited to the quantity of PMFs located and includes:

(i) suspected trafficking or supply of PMFs;

(ii) persons associated with criminal organisations;

(iii) involvement of businesses or organisations such as plastic or metal fabrication;

(iv) use of large-scale industrial equipment, such as large-scale 3D printing, CNC or milling; and

(v) inability to render the firearm safe.

Handling PMF exhibits

Members handling PMF exhibits are to always adhere to strict firearm safety principles (see s. 14.6.4: 'Safety of firearms' of this Manual.

When clearing PMF exhibits officers are to:

(i) identify a safe location, such as soft ground, where an unintentional discharge would pose no risk of injury or death to a person and cause minimal property damage; and

(ii) ensure the clearing process is conducted away from public observation.

If members are uncertain about how to safely clear or handle a PMF, they are to contact:

(i) Illicit Firearms Team (IFT); or

(ii) Ballistics Unit.

ORDER

PMF exhibits are not to be transported or lodged unless they have been cleared and rendered safe.

OPM Issue 113 Public Edition

2.6.16 Rural and stock

Rural and Stock Crime Squad

The purpose of the Rural and Stock Crime Squad (RSCS) is to provide a specialised statewide capability for policing rural and stock crime, as well as serious and organised crime in a rural setting. The squad consists of officers with specialised skills, knowledge and experience required to investigate, respond, disrupt, and prevent serious and organised crime that impacts on the function of the pastoral, agricultural and aquaculture industries.

Rural crime can include trespassing, illegal hunting and associated weapons offences, theft, fraud, drug offences, offences against the person, offences threatening road safety, in particular heavy vehicles. It also includes offences relating to wildlife protected under legislation such as the *Nature Conservation Act*.

Stock crime is regarded as any crime associated with offences involving livestock being produced by a primary producer, such as but not limited to, cattle, sheep, goats, horses, poultry, and pigs. It also includes crimes associated with horses kept by private owners for private use or equine sport.

The squad is professionally equipped to enable extended operations in remote areas of the state and to support regional police activities including search and rescue, disaster management, emergency supply, drug investigation and exhibit recovery.

The RSCS consists of ten squads with all investigators in those squads designated as a Rural Crime Investigator (RCI). Each squad has an Officer in Charge with all squads led by a Detective Inspector (State Coordinator) and dedicated Coordinators at the rank of Detective Senior Sergeant for Northern and Southern Queensland as well as a dedicated Intelligence Unit.

In determining the level of support and oversight, the RSCS will undertake investigative priority for rural and stock crime that is:

(i) at the most serious end of the crime spectrum because of its scale and impact;

(ii) beyond the scope of regional investigators due to its specialised, protracted or complex nature; or

(iii) has significant statewide, multi-jurisdictional, or national implications.

Crime managers should determine if an occurrence relating to rural or stock crime should be sent to the relevant RSCS for investigation. Officers in charge of RSCS receiving an occurrence relating to an area of their investigation are to assign the occurrence to a Rural Crime Investigator.

Further information can be obtained from the RSCS SharePoint site.

Forced muster orders

In accordance with Chapter 22A: 'Forced muster orders' of the PPRA, an owner of stock may apply to a magistrates court for an order granting the mustering and removal of stock from a place managed or controlled by a person other than the owner. Subsequent police involvement may be considerable.

Where an applicant inquires into the issuance of a 'forced muster order', officers are to advise their relevant RSCS of the potential application, and all relevant details. Officers may then:

(i) inform the applicant they must, at least 28 days before the hearing of the application, give a copy of the application to:

(a) the Commissioner by registered post (C/– The State Coordinator Rural and Stock Crime Squad; and

(b) the person managing or controlling the place, unless impracticable to do so.

(ii) advise the applicant that versions of Uniform Civil Procedure Rules forms have been modified specifically for use and these are available on the QPS internet (also available on QPS Forms Select). Relevant forms are:

(a) Form 009: 'Application';

(b) Form 059: 'Order'; and

(c) Form 046: 'Affidavit' (in accordance with s. 789AB: 'Affidavit to accompany application' of the PPRA); and

(iii) direct the applicant to the relevant magistrates court for procedures on how to apply for a forced muster order.

ORDER

Where an officer wishes to give evidence at the hearing of an application for a forced muster order they are to comply with s. 789AC: 'Police officer wishing to give evidence at hearing' of the PPRA.

Stock disposal orders

Chapter 44A Division 3: 'Stock disposal orders' of the Criminal Code (CC) details that an officer may apply to a magistrates court for the sale of animals seized and connected with a charge.

OPM Issue 113 Public Edition

ORDER

Officers are to refer to and comply with the provisions of Chapter 44A: 'Special provisions in respect of offences relating to stock' of the CC.

Where an officer intends to apply to a magistrates court for a stock disposal order, officers are to advise their relevant RSCS of the potential application and, in consultation with RSCS, then:

(i) make/or have available an 'adequate prescribed record' (s. 450EB: 'Application for a stock disposal order' of the CC); and

(ii) make reasonable inquiries to identify each person with an equitable or legal interest and give them a copy of the application at least 28 days before the hearing of the application; and

(iii) complete the following versions of Uniform Civil Procedure Rules forms specifically modified for this purpose:

(a) Form 009: 'Application';

(b) Form 059: 'Order'; and

(c) Form 046: 'Affidavit' (in accordance with s. 450EC: 'Affidavit to accompany application' of the CC); and

(iv) present the application to the court in consultation with, or representation by, a police prosecutor.

Rural or stock crime offence to be recorded in QPRIME

Where an officer receives a complaint in relation to offences involving stock or rural crime, a crime report should be furnished. In addition to the requirements placed on first response officers, the following particulars should be included, if appropriate, for stock related offences:

(i) full name, address and telephone number of the owner of or stock;

(ii) full name, address and telephone number of the informant;

(iii) the informant's employment status;

(iv) the date and place stock were last mustered;

(v) the number of stock mustered on that day;

(vi) the identity and contact arrangements of the person in charge of the muster;

(vii) a description of the accuracy of the muster;

(viii) the date the discrepancy in stock numbers was noticed;

(ix) the identity of the person finding the discrepancy in the numbers of the stock;

(x) a description of the topography of the complainant's property including opinion as to access by vehicles or horses;

(xi) a description of the fencing conditions, including sub-division and boundary fences;

(xii) a summary of any natural disasters since the date of the original muster which may account for the disappearance of stock;

(xiii) the circumstances surrounding the offence;

(xiv) details of any other properties owned by the complainant;

(xv) details of methods of selling stock by the complainant;

(xvi) an accurate and detailed description of the stock;

(xvii) whether horses/motor bikes would be made available for members of the stock squad to utilise during an investigation, if required; and

(xviii) a sketch of the property indicating the homestead, paddocks, yards, permanent waters, creeks, roads, neighbours, etc.

OPM Issue 113 Public Edition

2.6.17 Wage theft

This section outlines the responsibilities of officers receiving suspected wage theft complaints.

Wage theft occurs if an employee is owed wages or other entitlements and the employer has deliberately not paid them with an intention of permanently depriving the employee of the property.

An employer will not have stolen wages if they had an honest belief that they had paid the employee the correct entitlement, or if the underpayment was a mistake or delay. In these circumstances attempts to resolve the underpayment directly with the employer or by commencing a wage recovery claim in the Industrial Magistrates Court should be considered. Officers cannot pursue and recover unpaid wages.

Wage theft offences include:

(i) unpaid hours;

(ii) underpayment of hours;

(iii) unpaid penalty rates;

(iv) unreasonable deductions;

(v) unpaid superannuation;

(vi) withholding entitlements;

(vii) underpayment through intentionally misclassifying a worker including wrong award, wrong classification, or by 'sham contracting' and the misuse of Australian Business Numbers; and

(viii) authorised deductions that have not been applied as agreed.

Officers receiving complaints of wage theft are to determine if the complainant's intention is to:

(i) recover unpaid wages or entitlements; or

(ii) make a criminal complaint.

Where the complainant intends to recover unpaid wages or entitlements, the officer is to advise the complainant to contact:

(i) for private sector employment, the Fair Work Ombudsman (FWO);

(ii) for public sector/government employment, the Office of Industrial Relations (OIR); or

(iii) for unpaid superannuation, the Australian Taxation Office (ATO).

Where the complainant intends to make a criminal complaint of wage theft, the officer is to:

(i) provide the complainant with:

(a) a copy of a Wage Theft Report form QP 2020 located on Forms Select; or

(b) advice in relation to completing a Wage Theft Report form online if the complainant has computer and printer access; and

(ii) explain the information provided in the Wage Theft Report form to the complainant.

An officer receiving a completed Wage Theft Report form is to:

(i) ensure the complainant has provided adequate information in the report;

(ii) generate a QPRIME occurrence for wage theft; and

(iii) ensure the Wage Theft Report form QP 2020 and any attached documents are scanned into the QPRIME occurrence.

For further information officers can access:

https://qldpolice.sharepoint.com/sites/Strategypolicyperformance/SitePages/Wage-theft.aspx

2.6.18 Anti-money laundering and Counter Terrorism financing

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement

2.7 Crime Command

Crime Command is primarily responsible for the investigation and suppression of organised and major crime.

The following operational definitions have been adopted:

Organised crime

means two or more persons conspiring and/or acting together in a criminal enterprise on a continuing basis to participate in illegal activities either directly or indirectly for gain.

Major crime

includes serious crime, especially offences involving violence against the person, armed offences, systematic or serial offences.

The role, function, responsibilities and organisational chart of Crime Command is outlined on the command's SharePoint page.

OPM Issue 113 Public Edition

Crime Command consists of 8 groups, namely:

(i) Child Abuse and Sexual Crime Group (see s. 2.7.3: 'Child Abuse and Sexual Crime Group' of this chapter);

(ii) Drug and Serious Crime Group (see s. 2.7.4: 'Drug and Serious Crime Group' of this chapter)'

(iii) Financial and Cyber Crime Group (see s. 2.7.5: 'Financial and Cyber Crime Group' of this chapter);

(iv) Homicide Group (see s. 2.7.6: 'Homicide Group' of this chapter);

(v) Organised Crime Gangs Group (see s. 2.7.7: 'Organised Crime Gangs Group' of this chapter); and

(vi) State Intelligence Group (see s. 2.7.8: 'State Intelligence Group' of this chapter);

(vii) Youth Crime Group (see s. 2.7.9: 'Youth Crime Group' of this chapter); and

(viii) Covert and Specialist Operations Group (see s. 2.7.10: 'Covert and Specialist Operations Group' of this chapter).

OICs of regions or commands are to ensure that information is distributed to Crime Command in appropriate cases, in a timely fashion.

The Assistant Commissioner, Crime Command is to ensure that assistance is given to regions or commands in appropriate cases and that effective communication and feedback systems are maintained.

2.7.1 Role of Crime Command upon engagement in investigations with regions

The Service has determined that various investigations are normally investigated at different levels, generally due to the seriousness of the offence (see Appendix 2.3: 'Indicative list of responsibilities for criminal investigations' of this chapter).

Crime Command will perform one of three roles after engagement in investigations with the region/s, namely:

(i) level one (investigational control);

(ii) level two (equal control investigation); or

(iii) level three (monitor, review and advise).

Each group within Crime Command has set individual criteria to determine the level of engagement for an investigation. The level of engagement criteria is published on the relevant group's SharePoint page.

Where an OIC of a region or command requires the assistance of Crime Command, the relevant regional crime coordinator (RCC) or delegate is to liaise with the detective inspector of the relevant specialist unit/s, Crime Command to determine the level of engagement.

Where Crime Command members are proposing to conduct an investigation within a region, the detective inspector of the relevant specialist unit, Crime Command is to consult with the relevant RCC as soon as practicable to determine the level of engagement.

If agreement on engagement cannot be reached, the matter is to be determined by the relevant assistant commissioners.

Level one (Investigational control)

In level one investigations, the appropriate Crime Command specialist unit will be in investigational control, unless the Deputy Commissioner, Specialist Operations directs otherwise.

ORDER

Where Crime Command is to have level one engagement—investigation control, the Assistant Commissioner, Crime Command will:

(i) allocate adequate Crime Command members and other resources to the investigation;

(ii) nominate the OIC of the investigation from Crime Command, who is responsible for the case and bringing it to its conclusion; and

(iii) ensure ongoing coordination of Crime Command and regional members during any investigation.

Level two (Equal control investigation)

In level two investigations, the appropriate Crime Command specialist unit is to engage in an equal control investigation with the relevant region.

Any equal control investigation between Crime Command and a region includes:

(i) the appointment of a regional officer as the nominated OIC of the investigation for the region;

(ii) the appointment of an officer from the relevant specialist unit as the nominated officer in charge of the investigation for Crime Command;

(iii) each nominated OIC where practicable, being of equal rank;

OPM Issue 113 Public Edition

(iv) both nominated OIC being equal partners in the command, control, management and being responsible for the investigation until formal disengagement;

(v) both officers in charge to nominate/agree on person/s responsible for bringing the case to its conclusion which will include any court obligations, finalising exhibits, reports etc. and responsibility for the matter if unsolved; and

(vi) where matters arise and the relevant OIC cannot reach agreement, the issue is to be referred to the next person in their respective chain of commands until agreement is reached or the matter is referred to a deputy commissioner for a decision.

Level three (Monitor, overview and advice)

At this level of engagement, the appropriate Crime Command specialist unit is to provide advice, monitor and/or overview the investigation, with the region responsible for the investigation and all resources.

ORDER

During any investigation with engagement by Crime Command and a region or command:

(i) the region or command and Crime Command are responsible for all expenses incurred by their own personnel;

(ii) the OIC of a region or command and the Assistant Commissioner, Crime Command will retain line control over their own members involved in the relevant investigation;

(iii) all members allocated to the relevant investigation are to be under the operational command of the nominated OIC of the investigation;

(iv) the OIC of the investigation is responsible for providing regular briefings to all officers in charge of a region or command involved; and

(v) in the event of the transfer, etc. of a nominated OIC of an investigation a replacement OIC for the investigation is to be nominated by the relevant region or command after consultation with the other region or command involved.

Disengagement by Crime Command of investigations with regions

An investigation where engagement of Crime Command and the region/s has occurred may be deemed to be concluded when:

(i) the respective OIC of a region or command have agreed further investigations would be fruitless;

(ii) offenders have been arrested;

(iii) offenders have been identified and briefs of evidence have been completed to the satisfaction of the RCC and the Detective Superintendent, Crime Command responsible for the relevant crime type; or

(iv) the Deputy Commissioner, Specialist Operations directs Crime Command members to disengage.

ORDER

When an investigation with engagement by Crime Command and a region or command is concluded, or Crime Command have been disengaged, the OIC of the investigation is to:

(i) submit a written report to the OIC of all regions or commands involved; and

(ii) add a notation to the investigation file,

regarding the outcome of the investigation.

The report to the OIC of all regions and commands involved in the investigation and the notation on the investigation file is to include all relevant particulars, such as the:

(i) date the investigation is concluded; and

(ii) reason for conclusion e.g.:

(a) direction from Deputy Commissioner, Specialist Operations;

(b) investigation complete, offenders not identified;

(c) investigation complete, offenders identified but not located, etc.; and

(d) Crime Command members disengaged; and

(iii) general circumstances surrounding the outcome of the investigation.

Reports to OIC of regions or commands may take the form of briefing notes and be sent direct.

2.7.2 Notifying Crime Command

Prior to contacting Crime Command, officers should confirm the specialist group's preferred engagement procedure as published in this chapter or on the unit's Sharepoint page.

OPM Issue 113 Public Edition

Where officers of Crime Command are to be advised of an incident, they may be contacted direct during normal working hours, or by contacting:

(i) the Duty Supervisor, Crime Command, weekdays between 1600 hrs and 2400 hrs and on weekends and public holidays between 0800 hrs and 2400 hrs (see 'Contacts' of the Crime Command SharePoint page); or

(ii) the Duty Officer, Police Communications Centre between 0001 hrs and 0800hrs daily.

2.7.3 Child Abuse and Sexual Crime Group

This section is to be read in conjunction with Chapter 7: 'Child Harm' of this Manual.

Child Abuse and Sexual Crime Group (CASCG), Crime Command roles, functions and specialist investigation units are outlined on the group's SharePoint page.

CASCG provides the Blue Card Operations Leader, who operates as the liaison officer between the Service and Blue Card Services, Department of Justice for employment screening documents issued under the *Working with Children Check Act*.

Engagement of Child Abuse and Sexual Crime Group

The Detective Inspector, Child Trauma and Sexual Crime Unit is to be advised (see CASCG SharePoint page) as soon as practicable after a reportable child death with suspicious circumstances. See also ss. 8.3.1: 'First response actions (deaths)', 8.5: 'Deaths of children' and 8.5.6: 'Sudden unexplained death in infancy' of this Manual.

Where an OIC of a region or command requires the assistance of the CASCG, the relevant regional crime coordinator or delegate is to liaise with the Detective Inspector, CASCG to determine the level of engagement (see s. 2.7.1: 'Role of Crime Command upon engagement in investigations with regions' of this chapter).

Where CASCG members are proposing to conduct an investigation within a region, the Detective Inspector, CASCG is to consult with the relevant regional crime coordinator as soon as practicable to determine the level of engagement.

2.7.4 Drug and Serious Crime Group

Drug and Serious Crime Group (DSCG), Crime Command units, roles and functions are outlined on the group's SharePoint page.

Engagement of Drug and Serious Crime Group

ORDER

The Detective Superintendent of the DSCG is to be advised by the relevant regional crime coordinator as soon as practicable where an incident has occurred, or an operation has commenced which falls within the responsibility of the DSCG:

(i) involving a serious drug offence or other serious crime;

(ii) where the need arises to liaise with other law enforcement agencies; or

(iii) where the operation crosses regional, state or international boundaries,

whether assistance from the DSCG is required or not (see s. 2.7.2: 'Notifying Crime Command' of this chapter).

Unless the incidents are significant or require the urgent attention of DSCG, notification through a QPRIME notification task is sufficient.

The level of engagement by DSCG is outlined on the group's SharePoint page.

Regional unit approval

Whenever a specialist sex work enforcement unit is to be established within a region, the OIC of the region is to consult with Assistant Commissioner, Crime Command.

2.7.5 Financial and Cyber Crime Group

Financial and Cyber Crime Group (FCCG), Crime Command units, roles and functions are outlined on the group's SharePoint page.

Financial and Cyber Crime Group Case Evaluation Committee

Complaints involving major fraud, arson, electronic and computer crime and requests for proceeds of crime investigations received by Crime Command are assessed to determine if the matter is to be investigated by the FCCG or referred to a region or other agency for investigation.

The Financial and Cyber Crime Case Evaluation Committee is to consider any criminal and/or civil issues in the matter to determine the appropriate police response to the complaint. The Committee may decide to:

(i) have the matter investigated by FCCG;

(ii) refer the matter to the region concerned through the regional crime coordinator for investigation;

OPM Issue 113 Public Edition

(iii) refer the matter to another agency; or

(iv) advise the complainant that there are insufficient grounds to warrant a criminal investigation or having considered all the circumstances the matter is to be dealt with in the civil jurisdiction.

Where the committee decides that the complaint will not be investigated by police, they will be responsible for advising the complainant in writing of such decision.

Investigative Accountants Unit

The role and function of the Investigative Accountants Unit is outlined on the unit's SharePoint page.

The Investigative Accountants Unit will become involved in major investigations where there is a demonstrated need for specialist accounting skills in accordance with the assessment protocols published on the unit's SharePoint page.

Requests for accounting assistance

The Investigative Accountants Unit may be requested to provide officers with financial investigation assistance by:

(i) completing a QP 0843: Application for Accountant Assistance', including all relevant information to assist the application assessment;

(ii) submitting the signed application for initial assessment to:

(a) the relevant regional crime coordinator; or

(b) in the case of Crime Command, the responsible commissioned officer,

and if approved, the QP 0843 is to be forwarded directly to the Senior Investigative Accountant, Investigative Accountants Unit.

Requests for assistance from the Investigative Accountants Unit should be made as soon as possible by investigating officers to ensure minimum delays in the identification and obtaining of documents from third parties such as financial institutions. It can take long periods of time to obtain records such as tax returns, bank statements etc.

Officers are advised to refer to the:

(i) 'Fraud resources and useful links' SharePoint page; and

(ii) 'Financial profiling—a guide for regional police' SharePoint page,

on the FCCG SharePoint page for assistance in locating finance related information.

OPM Issue 113 Public Edition

2.7.6 Homicide Group

The Homicide Group, Crime Command units, roles and functions are outlined on the group's SharePoint page.

The Detective Inspector Homicide Group, or after hours the Duty Supervisor, CIC (see s. 2.7.2: 'Notifying Crime Command' of this chapter) is to be advised by the regional crime coordinator as soon as practicable after a death has been determined by police to be suspicious.

Where a death involves a child ss. 2.7.3: 'Child Abuse and Sexual Crime Group', 8.5: 'Deaths of children' and 8.5.6: 'Sudden unexpected death in infancy' of this Manual are to be complied with.

Where a death occurs in custody, s. 16.23: 'Deaths in police custody' of this Manual is to be followed.

Where a death involves members of the Service, s. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (police related incidents)' of this Manual is to apply.

See also ss. 2.6.2: 'Homicide' and 8.3.1: 'First response actions (deaths)' of this Manual.

See s. 2.7.1: 'Role of Crime Command upon engagement in investigations with regions' of this chapter for determination of the level of engagement of Crime Command with a region in any investigation.

Engagement of Homicide Investigation Unit

The level of engagement by the Homicide Investigation Unit in a suspicious death is published on the Homicide Group's SharePoint page.

Corrective Services Investigation Unit

The Corrective Services Investigation Unit, Crime Command is available to assist officers in matters relating to the state's correctional centres, their inmates and staff.

The Corrective Services Investigation Unit is responsible for:

(i) investigating all major crime and associated matters including all escapes and deaths within correctional centres statewide;

(ii) the investigation of criminal offences within correctional centres; and

(iii) the coordination of the police response to prisoners who have escaped and are located.

Local CPIUs are responsible for the investigation of all incidents occurring within youth detention centres.

First response officers attending a correctional centre in relation to escapes and deaths in custody are responsible for the preservation of physical evidence and other requirements at the scene of an offence in accordance with s. 2.4: 'Incident management' of this chapter.

See also s. 13.5: 'Correctional centres and incidents involving Queensland Corrective Services' of this Manual.

State Flying Squad

The role and function of the State Flying Squad is outlined on the squad's SharePoint page.

Officers who require the assistance of the State Flying Squad should first review the squad's SharePoint page. Prior to requesting Flying Squad assistance officers should consult with and obtain the approval of:

(i) their regional crime coordinator;

(ii) in the case of Crime Command, a commissioned officer.

Following approval, the requesting officer is to submit the 'Request for Assistance—State Flying Squad' from the PowerApps link on the squad's SharePoint page.

The Operations Leader, State Flying Squad is to liaise with the Inspector, Homicide Group, Crime Command and advise the requesting officer as to the provision of any assistance.

Crime Command is responsible for all costs associated in the deployment of the State Flying Squad.

2.7.7 Organised Crime Gangs Group

The Organised Crime Gangs Group (OCGG), Crime Command units, roles and functions are outlined on the group's SharePoint page.

Engagement of the Organised Crime Gangs Group

ORDER

The Detective Superintendent, OCGG is to be advised by the relevant regional crime coordinator as soon as practical where an incident has occurred or an operation has commenced which falls within the responsibility of the OCGG, which may include:

(i) involving outlaw motorcycle gangs; or

(ii) identifying criminal gang activity.

A determination of whether assistance from the OCGG is required will be made by the Detective Superintendent, OCGG (see s. 2.7.2: 'Notifying Crime Command' of this chapter).

Unless the incidents are significant or require the urgent attention of OCGG, notification through a QPRIME notification task is sufficient.

The level of engagement by OCGG is outlined on the group's SharePoint page.

Protracted Investigations Unit

The role and function of the Protracted Investigations Unit is outlined on the unit's SharePoint page.

The Protracted Investigations Unit will become involved in high-level, complex, organised crime gang investigations where there is a need for specialist skills, in accordance with the level of engagement protocols published on the unit's SharePoint page.

Taskforce Maxima—Tactical Unit

The role and function of the Tactical Unit is outlined on the unit's Sharepoint page.

The Tactical Unit will provide a short-term, rapid response in a surge policing capacity to support Regions at short notice in taking tactical action against organised crime gangs. For example, responding to public violence demonstrated by gangs or in response to consorting offences.

Major and Organised Crime Squad—Logan and Gold Coast

The role and function of the Gold Coast and Logan MOCS is outlined on the unit's SharePoint page.

The MOCS (Logan and Gold Coast) will become involved in high-level, complex, organised crime gang investigations in a local capacity, where there is a need for specialist skills.

Highway Patrol

The role and function of the Highway Patrol is outlined on the unit's SharePoint page.

The Highway Patrol will provide a high-visibility road and traffic policing response to organised crime gang activity. It is focused on disrupting and dismantling gang activity at a strategic and tactical level.

OPM Issue 113 Public Edition

2.7.8 State Intelligence Group

The Detective Superintendent, State Intelligence Group (SIG) is responsible for the:

(i) conduct and maintenance of the intelligence functions of the group; and

(ii) development of an:

(a) effective;

(b) efficient;

(c) coordinated; and

(d) professional,

intelligence network across the state.

The role and function of SIG is outlined on the group's SharePoint page.

SIG is the central point of contact within the Service for members requesting assistance from Interpol (see s. 7.3.1: 'International inquiries through Interpol' of the MSM).

See also s. 2.10: 'Intelligence' of this Manual.

2.7.9 Youth Crime Group

This section is to be read in conjunction with Chapter 5: 'Children' of this Manual.

The Youth Crime Group (YCG) guides and supports a coordinated and effective frontline response to complex youth offending by providing specialist advice, equipping officers with tools and training, and supporting targeted youth-focused interventions/operations led by other areas of the Service.

YCG operations and capability include:

(i) youth diversion;

(ii) youth electronic monitoring;

(iii) coordinating the consistent response of youth co-responder teams;

(iv) participating in and coordinating the QPS-participation in multi-agency collaborative panels; and

(v) intelligence-driven youth bail monitoring.

The YCG, Crime Command role and functions are outlined on the group's SharePoint page.

2.7.10 Covert and Specialist Operations Group

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

OPM Issue 113 Public Edition

2.8 Entry, search and seizure

Entry, search and seizure

In the course of their duties officers are often required to enter places, conduct searches of places and/or persons, and seize things.

The PPRA provides wide general powers for officers to enter, with or without warrant, places, to conduct searches of places or persons, and seize things. The Responsibilities Code also places certain responsibilities on officers involved in conducting searches and seizing things.

Acts contained in Schedule 1: 'Acts not affected by this Act' of the PPRA may also contain provisions relating to powers of entry, search and seizure by officers.

ORDER

Officers are not to:

(i) enter any place belonging to another;

(ii) search any such place;

(iii) search any person;

(iv) seize anything; or

(v) authorise or ask any person to do anything in paragraphs (i) to (iv) above,

unless authority to do so exists.

Statutory authority for entry to places

Before entering in or upon any place officers are to consider whether they have a statutory authority to do so. Authority to enter will only be for a specific purpose(s) and will also state any conditions that apply, such as whether force may be used to gain entry. For example, s. 19(4): 'General power to enter to make inquiries, investigations or serve documents' of the PPRA provides power for officers to enter and stay for a reasonable time on a place to serve a document. This power is further qualified in s. 19(5) of the PPRA, which states that if the place contains a dwelling, the only part of the place an officer may enter without the consent of the occupier is the part of the place that is not a dwelling. Section 19(6) of the PPRA further provides that an officer may use minimal force to enter a place.

The following chapters of the PPRA contain provisions relating to entry of a place:

Chapter 2: General enforcement powers

Part 1: 'Entry, inquiries and inspection';

Part 2: 'Searching persons, vehicles and places without warrant';

Part 6: 'Breaches of the peace, riots and prevention of offences';

Part 7: 'Out-of-control events'.

Chapter 3: Powers relating to vehicles and traffic

s. 63: 'Power to inspect vehicles';

s. 64: 'Power to enter vehicles etc. other than for vehicle inspector'.

Chapter 4: Motor vehicle impounding and immobilising powers for prescribed offences and motorbike noise direction offences

s. 75: 'Particular powers for impounding or immobilising motor vehicles';

s. 110: 'Powers for enforcing court order'.

Chapter 6: Powers relating to animals

Part 2: 'General powers';

Part 6: 'Other provisions about animals'.

Chapter 7: Search warrants, obtaining documents, accessing registered digital photos and other information, and crime scenes

Part 1: 'Searching places with warrants';

Part 2: 'Search of place to prevent loss of evidence';

Part 3: 'Crime scenes';

Part 6: 'Power to seize evidence and abandoned and illegally placed property'.

Chapter 9: Covert searches

s. 220: 'Report on covert search'.

Chapter 19: Other powers

Part 3: 'Powers relating to noise';

Part 4: 'Powers relating to nuisance in moveable dwelling parks';

Part 5: 'Powers for assisting coroners';

Part 6: 'Miscellaneous powers'.

Chapter 20: Other standard safeguards

Part 3: 'Other safeguards'.

Common law authority for entry to places

Entry on to a place may be held to be lawful at common law where the entry is required to:

(i) enter land to approach the front door of a place for the purpose of conducting normal business and communications; or

(ii) to quell a breach of the peace (see s. 13.4.8: 'Breaches of the peace' of this Manual).

Consent of person in lawful possession

If there is no statutory or common law authority, then officers are to consider whether there has been an express or implied consent given by the person or occupier in lawful possession of the place for officers to enter it. An officer must

OPM Issue 113 Public Edition

be certain that the person who gave consent is actually the person in lawful possession of the place. In many situations, if the place is under lease or tenancy, the lessee or lawful occupier, rather that the owner, must give consent.

2.8.1 Search of a person

In all cases involving a search of a person officers are to comply with ss. 630: 'Protecting the dignity of persons during search' and 631: 'Special requirements for searching children and persons with impaired capacity' of the PPRA (see also s. 16.10: 'Search of persons' of this Manual).

2.8.2 Search of a place

In addition to this section, officers should refer to the following sections of this manual relating to searching of places:

s. 2.8.3: 'Obtaining a search warrant';

s. 2.8.4: 'Execution of search warrants';

s. 2.8.5: 'Legal or journalist privilege';

s. 2.8.7: 'Emergent searches of places to prevent loss of evidence'; and

s. 2.8.8: 'Search warrants (administrative arrangements)',

of this chapter.

General considerations before searching places

Officers are to ensure that searches of places and seizure of things is carried out in terms of any relevant statutory authority or by consent of a person who is the lawful occupier or in lawful possession of the place being searched.

Prior to carrying out a search of a premises or place, officers should plan and adopt a safe and appropriate strategy to ensure any evidence is preserved and recorded in accordance with the PPRA. Where appropriate, officers when conducting a search should utilise available resources and specialist units taking into account the nature of the search.

Prior to commencing a search of any premises or place, the investigating officer should:

(i) conduct a risk assessment of the place to be searched;

(ii) ensure there are sufficient resources including:

(a) personal safety equipment; and

(b) officers in attendance:

- maximise safety when executing the search;
- minimise the likelihood of possible allegations of misconduct; and
- provide corroboration in subsequent proceedings;

(iii) brief all officers prior to the search (see s. 1.5.2: 'Operational planning (action plans, operation orders, briefings and debriefing' of this Manual);

(iv) conduct the search (either by consent or search warrant) in a systematic and orderly manner with the occupier present and in accordance with legislation; and

(v) comply with the PPRA and RC for any property seized (see ss. 2.8: 'Entry, search and seizure' and 2.8.11: 'Seizure' of this chapter).

Safety considerations of searches

Prior to searching a premises, vehicle or vessel an officer should perform a risk assessment of the area to avoid hazards such as hypodermic syringes, body fluids, contaminated materials and, in extreme cases, booby traps. A risk assessment approach to a search will eliminate or reduce exposure to the risk of injury or illness to persons involved.

Prior to conducting any search officers are to become conversant with:

(i) Appendix 2.8: 'Risk control measures for conducting searches of places' of this chapter; which provides examples of risk control measures that can be adopted when conducting searches;

(ii) Appendix 16.9: 'Guidelines for conducting personal searches' of this Manual; and

(iii) 'First aid and infection control' and 'Management of blood/body fluid exposures and skin penetrations' within the Safety and Wellbeing SharePoint page contains general health and safety advice for members, and are to be read in conjunction with this section.

An officer, the OIC of an investigation or a search team leader, intending to conduct a search is to carry out a risk assessment of the proposed search.

A risk assessment of a proposed search should be documented and include the identification of all potential hazards and their subsequent risk to persons involved. It should also include the identification and selection of appropriate control

OPM Issue 113 Public Edition

measures to eliminate or reduce the level of risk to, or control and manage the level of exposure to the risk by, the persons involved.

Prior to commencing a search, the OIC of an investigation or search team leader should brief each member of the search team on all aspects of the search identified in the risk assessment which may impact on their safety, including:

(i) the description of the premises to be searched;

(ii) description of the property or items being searched for;

(iii) the search sequence to be adopted (if appropriate);

(iv) any known or potential hazards and their associated risks officers will or may be exposed to during the search;

(v) control measures, including personal protective equipment, to be adopted or used to eliminate or reduce the level of risk, or control and manage the level of exposure to the risk by the officers involved during the search;

(vi) the type and location of any first aid equipment and/or personnel; and

(vii) post contamination exposure procedures to be followed, where appropriate.

Officers intending to conduct a search alone should ensure that they are conversant with the above points as they relate to the intended search and also consider the risks of conducting a search unaccompanied by an assistant or corroborator, prior to commencing the search.

General procedures for searches of places

Any property seized is to be appropriately recorded to comply with currently legislation and policy (see Chapter 4: 'Property' of this Manual). Officers are to be aware of imposed responsibilities by the PPRA and RC (see s. 2.8.11: 'Seizure' of this chapter).

When any property is seized during the course of a search, the investigating or arresting officer should:

(i) make inquiries to locate any lawful claimant; or

(ii) ensure that all property is disposed of lawfully (see s. 4.2: 'Receiving property' of this Manual).

This includes searches where an 'exhibit officer' is appointed to manage the receipt of property.

In order to reduce the likelihood of any allegations of misconduct and provide corroboration in subsequent proceedings, wherever possible, officers should:

(i) avoid conducting a search by themselves;

(ii) have the owner occupier present during the search;

(iii) electronically record the search of the place; and

(iv) appoint an exhibit officer to record and provide a QPB 32A: 'Field property receipt' for all things seized (see s. 4.2.5: 'High risk property' of this Manual).

ORDER

An investigating officer when conducting a search of a place is to:

(i) ensure details of the search and all property seized is properly recorded at the time or as soon as practicable;

(ii) upload into the relevant QPRIME occurrence a written list of all exhibits and/or photographs taken in the course of the investigation into the relevant QPRIME;

(iii) complete all relevant QPRIME entries e.g. search report Location Search Report or Vehicle Search Report; and

(iv) issue a receipt for any property seized (see s. 4.2: 'Receiving property' of this Manual).

Officers assisting in the search of a premises or place are to hand all property seized by them to the appointed exhibit officer or investigating officer and are to provide particulars surrounding the seizure of the property.

Search details to be recorded

If a search is of a minor nature and does not include the allocation of a specific search team, the officer who is actually conducting the search is responsible for recording particulars of the search in QPRIME.

Search particulars should include:

(i) time commenced;

(ii) search sequence;

(iii) time items located;

(iv) description of things located;

OPM Issue 113 Public Edition

(v) locating member's name;

(vi) circumstances of location;

(vii) time concluded; and

(viii) names of all officers involved in the search.

Particulars should be recorded:

(i) in official police notebooks;

(ii) in activity logs, ITAS; and/or

(iii) into the relevant QPRIME search warrant entry and property entry.

Where possible, a photograph or video recording of the search scene should be taken.

2.8.3 Obtaining a search warrant

Officers seeking to search a premises or a place:

(i) should refer to ss. 150 to 158 of the PPRA and Part 2: 'Responsibilities relating to search, crime scene and missing person warrants and obtaining documents' of the Police Responsibilities Code (PRC); and

(ii) are to bring before a justice of the peace, magistrate or Supreme Court judge a properly completed QP 0711: 'Application for search warrant' and QP 0712: 'Search Warrant'.

Officers investigating a Commonwealth offence and seeking to make an application to search a premises or place are to ensure they use the correct forms under the *Crimes Act* (Cwlth) (see s. 11.5: 'Investigation of Commonwealth offences' of this Manual).

Under some legislation a search warrant may only be issued by a magistrate or a Supreme Court judge. An investigating officer should review the relevant legislation to determine who the appropriate judicial officer is for seeking the issue of a search warrant.

Search warrants under the PPRA to enter and search a place may be issued by:

(i) any justice (i.e. a justice of the peace, magistrate or judge), unless the application must be made to a magistrate or Supreme Court judge under paragraph (ii) or (iii); or

(ii) a magistrate to obtain:

(a) evidence only because it may be liable to forfeiture or is forfeited;

(b) evidence that may be used in a forfeiture proceeding;

(c) evidence that is a property tracking document;

(d) evidence of the commission of an indictable offence committed in another state, that, if it were committed in Queensland, would be an indictable offence in Queensland; or

(e) an order requiring a person in possession of access information for a storage device in the person's possession or to which the person has access at the place to give information and access to the storage device to a police officer and allow a police officer to do certain things pursuant to s. 154: 'Order in search warrant about information necessary to access information stored electronically' of the PPRA; or

(iii) a Supreme Court judge:

(a) if, when entering and searching the place, it is intended to do anything that may cause structural damage to a building; or

(b) to obtain an order requiring a person in possession of access information for a storage device in the person's possession or to which the person has access at the place to give information and access to the storage device to a police officer and allow a police officer to do certain things pursuant to s. 154 of the PPRA.

Where a search warrant application is for the premises of a lawyer for documents, the officer is to:

(i) prepare the search warrant and grounds upon which it relies in as specific terms as possible;

(ii) ensure the warrants and grounds are not prepared in vague or generalised terms, but are to, as far as is possible, identify the specific documents sought (see s. 150: 'Search warrant application' of the PPRA);

(iii) obtain the warrant from a magistrate unless otherwise required to obtain the warrant from a judge or Supreme Court judge;

(iv) be aware of the Service procedures for executing a search warrant on the premises of a lawyer and be prepared to inform the magistrate, judge or Supreme Court judge of those processes and that they were developed in consultation with the Law Society and Bar Association and are consistent with the Queensland Law

OPM Issue 113 Public Edition

Society 'Search Warrant Guidelines' (see subsection: 'Additional processes when executing a search warrant on the premises of a lawyer' of s. 2.8.4: 'Execution of search warrants' of this chapter); and

(v) if the application would ordinarily be made to a magistrate in accordance with s. 150 of the PPRA, on the application indicate a direction is required in the warrant by the magistrate for the person in possession of the documents to give all documents relevant to the offence for which the warrant is sought to police.

When a search warrant is issued the signed application form remains with the issuing officer and the warrant is retained by the investigating officer.

Where an investigating officer seeks the issue of a search warrant the officer should:

(i) access the current search warrant forms; and

(ii) based on which specific provisions of the PPRA being used, delete any inapplicable words from the forms.

When an investigating officer seeks the issue of a search warrant, which may be issued by a justice of the peace, the officer is to seek that search warrant from a justice employed at a magistrates court.

ORDER

Where it is not practicable to obtain the services of a justice of the peace employed at a magistrates court, the investigating officer concerned is to use the services of a justice of the peace who is not a member of the Service (see s. 3.9.15: 'Use of justices of the peace and commissioners for declarations' of this Manual).

When an officer receives information which could result in a search of a place, prior to making an application for the issue of a search warrant, the officer should:

(i) ascertain the strength and reliability of the information by questioning whether the information has been personally witnessed by the informant or is hearsay;

(ii) make an initial assessment of the information, applying the 'Admiralty System of Intelligence' classification. (Criteria developed as an objective assessment of the reliability of the source of the information and of the validity of the information itself. See Appendix 2.7: 'Evaluation—Admiralty Code' of this chapter for detailed diagram);

(iii) qualify the reliability of the informant and the cogency and validity of the information. Examples of this may include:

(a) inquiries by way of address checks, person history checks e.g. through QPRIME;

(b) checks of other government agency records where accessible; and

(c) checks with other members of the Service and/or other law enforcement agencies where applicable;

(iv) review any previous QPRIME search warrant occurrence (within the last 12 months) which involved the person or place subject to the application and include this information in the application;

(v) consider the success or otherwise of previous searches conducted on the premises with particular note as to the dates of searches, the occupants of the premises at the time of the previous searches, and the nature of the information relied upon on those previous occasions;

(vi) not disclose any details of a confidential nature.

Examples of a 'confidential nature' may include:

(a) information which may tend to identify the informant; and

(b) information given in confidence and not able to be relied upon should the validity of the warrant be contested;

(vii) be in possession of and outline clearly the facts, as distinct from conclusions, upon which they intend to rely upon to show reasonable grounds;

(viii) ensure a search of the cross operations index is conducted to obtain appropriate clearance that the intended action will not compromise the operational integrity of any currently approved major investigation or intelligence assessment in Queensland (for procedures on cross operations index checks see s. 2.10.5: 'Central register of operations' of this chapter);

(ix) ensure the:

(a) QP 0711: 'Application for search warrant'; and

(b) QP 0927: 'Supervisor search warrant/application checklist' attached to the QP 0711 has been completed,

by a supervisor, of the rank of sergeant or above, prior to seeking issue of the search warrant; and

(x) if a supervisor is not available, conduct inquiries through the chain of command for the nomination of a suitable supervisor. Electronic communication methods should be utilised as necessary.

OPM Issue 113 Public Edition

Supervisor approval for search warrant application

The supervisor reviewing the search warrant and application is to be satisfied of compliance with the contents of this section and are to retain and appropriately file the QP 0927 when complete.

ORDER

An officer of the rank of sergeant or above must review each search warrant and application and complete the relevant checklist prior to the applicant seeking issuance from a magistrate/justice. This order does not apply when the applicant is of the rank of sergeant or above.

2.8.4 Execution of search warrants

Preparation for execution of a search warrant

Officers intending to execute a search warrant should:

(i) as far as is possible and convenient, familiarise themselves with the place to be searched;

(ii) conduct a briefing of all officers and persons who are to assist in the search of the place. This briefing should outline:

(a) all non-confidential information as far as is known in relation to the place;

(b) any specific powers or conditions contained in the warrant;

(c) the purpose of the search and the things the place is being searched for;

(d) the person or persons thought to be resident or otherwise in the place;

(e) the possibility of a dangerous situation arising; and

(f) anything else relevant to the purpose of the search or the safety of the officer and persons helping search the place;

(iii) advise the officers' immediate supervisors prior to executing the warrant;

(iv) obtain the proper clearance before executing a search warrant by completing a 'Request for cross operations search request form' situated on the State Intelligence Group webpage on the Service Intranet. This ensures the search does not compromise the operational integrity of any currently approved major investigation or intelligence assessment in Queensland (see s. 2.10.5: 'Central register of operations' of this chapter). Cross operations index results are only current at the time the information was provided. If there is a significant lapse in time between the cross operations check and the execution of the search warrant, officers should consider conducting another cross operations index check closer to the time of the execution of the search warrant;

(v) before executing a search warrant officers are to create a QPRIME Investigative Warrant Occurrence and the name(s) of any occupiers (if known) is to be linked to the occurrence with the classification of 'named person'; and

(vi) where a statute requires an endorsement to enable a warrant to be executed in the night time, ensure that endorsement is clearly made.

Officers executing a search warrant should:

(i) enter the place and secure the location detaining and moving any suspects to a safe secure area. As soon as is reasonably practicable, the executing officer or if there are more than 2 officers conducting the search the most senior officer is to announce:

(a) their name, rank and station/establishment. If the officer is not in uniform, they are also to tell the person that they are a police officer and produce their identity card; and

(b) the reason for the attendance of police (see s. 637: 'Suppling police officer's details' of the PPRA);

(ii) serve a copy of the search warrant with the word 'COPY' clearly marked across the warrant and a Form 069 'Statement to occupier'. (see s. 158: 'Copy of warrant to be given to occupier' of the PPRA). If the occupier is not present, leave a copy of each form in a conspicuous place;

(iii) if the officer suspects that giving the person a copy of the search warrant and Form 069 may frustrate or otherwise hinder the investigation or another investigation, the officer may delay giving the person a copy of the warrant and statement. The officer may do so only whilst the officer holds a reasonable suspicion or an officer involved in the investigation remains in the vicinity of the place to keep the place under observation;

(iv) where the particular Act under which the warrant was issued requires the service of any notice or statement to the owner/occupier of the place, serve such notice or statement as required;

(v) deploy officers and persons assisting in the search as per the operation briefing and as circumstances dictate;

(vi) where the owner or occupier is being uncooperative, the officer is to warn the person that force can be used to enforce the warrant;

OPM Issue 113 Public Edition

(vii) if entry is being denied after warning the person, use reasonable force to enter the place;

(viii) ensure that only persons authorised by the particular warrant to enter the place, and only areas which the warrant authorises are searched within the place;

(ix) ensure that as little as possible physical and emotional disturbance occurs in executing the warrant, including consideration of the time of day or night the warrant is executed. As far as possible, places which are searched should be returned to the condition in which they were found. (If it is considered that structural damage may be caused to a building during the search, the warrant is required to be issued by a Supreme Court judge). If damage is caused when executing the warrant, a QP 0730: 'Notice of Damage' must be served pursuant to s. 636: 'Police officer to give notice of damage' of the PPRA;

(x) ensure that the utmost propriety is observed at all times and situations which have the potential to embarrass a resident should be avoided;

(xi) ensure that any civilians, other than civilians appointed as Special Constables, accompanying officers during the execution of the search warrant do not enter the premises except:

(a) when authorised by the warrant or by specific legislation (e.g. s. 612: 'Assistance in exercising powers' of the PPRA);

(b) under exceptional circumstances; or

(c) with the occupier's consent;

(xii) ensure that where anything is seized it is dealt with as prescribed by the Act under which the warrant was issued and in accordance with Chapter 4: 'Property' of this Manual. Ensure that a QPB 32A: 'Field Property Receipt' is issued for any property seized in accordance with s. 622: 'Receipt for seized property' of the Act (see s. 4.2: 'Receiving property' of this Manual). The officer who executes the warrant is the reporting officer for the purposes of Chapter 4 of this Manual;

(xiii) ensure the relevant entries are made in QPRIME; and

(xiv) ensure that the minimum number of officers, persons and equipment required to execute the warrant safely and effectively are used

Additional processes when executing a search warrant on the premises of a lawyer

Officers executing a search warrant on the premises of a lawyer, are to:

(i) on arrival, have the senior officer present explain the purpose of the search and invite the lawyer to cooperate with police in the conduct of the search;

(ii) ensure all officers present, are identified to the lawyer.

(iii) ensure the number of officers and persons comprising the search team are kept to a minimum;

(iv) if no lawyer is in attendance at the premises, then, if it is practicable to do so, have the premises or part of the premises which is of interest sealed and the execution of the warrant deferred for a reasonable period consistent with the prevailing circumstances to allow attendance of a lawyer;

(v) if access to the office index system is required, request the lawyer to explain how the system functions so that all necessary documents can be located with a minimum of disturbance;

(vi) generally, have the lawyer locate the documents required by the officer. The lawyer should compile a list of the documents showing:

(a) general information as to the nature of each document; and

(b) the number of pages in each document;

(vii) allowed the lawyer a reasonable time to:

(a) obtain legal advice where such a request is made; and

(b) consult with any client/s;

(viii) if a claim for privilege is made by the lawyer concerning the documents, follow the procedure in the subsection 'Procedure where a claim of privilege is made by a lawyer' below;

(ix) advise the lawyer from whom the documents were seized they may inspect any of the documents held in the custody of police in accordance with the provisions of s. 623: 'Right to inspect seized documents' of the PPRA;

(x) where a lawyer elects not to cooperate, they should be advised:

(a) the search will proceed;

(b) the procedures being followed were developed in consultation with the Law Society and Bar Association who have distributed guidelines to their members (see also the Queensland Law Society 'Search Warrant Guidelines' for additional information); and

OPM Issue 113 Public Edition

(c) where the officer is not familiar with the office index system, a search of all files and documents in the office may be necessary to give full effect to the authority conferred by the warrant; and

(xi) where the lawyer still refuses to cooperate and does not claim privilege, or refuses to cooperate and claims privilege, the search is to go ahead with the following conditions:

(a) the lawyer is to be advised a document will not be seized unless, in the opinion of the officer, it falls within the scope of the warrant; and

(b) during the course of the search, any document located which may be subject to a future claim for privilege is to be bought to the attention of the lawyer and are to be dealt with in accordance with the provisions outlined above.

Procedure where a claim of privilege is made by a lawyer

Officers executing a search warrant where a claim for legal professional privilege is made by a lawyer concerning documents (see s. 2.8.5: 'Legal or Journalist privilege' of this chapter) are to:

(i) ensure a description as to the nature of each document is recorded;

(ii) for electronic documents, ensure the processes described in ss. 3.3: 'Electronic documents—LPP claim made prior to forensic copying' and 3.4: 'Electronic documents—LPP claim made after the forensic copying of material' of Queensland Law Society 'Search Warrant Guidelines' are followed;

(iii) record the number of pages of each hard copy document;

(iv) ask the lawyer on whose behalf and on what grounds the claim is made. The answers to these questions should be recorded;

(v) place the document subject to the claim of legal professional privilege into a sealable container;

(vi) ensure the list of documents made by the lawyer is checked against the documents placed in the sealable container.

(vii) ensure the container is sealed in the presence of the claimant. The sealed container should be signed by both the investigating officer and the claimant;

(viii) advise the lawyer the documents are provisionally seized pursuant to the search warrant and will be dealt with in accordance with the law;

(ix) the senior officer present and the lawyer should deliver the sealed container, the list prepared by the lawyer and the executed search warrant forthwith to the magistrate, or if applicable, judge or Supreme Court judge who issued the warrant;

(x) the issuer will also direct who will have custody of the documents;

(xi) ensure details of the document and this process are recorded in the Narrative tab of the relevant QPRIME search report entry until permission is given to keep the document and it is then entered in QPRIME as seized property or the document is returned to the claimant;

(xii) ensure anything seized is dealt with as prescribed by the Act under which the warrant was issued and place an endorsement on the executed warrant the documents are subject to a claim of legal professional privilege;

(xiii) within 30 days of delivering the sealed container to the court, make an application to a determine in accordance with s. 695: 'Application for order in relation to seized things' of the PPRA as to whether the documents are subject to legal professional privilege. The Magistrate may also direct who will have custody of the documents; and

(xiv) ensure the officer who delivered the sealed container to a court , advise as soon as practicable:

(a) the OIC of police prosecutions corps for the magistrates court district in which the determination is to be made; and

(b) the commissioned officer in line command so as to consider whether the matter should be directed to the Director of Public Prosecutions.

Procedure where a claim of journalist privilege is made

When an officer is executing a search warrant where a claim for journalist privilege is made concerning a document or thing (see s. 2.8.5: 'Legal or journalist privilege' of this chapter) and if the officer still wishes to deal with the item under the warrant, they are to:

(i) ask the claimant to agree to the item being immediately sealed in a container, or stored in another secure way as determined by the officer and held by the officer for safekeeping (see s. 14ZD: Procedure if objections made' of the EA). The officer is to tell the claimant that if they:

(a) disagree that the item can dealt with as authorised under the warrant; or

OPM Issue 113 Public Edition

(b) agree that they may make an application to the Supreme Court under s. 14ZE(2): 'Applications to Supreme Court in relation to objections' of the EA in relation to the item.

Where the claimant:

(a) does not agree, the officer may deal with the item in a way authorised under the warrant; or

(b) does agree, the officer should:

- record a description as to the nature of each item placed in the sealed container;
- record the number of pages of the document, if applicable;
- secure the items as agreed in the presence of the claimant; and
- if appropriate have both the investigating officer and the claimant sign the seal;

(ii) ensure details of the item and relevant processes are recorded in the Narrative tab of the relevant QPRIME search report entry until permission is given to keep the document, at which time the item would then be entered in QPRIME as seized property or the item is returned to the claimant;

(iii) advise the claimant that they have seven days to make an application to the Supreme Court after the claim (see s. 14ZE: Application to Supreme Court in relation to objections' of the EA);

(iv) deal with sealed and secure property in accordance with Chapter 4: 'Property' of this Manual, until an application is made under s. 14ZE of the EA by a relevant party;

(v) if an application is made to the Supreme court under s. 14ZE of the EA, ensure the sealed or stored item is given to the registrar of the Supreme Court for safekeeping until the application is decided; and

(vi) if no application is made within seven days, deal with the document or thing in a way authorised under the warrant.

2.8.5 Legal or journalist privilege

Legal professional privilege

Certain oral and written communications between lawyers and clients are immune from examination by virtue of legal professional privilege. The privilege exists to serve the public interest in the administration of justice by encouraging full and frank disclosure by clients to their lawyers.

The privilege:

(i) attaches to confidential communications passing between:

(a) a client and the client's legal advisor for the dominant purpose of obtaining or giving legal advice (**'legal advice privilege'**); and

(b) a client, the client's legal advisor and third parties for the dominant purpose of use in, or in relation to, litigation which is either pending or in contemplation (**'litigation privilege'**); and

(ii) does not extend to advice sought or given in the furtherance of, or to facilitate, criminal fraudulent or other unlawful purposes. Whether or not the lawyer was a party to, or ignorant of, those purposes is immaterial. The client's purpose is the relevant factor.

Communications falling outside the privilege are not limited to those in pursuit of a crime or fraud but extend to communications in pursuit of an illegal or improper object. Courts have held the exception covers a range of legal wrongs having deception, deliberate abuse of, or misuse of legal powers or deliberate breach of a legal duty at their heart.

Any document to which legal professional privilege applies and in respect to which a determination has been made by the issuing authority may not be retained or examined by an officer, either to produce as evidence or to use in the course of an investigation.

Journalist privilege

Journalist privilege acknowledges that a journalist may need to protect a confidential informant's identity to facilitate ongoing access to information and to fulfil their role as facilitators of free communication and report on matters of legitimate public concern. Journalist privilege can apply when an informant supplies information to a journalist for publication and there is an agreement to protect the identity of the informant. For full details see Part 2, Division 2B: 'Journalist privilege' of the *Evidence Act* (EA).

In relation to an execution of a search warrant, where a journalist (see s. 14R: 'Who is a *journalist*' of the EA) or a relevant person (see s. 14T: 'Definitions for division' of the EA) claims a document or thing that an officer wishes to deal with under the warrant contains information that would or could identify an informant (see s. 14ZC: 'Application of subdivision' of the EA). It is not for an officer to decide that a person is not a journalist or relevant persons, but a matter for the courts if the officer wished to still deal with the document or thing under the warrant. See subsection 'Procedure where a claim of journalist privilege is made' of s. 2.8.4: 'Execution of search warrants' of this chapter.

OPM Issue 113 Public Edition

2.8.6 Coroner's search warrant

If a coroner reasonably suspects that there is evidence at a place that may be relevant to the coroner's investigation, in accordance with s. 599: 'Coroner's search warrant' of the PPRA, the coroner may issue a QP 0746: 'Coroner's Search Warrant' for that place.

Officers involved in executing a coroner's search warrant are to comply with:

(i) any relevant provisions of s. 2.8: 'Entry, Search and Seizure' of this chapter; and

(ii) enter and finalise the details of the warrant in the relevant QPRIME Investigative Warrant Occurrence and Location Search Report.

2.8.7 Emergent searches of places to prevent loss of evidence

Chapter 7 Part 2: 'Search of place to prevent loss of evidence' of the PPRA provides a general power for officers to enter a place and exercise the powers under s. 157: 'Powers under search warrants' of that Act. This power can be exercised when there is a reasonable suspicion that evidence of the commission of an offence normally liable to seizure will be concealed or destroyed unless the place is immediately entered and searched.

ORDER

Before exercising an emergent search power, an officer is to first consider whether an application for a search warrant is more appropriate. As soon as reasonably practicable after exercising the powers under s. 160: 'Search of place to prevent loss of evidence' of the PPRA, the officer is to:

(i) apply as soon as reasonably practicable to a magistrate for a post-search approval order by completing a sworn QP 0713: 'Application for post-search approval order' and QP 0714: 'Post-search approval order';

(ii) create a QPRIME Investigative Warrant Occurrence.

The application for the post-search approval order is to be conducted before a magistrate in line with local arrangements. The result of the application is to be recorded on the Court Brief (QP9) if possible if a person is charged as a result of the search. Regardless of the magistrate approving or refusing the application the applicant officer is to ensure the signed QP 0714 is uploaded to the QPRIME occurrence.

All searches conducted under s. 160 of the PPRA are to be based on reasonable suspicion of the officer who exercises the power of entry.

Wherever practicable, prior to conducting a search under s. 160 of the PPRA, officers are to advise their immediate supervisor. If not practicable, officers are to advise their immediate supervisor of the circumstances as soon as practicable after the exercise of such power.

OPM Issue 113 Public Edition

2.8.8 Search warrants (administrative arrangements)

ORDER

A police officer who executes a search warrant is to endorse that warrant pursuant to s. 638: 'Record of execution of warrant or order' of the PPRA. The warrant is to be retained in accordance with this section.

After a search warrant:

(i) has been executed and endorsed in accordance with s. 638 of the PPRA; or

(ii) is no longer required to gain entry to the premises described on the warrant;

(iii) has been endorsed on the rear of the warrant,

the warrant is to be uploaded into the relevant QPRIME 'Investigative warrant occurrence'.

Where:

(i) any charge has been or will be laid against any person the original warrant is to be retained for evidentiary purposes at a property point for presentation in court. At the conclusion of proceedings:

(a) where the warrant has been tendered to the court as an exhibit and is later returned to the investigating officer; or

(b) the warrant is not tendered to the court as an exhibit;

(ii) no charges are to be laid and property has been seized, the warrant is to be retained for any subsequent court proceedings regarding disposal of the property. When the property is disposed of:

(a) where the warrant has been tendered to the court as an exhibit and is later returned to the investigating officer; or

(b) the warrant is not tendered to the court as an exhibit; or

(iii) no charges are to be laid and no property has been seized,

the warrant, with a copy of the relevant QPRIME 'Occurrence summary report' attached, is to be filed at the applicant station or establishment in accordance with the Document Retention and Disposal Schedule.

2.8.9 Seizure of footage recorded by the media

On occasion, footage recorded by the media including for television or radio broadcasts, may be required by investigating officers as evidence. Similarly, police may request media representatives to film various aspects of an incident or crime scene for evidence purposes in instances where a Service forensic officer is not able to do so.

Where investigating officers seek to obtain copies of footage recorded by the media for evidence purposes, investigating officers are to contact the Media and Public Affairs Group, Media and Communications Division at the earliest opportunity:

(i) as they can assist in identifying, liaising with and obtaining relevant footage from media outlets; and

(ii) in some cases, they record news bulletins broadcast and may be able to copy footage directly.

Where it is believed footage recorded by the media may be required as evidence, if the media outlet which took the footage is known, contact is to be made immediately with the media outlet to advise of the possible requirement to obtain the footage to ensure that a copy of the footage remains unedited or is not destroyed.

A search warrant is to be obtained and executed on the appropriate media outlet to obtain footage required as evidence where necessary. Officers are to ensure contact with media outlets to obtain copies of footage as evidence is conducted in such a way that it fosters a positive and ongoing relationship. See also ss. 2.8.3: 'Obtaining a search warrant' and 2.8.4: 'Execution of search warrants' of this chapter.

2.8.10 Seizure of electronic storage devices used to record police activities

There are many types of electronic storage devices which are capable of making audio, still or video images and officers should be aware that their activities may be recorded.

It is lawful for a person to photograph, film or record an officer without permission in a public place. The exception to this would be where there is a protracted or continuing course of conduct that may amount to an offence of s. 359E: 'Punishment of unlawful stalking' of the Criminal Code (CC).

There are occasions when evidence can be gathered from electronic storage devices (for example, video recordings being taken by a bystander of an arrest in which an officer is seriously assaulted, or by the passenger in a vehicle being pursued). Officers may seize a device under s. 196: 'Power to seize evidence generally' of the PPRA if they reasonably suspect it is evidence or contains evidence of the commission of an offence.

When intending to seize electronic storage devices or computers, officers should refer to 'Seizing Computers and other Electronic Evidence—Best Practice Guide', available on the Crime Command SharePoint page (Child Abuse and Sexual Crime Group, see subheading 'resources') on the Service intranet. When intending to copy electronic evidence from closed circuit television (CCTV) or security surveillance cameras, officers should see s. 2.4.11: 'Video and photographic evidence recorded during the commission of offences' of this chapter.

If an electronic storage device is seized, officers should comply with Chapter 4: 'Property' of this Manual and s. 2.6.10: 'Electronic evidence examination' of this chapter when dealing with the electronic evidence.

Officers should be aware of the potential liability for conducting unlawful telephone communication interceptions (see s. 2.5.10: 'Telecommunications Interception' of this chapter).

ORDER

Officers are not to delete or intentionally alter any recorded information from an electronic storage device which has been used by or seized from a member of the public (see s. 129: 'Damaging evidence with intent' of the CC).

2.8.11 Seizure

Section 196: 'Power to seize evidence generally' of the PPRA provides officers with a general power to seize anything, which they reasonably suspect may afford evidence of the commission of an offence, from a public place, or from another place which they have entered lawfully.

The power of seizure or taking possession of is also contained in a number of other sections of the PPRA. Seizure powers can also be found in Acts contained in Schedule 1: 'Acts not affected by this Act' of the PPRA and Schedule 10: 'Relevant laws' of the Police Powers and Responsibilities Regulation.

Chapter 21, Part 3: 'Dealing with things in the possession of the police service' of the PPRA and Part 8: 'Responsibilities relating to dealing with things in the possession of police service' of the Responsibilities Code contain guidance relevant to things seized under the PPRA.

See Chapter 4: 'Property' of this Manual for requirements relating to dealing with things after seizure.

ORDER

Officers are to ensure that seizure of anything is carried out in terms of any relevant statutory authority or by consent of a person who is the lawful owner or in lawful possession of the thing seized.

OPM Issue 113 Public Edition

Issue of receipt for thing seized or taken possession of

Refer to s. 4.2: 'Receiving property' of this Manual.

Where exhibits require forensic examination, the original reporting officer is to ensure that a QP 0127: 'Submission of articles for forensic examination' is completed and where appropriate checked by a forensic officer (see ss. 2.19.6: 'Forensic Services Group (FSG)' of this chapter and 4.4: 'Temporary removal of property from property points' of this Manual).

2.8.12 Production notices and access orders

For the purposes of this section, the term **'cash dealer'** includes:

(i) a financial institution;

(ii) a body corporate;

(iii) an insurer;

(iv) a payroll delivery service;

(v) a casino; or

(vi) a bookmaker.

See s. 3: 'Interpretation' of the *Financial Transactions Reports Act* (Cwlth).

The following sections of the PPRA contain provisions relating to production notices and access orders:

(i) s. 180: 'Production notices';

(ii) s. 181: 'Issue of production notices';

(iii) s. 182: 'Copy of production notice to be given to cash dealer';

(iv) s. 183: 'Procedural requirements—production notice';

(v) s. 184: 'Power under production notice';

(vi) s. 185: 'If cash dealer claims documents contain privileged communications';

(vii) s. 186: 'Making of access order'; and

(viii) s. 187: 'Provisions about access order'.

Part 2, Division 4: 'Production notices and access orders' of the Responsibilities Code (RC) contain provisions relating to production notices and access orders.

OPM Issue 113 Public Edition

Production notices

The PPRA provides an alternative to obtaining a search warrant for officers wishing to obtain documents from a cash dealer which may provide evidence of the commission of an offence. Under s. 180: 'Production Notices' of the PPRA police officers may, instead of applying for a search warrant, apply to a magistrate or a justice for the issue of a 'production notice' requiring a cash dealer to produce stated documents to an officer.

Powers by virtue of a production notice as contained in s. 184 of the PPRA includes power to:

(i) inspect the document;

(ii) take extracts from the document;

(iii) make copies of the document; and

(iv) seize the document if the officer reasonably suspects it is evidence of the commission of an offence.

To obtain a production notice an officer is to complete a QP 0715: 'Production Notice Application' and a QP 0716: 'Production notice'. The application is to:

(i) be sworn/affirmed and state the grounds on which the production notice is sought; and

(ii) include information required under s. 12: 'Applications for production notices—Act, s 180' of the RC, including information about any production notice issued within the previous year in relation to the suspected person involved in the commission of the offence(s). This part only applies to information kept in a register the officer may inspect and information which the officer already knows.

A production notice obtained or refused, is to be entered, executed and finalised in QPRIME as an Investigative Warrant Occurrence and a Search Report.

Access orders

In some instances a cash dealer will claim a document contains privileged information. An officer may obtain access to a document by utilising an access order. The powers available to police in relation to a document as per s. 187: 'Provisions about access order' of the PPRA may include:

(i) exercising powers contained in s. 184: 'Power under production notice' of the PPRA; or

(ii) power to copy the document and return the original document to the cash dealer.

ORDER

In circumstances where a cash dealer is given a production notice to produce a document under the provisions of s. 180: 'Production notices' of the PPRA and claims the documents contain privileged communications between the cash dealer and someone else, the police officer receiving the document(s) is to:

(i) place the document(s) in a container or envelope;

(ii) seal the container or envelope;

(iii) sign the seal on the container or envelope;

(iv) ask the person producing the document(s) for the cash dealer to sign the seal;

(v) tell the person producing the document(s) for the cash dealer the document(s) will be retained, and an application will be made for an access order; and

(vi) as soon as reasonably practicable and in accordance with s. 13: 'Applications for access orders—Act, s 185' of the RC, apply to a magistrate for an 'access order' for access to the document(s).

To obtain an access order under s. 185 of the PPRA, an officer is to:

(i) apply to a magistrate for an access order by completing a QP 0717: 'Application for Access Order';

(ii) retain the document(s);

(iii) not inspect any document(s) until the access order is decided;

(iv) comply with the order given by the magistrate; and

(v) ensure details of the document and this process are recorded in the Narrative tab of the relevant QPRIME Search Report entry until permission is given to access the document and it is then uploaded into QPRIME as seized property and/or the document is returned to the claimant.

Before making an application for an access order an officer is to ask the cash dealer on what grounds and for whom the claim of privilege is made and record the answers given.

An access order obtained or refused, is to be entered, executed and finalised in QPRIME as an Investigative Warrant Occurrence and a Search Report.

ORDER

Officers are to ensure any powers are exercised in terms of any relevant statutory authority or by consent of a person who is the lawful owner or in lawful possession of the thing seized or accessed.

OPM Issue 113 Public Edition

2.8.13 Retention of electronic recordings of searches

During the course of an investigation, officers may choose to record searches by electronic means (i.e. audio and/or visual recording) for evidential purposes or other reasons (e.g. to minimise the risk of allegations of misconduct, see s. 4.2.5: 'High risk property' of this Manual). Any such electronic recording forms part of the investigation record and may require retention in accordance with the Records Retention and Disposal Schedule as available on the Service Intranet and s. 5.5: 'Records retention and disposal' of the Management Support Manual. Where the schedule does not require retention, the relevant electronic recording is to be retained for a period of six months from the search date or where the electronic recording relates to a proceeding for an offence, six months from finalisation of the matter in court.

Officers are to refer to the provisions of the DERIE Manual regarding electronically recorded interviews and field interview electronic recordings.

2.8.14 Execution of search warrants on the premises of a member of the Queensland Legislative Assembly

ORDER

Officers intending to search the premises of a member of the Queensland Legislative Assembly for documents are to prepare the search warrant and grounds upon which it relies in terms which are as specific as possible. Officers are to ensure warrants and grounds are not prepared in vague or generalised terms, but are to, as far as is possible, identify the specific documents or items sought (see s. 150: 'Search warrant application' of the PPRA).

Officers intending to search the premises of a member of the Queensland Legislative Assembly are to obtain the warrant from a magistrate unless otherwise required to obtain the warrant from a judge or Supreme Court judge.

When executing a search warrant for the premises of a member of the Queensland Legislative Assembly, officers should follow the procedures outlined in Appendix 2.15: 'Protocols for the execution of search warrants by the Queensland Police Service on the premises of a member of the Queensland Legislative Assembly' of this chapter.

2.8.15 Storage device information access order

Sections 154: 'Order in search warrant about information necessary to access information stored electronically' and 154A: 'Order for access information after storage device has been seized' of the PPRA allows an officer to seek an order to require a specified person to provide access to a storage device.

ORDER

Where it is anticipated support from the Electronic Evidence Unit, Forensic Services Group, Security, Counter-Terrorism and Forensic Services Command will be required to locate and retrieve evidence from or through a device, officers are to seek approval from a detective inspector prior to seeking an order under ss. 154 and 154A of the PPRA.

Order application included in search warrant

In accordance with s. 154(1) of the PPRA, an officer can require a specified person (see s. 150AA: 'Definitions' of the PPRA) to provide access to a storage device, which the person has in their possession or has access to (e.g. fileserver or 'cloud' storage') from the place searched.

A search warrant application including an order under s. 154 of the PPRA is to be made to a magistrate or judge.

When completing an application for a search warrant (see s. 2.8.3: 'Obtaining a search warrant' of this chapter), where access to a storage device is sought, officers should include details of the specified person and any actions the person is to take in accordance with the order.

Order application after execution of search warrant

Where an officer has executed a search warrant and seized an electronic storage device and the:

(i) search warrant did not contain an order to direct a specified person to allow access to an electronic storage device; or

(ii) officer requires further information to access the storage device,

the officer may seek an order requiring a specified person to provide access to the storage device (see s. 154A of the PPRA).

When an officer has executed a search warrant where a storage device has been seized and removed from the place and access is required to the device, the officer is to:

(i) identify the specified person who can provide access to the storage device;

(ii) within the original search warrant QPRIME occurrence, complete a QP 0987: 'Application for order to access information after storage device has been seized' and QP 0988: 'Order for access information after storage device has been seized'; and

(iii) make application to a magistrate or judge requesting the issuing authority to require the specified person provide access into the storage device.

Where the original search warrant was issued by a:

(i) magistrate, the application is to be presented to a magistrate; or

(ii) judge, the application is to be presented to a Supreme Court judge.

2.9 Covert operations involving law enforcement participants

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

2.9.1 Witness identity protection certificates

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

2.9.2 Human source management

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

OPM Issue 113 Public Edition

2.10 Intelligence

2.10.1 The intelligence network

The receipt of information and the processing of that information is an essential function of the Service. It is used as a proactive tool to support police in preventing crime and to enhance their ability to investigate and solve crime, support decision making in the operational environment, protect victims from dangerous perpetrators, and enable current threat assessments to reduce officer safety risks.

The Queensland Police Intelligence Network (QPIN) interconnects with intelligence agencies across Australia. State Intelligence Group (SIG), Crime Command is responsible for the coordination of the QPIN on a statewide basis.

The SIG and the regional intelligence and strategy officers jointly manage QPIN to provide well organised, accurate, professionally presented and relevant intelligence which is collected and disseminated in a timely manner to members.

ORDER

Intelligence is only to be disseminated nationally or internationally by SIG.

Intelligence disseminated internationally by SIG is to be authorised and organised through Interpol. Where a request has not been authorised by Interpol, the request is to be assessed in terms of 'Potential death penalty situations' prior to any intelligence being disseminated (see s. 7.3.1: 'International inquiries through Interpol' of the MSM).

Members are to ensure that intelligence records are securely maintained.

OICs of a region or command or their delegate may appoint to each district, station or establishment under their control one or more qualified officers to perform the functions of intelligence officers.

2.10.2 Intelligence submissions

ORDER

Members collecting information relating to criminal activity or suspected criminal activity are to record an intelligence submission in QPRIME at the first available opportunity.

However, where information is recorded adequately in QPRIME in another form, e.g. in a street check occurrence in QPRIME, it is not necessary for members to record an intelligence submission. Officers are to note that access to information in an intelligence submission in QPRIME may be restricted to authorised members following evaluation by intelligence officers.

See s. 7.14.2: 'Roles and responsibilities' of this Manual where the district intelligence officer receives an intelligence submission in QPRIME in relation to a reportable offender under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act*.

2.10.3 Caveat for intelligence products

Intelligence products contain information that may assist law enforcement in the tactical, operational or strategic decision making process.

All intelligence products should be classified with the correct security classification as defined in s. 4.4: 'Information security classification system' of the Information Management Manual.

Intelligence products remain under the control of the document controller. The document controller for intelligence products is the Detective Superintendent, State Intelligence Group, Crime Command.

ORDER

Intelligence products are for law enforcement purposes only and must not be disseminated to a third party without the expressed consent of the document controller. Dissemination authority may be delegated by the document controller to a commissioned officer or in accordance with the Delegations and Authorities Library SharePoint page.

If an intelligence document becomes or appears likely at any time to become subject of any writ, subpoena, a right to information application or disclosure provision the document controller must be advised prior to any such release.

The following caveat is to be included on the front page of all intelligence products:

> CAVEAT
>
> This document is the property of the Queensland Police Service. The document and/or its contents are to be used for law enforcement purposes only. The unauthorised disclosure of this information may be an offence. If this document is the subject of any legal process or right to information action then the Detective Superintendent, State Intelligence Group, Crime Command, Queensland is to be advised immediately and in all instances prior to release of such information.

OPM Issue 113 Public Edition

2.10.4 The Australian Criminal Intelligence Database

The Australian Criminal Intelligence Database (ACID) is a single intelligence database enabling Commonwealth, State and Territory law enforcement and other regulatory authorities to securely store, retrieve, analyse and share criminal information and intelligence on a national basis.

ACID is designed to assist with the production of criminal intelligence including profiling, environmental scanning, threat assessing and the development of operational and strategic intelligence assessments. The intention of ACID information and intelligence is to assist intelligence analysts make informed assessments about criminal activity, particularly that which crosses state and territory borders.

Access to ACID

The granting or removal of access privileges to ACID is at the discretion and direction of the Detective Superintendent, SIG, Crime Command.

An officer seeking ACID access is to contact their relevant regional intelligence and strategy officer or in the case of Crime Command, their team leader. All applications for access to ACID are processed by the SIG member appointed as the QPS ACID/Australian Law Enforcement Intelligence Net (ALEIN) Liaison Officer.

Requests for searches of ACID

When utilising the ACID system, intelligence officers/analysts are to follow the 'ACID/ALEIN System User Standard Operating Procedures' and the 'Australian Government security classification guidelines' for security aspects and conditions of using the system (available on the ALEIN SharePoint page).

Where an officer does not have access to ACID, they may request a search of ACID through their local intelligence office (see SMD) outlining the:

(i) names, addresses or organisations to be searched; and

(ii) reasons for the search.

Uploading intelligence to ACID

Intelligence officers/analysts should assess all QPRIME intelligence submissions for possible inclusion on ACID in accordance with the guidelines available on the SIG SharePoint page.

Where an intelligence officer/analyst considers a QPRIME intelligence submission is suitable for inclusion on ACID, they are to:

(i) sanitise the intelligence so it is appropriate to be viewed on a database accessible to other jurisdictions, including ensuring it is:

(a) compliant with any legislation or policy regarding informant disclosure (e.g. *Drugs Misuse Act*, Human Source Management Policy);

(b) suitably summarised and referenced/sourced if the original information was provided by an external agency (e.g. Australian Federal Police); and

(ii) send a task to their supervising intelligence officer for final determination on whether the intelligence is to be included on ACID.

OPM Issue 113 Public Edition

2.10.5 Central register of operations

Queensland Police Service Operations Register

A central register of operation names, the Queensland Police Service Operations Register (QPSOR), has been established to maintain and manage a record of all operations (including major investigations, themed or planned operations and events) see SMD.

This QPSOR:

(i) centralises the administration of Service operations to enhance analysis and organisational understanding of crime and other public safety issues in Queensland;

(ii) prevents duplication of operation names; and

(iii) incorporates the Cross Operations Index (COI).

State Intelligence Group (SIG), Crime Command administers the QPSOR through the Investigation Management and Control (IMAC) system.

IMAC Targeting Notification

The IMAC Targeting Notification is the approved process for registering and managing major investigations within IMAC from commencement through to closure and, where required, supporting applications for technical and specialist resources. The onus rests on investigators to initiate and complete the IMAC Targeting Notification process.

The prioritisation rating, which replaces the Organised Crime Risk Assessment (OCRA), forms the Prioritisation Assessment component of the Application for Technical and Specialist Resources. This assessment is completed as part of the IMAC Targeting Notification process for where an application to the Specialist Resource Committee (SRC) is required. This process has been designed to provide continuity from operation conception through to applications for technical and specialist resources. An intelligence officer must be nominated during this process.

Entities must be entered in the Target Notification tab before they can be added to cross-ops. Requests for addition to an operation remain the same, by emailing QPSOR at QPS Operations.Register[ICM] or completing the request within IMAC requests. Entities must be in cross-ops for addition to SRC applications.

ORDER

An IMAC Targeting Notification must be completed by the investigating officer for all major investigations that are subject to an application for an operation name, unless an exemption is granted by the Detective Superintendent, SIG or their delegate.

An intelligence officer must be nominated during this process.

OCRA's are no longer required for an investigator to commence a request for an operation name via the IMAC Targeting Notification process

Application for an operation name

Where a member requires an operation name in relation to a major investigation, they are to apply through the IMAC Targeting Notification process for QPS operations.

Where a member requires an operation name in relation to themed or planned operations or event, the member is to obtain the name from IMAC in accordance with existing processes.

The Detective Superintendent, SIG, or their delegate may approve or decline an operation name as deemed appropriate.

ORDER

A SIG officer must be assigned for major investigations that are the subject of an application for an operation name via IMAC accessible on the Specialist Operations SharePoint page.

Operation names obtained via the IMAC Targeting Notification do not need to be obtained by a SIG officer.

To request an operation name from QPSOR for an operation other than a major investigation, the SIG officer is to create a new record in IMAC.

An OCRA is no longer required when an organised crime network is identified. The OCRA still exists within IMAC and can be used as a collection tool by SIG members.

Processing application for an operation name

Upon approval of the new request, an email with the designated operation name will be forwarded to the nominated SIG officer, case officer, and the case officer's supervising commissioned officer.

If a request for an operation name is not supported, SIG may:

(i) request additional information; or

(ii) close the application and advise the intelligence officer, case officer, and the case officer's supervising commissioned officer the reason why the request for an operation name is not supported.

Cross Operations Index

The Cross Operations Index (COI) is located within QPSOR and contains details of selected persons, addresses and organisations of interest linked to approved operations for major investigations to minimise the risk of any policing action outside the associated operation jeopardising its eventual outcome or the safety of any person.

Search of the Cross Operations Index

ORDER

Where an officer is planning to undertake a premeditated or planned operational policing action where there are specific persons, addresses or organisations to be targeted (e.g. search warrant, weapon inspection or commencing an operation for a major investigation), prior to taking such action they are to:

(i) request a search to be conducted, of the COI for all persons, addresses and organisations of interest; and

(ii) await advice from SIG that the intended action will not compromise the operational integrity of any current major investigation in Queensland,

unless the matter is urgent and a delay in the policing action would:

(i) place a person at risk of serious injury;

(ii) place property at risk of serious damage; or

OPM Issue 113 Public Edition

(iii) significantly increase the risk of a loss of evidence (e.g. where SIG advise a COI search is unable to be conducted immediately, and the known intelligence suggests the evidence will be lost by the time a COI search is able to be completed).

To conduct a search of the COI, complete a 'Cross Operations Search Request Form'.

Cross Operations Index checks are automated. If the searched entities are not recorded on the COI, the applicant officer will receive an automatic reply via email. If the search entities are recorded on the COI, these requests will be processed between 0800 and 1600 hours Monday to Friday. Where a search of the COI is required as a matter of urgency, contact SIG (see 'Staff Contact System'). For controlled activities where a COI check is unable to be conducted, see s. 2.9: 'Covert Operations involving law enforcement participants' of this chapter.

Inclusion of entities or modification of the Cross Operations Index

Where:

(i) an operation name is approved for a major investigation; an officer attached to the investigation is to make a separate request for the nominated entities to be included on the COI; and

(ii) where a modification, addition, or deletion of entities on the COI is required during an operation, the case officer or intelligence officer is to have the COI updated,

by emailing QPS Operations.Register outlining the:

(i) nominated persons, addresses and organisations of interest to be included on the COI;

(ii) the designated operation name;

(iii) whether the modification is an addition, deletion or modification;

(iv) details of the changes including any QPRIME NDS identification numbers, where applicable, as validation of their existence or identity; and

(v) whether the recording of persons, addresses or organisations on the COI is to be overt or covert in nature (see SMD).

The case officer for an approved major investigation is to keep the appointed SIG officer advised of all persons, addresses and organisations of interest at the commencement of and during a major investigation.

Managers of the COI may periodically contact the case officer assigned to a major investigation to validate the currency of associated records on the COI. Failure to respond or provide adequate advice as required by SIG may result in the records being deactivated from the COI.

An officer wishing to include a person, address, or organisation of interest on the COI which is not part of an approved operation for a major investigation or for an intelligence assessment is to seek the approval of the Detective Superintendent, SIG.

Managing operations

ORDER

An operation that is covert (e.g. controlled operations) must not be recorded in QPRIME.

Where an operation is being managed in QPRIME, the relevant prefix (e.g. Xray, Yankee) and the Queensland Police Service Operations Register suffix (name) are to be recorded as the occurrence ID.

Closure of an operation

An operation is considered finalised when no further policing action is planned. This excludes brief preparation and judicial proceedings.

SIG is to be advised at the earliest opportunity that an operation has been finalised.

Upon closure, case officers are to provide SIG the details of all persons, addresses and organisations of interest identified during the operation, their criminal activities and any action taken or proposed. This does not include the controlled operation closure report required under s. 267: 'Principal law enforcement officer's reports' of the PPRA which is to be provided to the Crime and Intelligence Legal Services, Legal Division. Officers are to ensure these details do not disclose information unlawfully (e.g. telecommunications interception information). State Intelligence Group will update the QPSOR with the closure information. The storage of the material is to be in accordance with s. 4.4: 'Information security classification system' of the Information Management Manual.

The Detective Superintendent, SIG or their delegate, may direct the completion of any post operational products deemed necessary once an operation has been finalised.

When an operation has been finalised, the case officer, or delegate, is to provide advice to SIG by email to QPS Operations.Register so the closure report can be commenced on the QPSOR.

In respect to a major investigation, the case officer, or delegate is to advise the SIG officer appointed to the operation of the following:

OPM Issue 113 Public Edition

(i) the date the operation was finalised;

(ii) a brief precis outlining why the operation was finalised;

(iii) a summary of results including persons apprehended and associated charges; and

(iv) any extenuating circumstances why persons, addresses or organisations should remain active on the COI.

The advice, in relation to events and themed operations, should contain the following:

(i) an events completion report; and

(ii) any related debriefing material.

The SIG will finalise the operation on the QPSOR and forward the case officer, or delegate:

(i) advice regarding the collection of associated operation related material; and

(ii) any requirements for post operational documentation as deemed necessary by a commissioned officer attached to SIG or delegate.

The SIG officer is to complete the closure report on IMAC. Once the closure is approved by the relevant Intelligence Operations Leader, the operation will be finalised, and the operation entities will be removed from the COI.

Access to the Queensland Police Service Operations Register

The Detective Superintendent, SIG or their delegate, has authority to grant access to the QPSOR or approve a member obtaining information located within the QPSOR.

A member wishing to have access to the QPSOR is to make application to SIG, by email to QPS Operations.Register outlining:

(i) their current level of security clearance (e.g. secret); and

(ii) the reason or justification for access to the QPSOR.

A member wishing to obtain information from the QPSOR is to request the information from SIG, by email to QPS Operations.Register outlining the:

(i) details of the information requested; and

(ii) reason or justification for obtaining the information.

All requests and associated decisions for access to or to obtain information from the QPSOR are to be noted by SIG in the QPSOR.

OPM Issue 113 Public Edition

2.10.6 Online intelligence

Definitions

For the purpose of this section:

Approved assumed identity

means an assumed identity where the delegated senior officer (see s. 318: 'Delegation—commissioner' PPRA) has provided authorisation to acquire and/or use an assumed identity under Chapter 12 Part 2 of the PPRA.

Open source information

means computer software, text, imagery, electronic files or other information that is publicly available for public access from online sources and does not require a person to log in or provide personal information. For the purposes of this section, open source excludes social media.

Social media information

means electronic communication through online platforms exchanging information within a community of users.

Proxy

means a service that is used to relay communication between a computer and a website or server for the purpose of concealing the originating Internet Protocol (IP) address.

Privacy

Searching and obtaining information for intelligence purposes from open source and social media can have legal implications for individual members and the Service.

ORDER

All open source and social media searches are to comply with the *Information Privacy Act* (IPA), which sets out privacy principles that govern the collection, use, disclosure, storage, security and accuracy of personal information.

Service exemptions

The Service is exempt from Queensland Privacy Principles 3.6, 5, 6 and 10.1 of the IPA if reasonably satisfied the non-compliance is necessary for the performance of activities relating to the enforcement of laws.

Members should avoid the collection of information regarding persons not related to the matter under investigation.

Any information collected must be securely stored, used and disclosed consistent with that law enforcement purpose.

Queensland Privacy Principle 3.5 of the IPA includes a requirement that personal information not be collected in an unfair or unlawful means. The use of an approved assumed identity is a lawful means of collecting information. Members are to be aware that whether the use of an assumed identity to collect information from social media is unfair could be judged by a court taking into consideration the specific facts and circumstances of the collection of the information.

Members should keep a record of the reasons for using the approved assumed identity online so they can justify the decision for its use.

Open Source Searching

Searching open source information for information and intelligence collection does not require a person to login, provide personal details or involve any type of online engagement (see 'Definitions' of this section) and does not require managerial authority or a judicial order. Where membership or login credentials are required or engagement is necessary, see subsection 'Online searches which require credentials to access required information' of this section.

Open source information searches and collection that relate to a covert or sensitive investigation are not to use the corporate secure gateway service (SGS) to prevent the disclosure of the QPS Internet Protocol (IP) address space and compromise current and future policing operations. These activities are to be done using a standalone computer system (see SMD) or proxy service. All searches on a standalone computer should be recorded for managerial and auditing purposes.

Accessing inappropriate web sites

Where a member inadvertently accesses, is unintentionally directed or is required to access an inappropriate web site (e.g. contains sexually explicit material) they are to, at the first available opportunity;

(i) record the details in their official police notebook or diary; and

(ii) advise their supervisor (of the rank of sergeant or above) of:

(a) the site;

(b) the nature of the site's contents; and

(c) how access was obtained or directed,

unless these types of sites are accessed as part of the work unit's usual business (e.g. Child Abuse and Sexual Crime Group, Crime Command), in which case the work unit may implement local instructions on the recording and reporting arrangements.

Members are to evaluate any information obtained online by using the admiralty code in relation to source reliability and content validity.

Online searches which require credentials to access required information

ORDER

Where an online search for gathering intelligence or investigative purposes requires a person's credentials to access the site (e.g. a social media site), an approved assumed identity is to be used (see 'Definitions' of this section).

Members are not to use an assumed identity online that has not been approved and are to make application for an assumed identity in accordance with s. 2.9: 'Covert operations involving law enforcement participants' of this chapter. Only in exceptional circumstances would an assumed identity be approved if it had been used prior to approval.

Use of assumed identity online

The use of an approved assumed identity online is only to be conducted:

(i) where the authorised person is an officer;

(a) in accordance with an authority; and

(b) in the course of duty,

(see s. 302: 'Assumed identity may be acquired and used' of the PPRA);

(ii) where the authorised person is a staff member (civilian) in accordance with:

OPM Issue 113 Public Edition

(a) an authority; and

(b) the directions of the authorised member's supervisor,

(see s. 302 of the PPRA);

(iii) where the member can justify:

(a) its use is to facilitate, for law enforcement purposes, investigations and intelligence gathering in relation to criminal activity (s. 278: 'Purpose of ch 12' of the PPRA), and the member has a reasonable belief that evidence or intelligence may be obtained in relation to:

- a seven year imprisonment offence;
- an indictable offence mentioned in Schedule 2 of the PPRA;
- an indictable or simple offence mentioned in Schedule 5 of the PPRA; or
- an offence which results in the safety of an individual or the public being placed at risk;

(iv) where the member has completed the appropriate Service training, or if the training is not available, where permission has been obtained from their supervising commissioned officer to acquire and use the approved assumed identity without having completed the Service training; and

(v) utilising an authorised and properly maintained standalone system or proxy service.

Misuse of an assumed identity is an offence (see s. 312: 'Misuse of assumed identity' of the PPRA).

Members are to make application for an 'approved assumed identity' in accordance with subsection titled: 'Assumed identities' of s. 2.9 of this chapter.

Members are to record all online searches where an assumed identity was utilised, including details of the reasons for the search, account or username, email address and social media platform/s utilised, in:

(i) their official police notebook;

(ii) a police diary;

(iii) QPRIME (e.g. occurrence inquiry log); or

(iv) accordance with local instructions developed for reporting to their OIC.

An authority to acquire or use an assumed identity will not to be granted to a staff member unless it would be impossible or impracticable in the circumstances for an officer to acquire or use the assumed identity for the purpose sought.

Where a staff member is granted an assumed identity, an officer of at least the rank of sergeant will be appointed to supervise the acquisition or use of the assumed identity by the staff member (see s. 283: 'Deciding application' of the PPRA). The appointed supervisor is to record details of the supervision of the staff member.

In all other cases where credentials are required to access the online site and where the use of an approved assumed identity online cannot be justified, members are not to use personal social media accounts to search or engage with person or groups on social media for intelligence gathering or investigations. Members are to be aware of current or future implications (e.g. personal security) if they use their personal social media account credentials for policing purposes.

Where a member requires an operation name, they are to comply with s. 2.10.5: 'Central register of operations' of this chapter.

Social media engagement

Engagement on social media relates to all forms of communication or interaction, including sending friend requests, following users, and making general observational comments in public posts and forums.

ORDER

Engagement with a third party on social media for covert intelligence or investigative purposes is only to be conducted in accordance with subsection titled 'Online searches which require credentials to access required information' of this section.

Engagement is to be limited to general information only concerning the assumed identity and general observations. All users should be aware that online interaction has the ability to rapidly change context and users need to remain aware that any subtle change in circumstances or context may require a controlled activity or controlled operation before engagement can continue. As a result, online interaction should be avoided unless the user has received specialist training in this capability.

When engaging with persons online using an assumed identity, officers should be at all times cognisant of the risk of inadvertently creating circumstances of temptation in which a vulnerable but otherwise law abiding member of the public may be induced to commit offences which they may otherwise not have committed.

OPM Issue 113 Public Edition

Where a member believes online interaction may change or has changed to an illicit context (e.g. discussion about unlawful or dangerous acts), the member is to advise their supervising commissioned officer. The commissioned officer is to assess the engagement and, if further engagement is requested, consider whether a legal authority for a controlled activity or controlled operation is required under Chapter 10 and 11 of the PPRA (see s. 2.9 of this chapter).

Where a member wishes to engage in online interaction regarding an offence or potential offence, they are to apply for a controlled activity or controlled operation under Chapters 10 and 11 of the PPRA (see s. 2.9 of this chapter).

Compromise of investigations

If a member reasonably believes the assumed identity has been exposed or an investigation jeopardised, they are to immediately advise their supervising commissioned officer. The supervising commissioned officer is to also advise the Manager, Covert Support Unit (CSU), Covert and Specialist Operations Group, Crime Command via email to Covert.Support@police.qld.gov.au.

Managing email addresses in support of online investigation and intelligence gathering

It is acknowledged that the use of an email address is routinely required to meet social media account verification protocols. The use of multiple email addresses is often required to create and maintain social media accounts to meet operational requirements in an online environment.

Where an assumed identity has been authorised for online use, a separate authorisation (or variation to an existing authority) is not required for the sole purpose of:

(i) creating and/or using an email address/es; or

(ii) accessing social media platforms and/or accounts utilising the email address/es.

Such authority is not required on the proviso that:

(i) the initial assumed identity application included specific reference to the use of the assumed identity in the online environment in support of online intelligence gathering and/or controlled operations (however described);

(ii) the authorised assumed identity credentials (name and/or date of birth) are used to create the email address;

(iii) the creation of the email address and subsequent use to access social media platforms/accounts is operationally required and justifiable;

(iv) adequate records are maintained regarding the use of the assumed identity in the online environment (see 'Online searches which require credentials to access required information' of this section);

(v) any conditions of use for the assumed identity are strictly adhered to; and

(vi) the CSU is notified via email to Covert.Support@police.qld.gov.au as soon as practicable following the creation of the email address for the assumed identity (no later than 7 days after the email address is created).

The Manager, CSU will maintain adequate records of email addresses associated with assumed identities for auditing and deconfliction purposes.

OPM Issue 113 Public Edition

Open Source and Social Media Training

The development and delivery of open source and social media training will be coordinated by SIG, Crime Command, in conjunction with the Intelligence Training Unit, Recruiting and Development Command.

Standalone computer systems

The installation, governance and auditing of stand-alone computer systems (see SMD) will be subject to district instructions in adherence to the Information Management Manual.

See also s. 13.33: 'Social media' of this Manual for Service social media policy and procedures.

For investigations and requests to remove content from social media platforms or online social networks, see s 13.34: 'Removal of particular online content' of this Manual.

2.11 Identification of suspects

Officers are to be aware of the need for fairness of the process used in the identification of suspects. Courts demand that the identification process is transparent and open to scrutiny.

The identification process is to be conducted as soon as reasonably practical to ensure witnesses memories are not compromised.

2.11.1 General information

The responsibility of gathering evidence enabling the accurate identification of a suspect rests with the investigating officer. To gather evidence enabling the accurate identification of a person suspected of having committed an offence police officers may lawfully use one or more of the following procedures, but not limited to:

(i) an identification parade (see s. 2.11.5: 'Identification parades' of this chapter);

(ii) a video recording (see s. 2.11.6: 'Video line-ups' of this chapter);

(iii) a photo board (see s. 2.11.7: 'Photographic identification' of this chapter); and

(iv) computer-generated images (see s. 2.11.8: 'Comfit identification (Computer generated images)' of this chapter).

See s. 617: 'Identification of suspects' of the PPRA. Officers are to comply with the procedures in Part 6: 'Identification procedures' of the Responsibilities Code.

While there is no rule of law requiring corroboration in respect of identification evidence, officers are to consider whether the strength of evidence, and the identification process, will withstand the scrutiny of the court. Irrespective of available evidence of identification, officers are to ensure investigations are conducted to exhaust all available avenues.

Officers are to ensure any identification evidence is reliable, both of itself and together with other available evidence.

Officers are to consider the circumstances and nature of the identification. This includes, but is not exclusive to the following considerations:

(i) whether the identification is or can be corroborated by other evidence;

(ii) whether the circumstances of the identification can be verified independently;

(iii) whether the identification was made objectively;

(iv) whether the identification could have resulted from a suggestion by a third party; and

(v) how the identification was made.

Confrontation of witnesses and suspects

ORDER

Where identification is an issue, a suspect is not to be confronted by a witness, and vice versa even if there is no objection by the suspect or witness. Other lawful means of identification are to be used.

OPM Issue 113 Public Edition

2.11.2 Eyewitness identification

ORDER

Officers are to scrutinise eyewitness identification when such identification is based only on a fleeting glance or when made under difficult conditions.

At the earliest possible opportunity, officers are to record the initial description of an offender in full in their official police notebook. Any description provided by the witness is to be recorded verbatim. Body worn cameras and audio recorders are to be considered secondary devices when recording the description.

The record is to be made in the presence of the witness, and officers are to ask the witness to read the description and sign the notes if the witness agrees that the description given is accurately recorded.

To assess the reliability of eyewitness identification, officers are to note:

(i) the duration of observation of the offender by the witness;

(ii) the distance between the offender and the witness;

(iii) time of day and atmospheric conditions, e.g. lighting (bright, dim), were shadows cast;

(iv) any impediments in the act of identification, e.g. traffic flow;

(v) if the offender was previously known to the witness;

(vi) if the offender was known, how well, over what period of time, and how often did they see each other over that period;

(vii) whether any special circumstance exists which may cause the witness to recall the offender or incident specifically;

(viii) the length of time between the original observation by the witness and the identification of a suspect to an officer; and

(ix) discrepancies between original descriptions given by a witness and the actual appearance of the suspect.

2.11.3 Means of identification

Means of identification used by police include:

(i) selection from crowds;

(ii) photographic, including photo boards and digital photographic line-up boards;

(iii) Comfit;

(iv) dock;

(v) DNA;

(vi) stylometric or authorship;

(vii) handwriting;

(viii) voice;

(ix) spectrograph or voice print;

(x) similar fact;

(xi) fingerprint, palmprint and footprint;

(xii) forensic procedures; and

(xiii) video tape.

Officers are to avoid having a witness identify a suspect as the suspect enters, leaves or is otherwise in the vicinity of a court building.

2.11.4 Fingerprint, palmprint and footprint identification

The identification of prints (fingerprints, palmprints and footprints) at the scene of an offence or on a weapon or other article or tool used in the commission of an offence does not provide conclusive proof that leads to conviction.

Defences against print evidence are usually limited to claims of legitimate presence at the crime scene, or to having had possession of the weapon, article, or tool at some time other than the time of the offence. Therefore, prints are merely an identifying characteristic of a person and, without other identification evidence, may not be in themselves incriminating. Prosecutions based solely on the presence of fingerprints may fail.

2.11.5 Identification parades

An identification parade is one process to seek the identification of a suspect by a witness to an offence. The ability to conduct an identification parade may be affected by the stage of the investigation, urgency, public safety, the location where the parade is to be conducted, the degree of suspicion, the number of suspects or potential suspects, the availability of other suitable identification parade participants amongst other factors.

Where practicable, officers are to use identification parades to identify suspects where there is a witness to an offence.

Where a suspect is initially identified by means other than an identification parade, the investigating officer is to attempt to confirm the identification using an identification parade. However, officers are to be aware that once a witness sees a photograph, the memory of it may replace the memory of the original sighting and the evidence may be compromised.

The investigating officer is to conduct an identification parade in accordance with the requirements for conducting identification parades in ss. 41 to 44 of the Responsibilities Code and Appendix 2.1: 'Guidelines for conducting identification parades' of this chapter.

Where an identification parade is not used, investigating officers are to attempt to establish identification through other lawful means.

2.11.6 Video line-ups

A video line-up is a video recording of the suspect and at least 11 other people of similar physical appearance, compiled into a single video recording for viewing by witnesses (see s. 44 of the Responsibilities Code).

Where there is a witness to an offence, investigating officers are to, wherever practicable, conduct an identification parade (see s. 2.11.5: 'Identification parades' of this chapter). If:

(i) a suspect declines the opportunity to take part in an identification parade; or

(ii) it is not practicable to conduct an identification parade (e.g. covert operations, operational considerations, or rural locations),

investigating officers should consider video identification in preference to photographic identification.

Investigating officers are to ensure video line-ups:

(i) are recorded and produced in accordance with Forensic Services Group procedures. Inquiries should be conducted with the officer's local Scenes of Crime office;

(ii) are recorded on audio visual equipment, preferably and where practicable by a qualified forensic officer;

(iii) are recorded and shown to a witness in accordance with ss. 617: 'Identification of suspects' of the PPRA and 40: 'Procedures for management of witnesses during identification procedures' of the Responsibilities Code; and

OPM Issue 113 Public Edition

(iv) are fair and do not prejudice the suspect.

Where practicable, the video line-up should replicate witness information as much as possible including:

(i) all persons taking part in a video line-up being dressed in clothing similar to that described by witnesses as being worn by the offender at the offence;

(ii) selecting the same location, or another location as similar as possible to where the suspect was seen by the witness;

(iii) copying the lighting at the time the witness saw the suspect and the distance from which the witness saw the suspect; and

(iv) having the participants in the video line-up:

(a) appear in front of the same or similar backgrounds. If this is not possible the backgrounds are to be consistently different so as not to draw the attention of any witness(es) to a particular subject;

(b) be recorded in the same manner (e.g. through the window of a vehicle or premises); and

(c) copy peculiarities the witness described displayed by the offender (e.g. limp, stance).

Members of the Service are not to be used as participants in video line-ups unless the suspect is alleged to be a member.

Places readily identifiable as police establishments or courthouses are not to be used to conduct a video line-up unless an offence is alleged to be committed in such location.

The position of the suspect in a video line-up is at the discretion of the investigating officer.

Investigating officers creating a video for a video line-up are to record the following details of each person videotaped:

(i) the time, date, and place of videotaping;

(ii) where known, the name, date of birth and address;

(iii) whether the person has been videotaped as

(a) a suspect in a video line-up; or

(b) a participant in a video line-up;

(iv) where applicable, the offence(s) which the video line-up relate to; and

(v) when the suspect is being videotaped, whether the suspect has a friend, relative or lawyer present and contact details of that person.

OPM Issue 113 Public Edition

Video line-ups with consent of suspect

When a suspect agrees to voluntarily take part in a video line-up, the officer concerned is to ensure the suspect's consent has been lawfully obtained and recorded in accordance with all relevant PPRA cautions and safeguards. Accordingly, investigating officers are to:

(i) warn the suspect prior to the recording of the video for the video line-up that there is no obligation for them to take part, and record that warning where possible;

(ii) explain the procedure to be adopted during the recording of that suspect's video and how that video will be subsequently used for a video line-up. The officer is to be personally satisfied that the suspect understands the procedures; and

(iii) advise the suspect they may have a friend, relative or lawyer present during the recording of that suspect's video for the video line-up if the friend, relative or lawyer can attend within a reasonable time.

The suspect may refuse to take part in the recording of a video for a video line-up.

An officer may stop a person being present during the procedure if the officer reasonably believes the person may be a suspect or a witness in the matter under investigation or will disrupt the procedure. If the officer stops someone being present, they are to give the suspect the reasons for stopping the person being present, advise the suspect they may arrange for someone else to be present, and allow someone else to be present.

Covert video line-up

A covert video line-up is the compilation of a video line-up using covertly obtained video recordings of a suspect and video recordings of at least 11 other people.

A covert video line-up identification procedure may be used where an identification parade is not viable.

Witnesses viewing video line-ups

Officers showing a witness a video line-up are to:

(i) allow only one witness to see or hear the procedure at a time;

(ii) ask the witness to carefully view the line-up and to state whether the witness recognises anyone in the line-up, in a way that does not suggest the identity of any person in the line-up;

(iii) if the witness indicates they recognise a person in the line-up, ask the witness to clearly identify the person recognised by describing that person's position in the line-up;

(iv) obtain a written statement (or addendum to a statement) from a witness as soon as possible after that witness has viewed the line-up;

(v) after a witness has viewed the video line-up, as far as reasonably practicable, ensure the witness is prevented from speaking to any other witness until the procedure ends;

(vii) if reasonably practicable, ensure that a witness viewing a video line-up is recorded on video to record the way the witness identifies a person during the video line up, including, the witness's reactions and any comments made; and

(viii) allow a person to be present during the viewing to support the witness, unless the other person is a witness involved in the procedure or the officer reasonably believes the person will influence the witness' decision or disrupt the procedure. If an officer stops a support person being present during the procedure, the officer is to give to the witness the reasons for stopping the person being present and advise the witness they may arrange for someone else to be present to support them, and allow someone else to be present.

Retention and storage of video recordings relating to video line-ups

The original unedited video line-up(s) is to be retained by the forensic officer in accordance with Forensic Service Group procedures. Where the original video(s) is required for court production, the forensic officer may be required to produce it to the court.

An edited copy of a video line-up is to be provided to the investigating officer for witness viewing and court production. Where no proceedings are commenced, the video recording is to be held with the relevant investigation file.

Original unedited copies of videos taken during witnesses' viewing are to be retained by the investigating officer for court production.

All videos made for a video line-up are to be retained in accordance with the Records Retention and Disposal Handbook (available on the Service Intranet).

2.11.7 Photographic identification

ORDER

Officers are not to show a witness a single photograph to identify a suspect.

Where there is a witness to an offence, investigating officers are to, where practicable, conduct an identification parade (see s. 2.11.5: 'Identification parades' of this chapter). If:

(i) a suspect declines the opportunity to take part in an identification parade; or

(ii) it is not practicable to conduct an identification parade (e.g. covert operations, operational considerations, or rural locations),

investigating officers should consider video identification (see s. 2.11.6: 'Video line-ups' of this chapter) in preference to photographic identification. Officers are to be aware that admissibility of photographic identification and photo boards (also known as photo ID boards, photo line-ups or photo galleries) is at the discretion of the relevant court and is dependent upon the circumstances of the identification and the case, including the provisions of ss. 40 and 45 of the Responsibilities Code.

Investigating officers are responsible for the preparation of photo boards and for their security and presentation as exhibits in court. Investigating officers are to ensure all photo boards are retained with the investigation file, even if no offender is charged.

The witness is not to be prompted or directed in any way by the officer presenting the photo boards.

The system of compiling digital photographic line-up boards is available through QPRIME. Where a digital photographic line-up is created in QPRIME, the line-up board is to be saved on the relevant occurrence for later retrieval and retention in accordance with the Records Retention and Disposal Handbook (available on the Service Intranet).

Officers are to ensure suitable images are selected of people similar in appearance and that the images themselves are similar in size, colour, tone, and background if possible.

When there are several witnesses to an offence, a new digital photographic line-up board is to be created for each individual witness to view. The order or position of each individual photo, the suspect's photo in particular, is to be altered or 'shuffled' in QPRIME for each witness's digital photographic line-up board.

Any printed copies of digital photographic line-up boards are to be stored with the station copy of the relevant investigation file.

OPM Issue 113 Public Edition

Where a number of witnesses are required to view a digital photographic line-up board, and this type of identification process has commenced, witnesses should not be allowed contact with each other until all witnesses have completed the process.

Use of QPRIME and other images in photographic identification

Officers have access to digital photographic images in QPRIME and sources external to the Service to assist when preparing photographic line-ups for identification purposes.

Identifying particular (IDP) photographs are uploaded and stored on a person's Ident/fingerprint report in QPRIME. IDP images without a name board are to be marked 'Suitable for Line-up' (see QPRIME User Guide). When using IDP images in a photo line-up officers are to ensure compliance with s. 617: 'Identification of suspects' of the PPRA and Part 6: 'Identification procedures' of the Responsibilities Code.

'Watch-house description' (see s. 16.12 'Management of persons in watch-houses' of this manual) and 'street check' images in QPRIME may be used in a photo line-up. Before commencing a line-up using an image designated 'watch-house description' or 'street check' image, it is recommended advice is sought from the Forensic Imaging Section.

During investigations a person may volunteer to provide photographic identification. Volunteer images are classified as 'non-standard' (see QPRIME User Guide). Volunteer images are provided for use for a specific reason and are not to be made available for general use. To lock volunteer images in QPRIME from general use a QPRIME task is to be forwarded to the Forensic Imaging Section requesting an ACL be attached to the image. See 'Identifying particulars (IDP)' of the QPRIME User Guide.

Images from the Firearm Register (Weapons Licence) are not to be used in a photo line-up unless the requirements of s. 49(4) of the *Weapons Act* are met.

The Department of Transport and Main Roads (DTMR) takes and stores digital photographs of persons applying for a Queensland drivers' licence. Officers can access the images for transport and non-transport law enforcement purposes and are to only do so for a permitted purpose. Officers are to comply with s. 7.1.11 'Accessing digital photos from the Department of Transport and Main Roads' of the MSM.

Before images from social media or on-line platforms are used, officers are to ensure that the following conditions have been complied with:

(i) searches for images of the suspect and other candidates held within QPRIME have been exhausted; and

(ii) approval has been granted by the officers OIC;

(iii) the officer has authenticated the image is a true representation of the person;

(iv) the image of the person has not been altered (i.e. filters applied or aspect ratios changed);

(v) officers are to record any identification particulars from the social media page where the image was accessed (i.e. names and URL etc.);

(vi) for fairness, other suitable images for use in the photo line-up may also need to be sourced from social media. If so, the age of the person is to be authenticated and how and where the images were sourced are to be recorded; and

(vii) officers are to comply with the QPS Use of Social Media Policy.

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The collection, use and disclosure of images sourced from social media may be considered within the application of the law enforcement exception (s. 29: 'Special provision for law enforcement agencies' of the IPA) if the Service can be satisfied on a reasonable basis that the collection, use or disclosure is necessary for the performance of a law enforcement function. Details of persons used in the photo line-up (i.e. name, URL etc.) including their position within the line-up is to be recorded.

If a complainant or witness provides or makes any initial identification from an image on a social media or on-line platform, officers should not use the same social media image in any subsequent photo line-up.

2.11.8 Comfit identification (computer generated images)

Computer Facial Identification Techniques (Comfit) is a computer-based identification system that enables a qualified operator to create a likeness of a suspect from a description supplied by a complainant or witness. The completed image is saved as an attachment on the relevant QPRIME occurrence.

The system utilises a library of facial components including hair styles, noses, eyes, and mouths which are chosen by a witness according to their recollection. This library of facial features (Colour Comfit eBook) is available on the Comfit page of the Service Intranet, together with the Comfit Handbook which guides the user through the Comfit process. The selected facial components are assembled and manipulated by operators at Forensic Imaging Section into a facial likeness for:

(i) viewing by the witness for subsequent amendment at the direction of the witness if required; and

(ii) for adoption by the witness when a satisfactory likeness is achieved.

Officers are to use Comfit as an intelligence gathering tool and to aid witnesses in the generation of potential suspect or other person's likenesses whenever practical and suitable.

A finalised Comfit image used in internal Service publications such as intelligence bulletins or released to the media is to be identified as a facial likeness, to remove the perception that the composite face is an actual photograph of a person of interest. The suggested wording to be included with the Comfit image being released is: '*This is a computer-generated likeness, not a photograph'*.

2.12 Victims of crime

The Service plays a vital role in responding to and connecting victims of crime with relevant and appropriate support services. The Service response to victims is linked to legislative frameworks, most notably the Charter of victims' rights (the Victims' Charter) as contained in Schedule 1 of the *Victims' Commissioner and Sexual Violence Review Board Act*.

2.12.1 The Charter of Victims' Rights (The Victims' Charter)

As described in the *Victims' Commissioner and Sexual Violence Review Board Act* (VCSVRBA) the following terms are defined:

Affected victim

as defined in s. 38: 'Meaning of *affected victim* and *personal harm*'.

Personal harm

as defined in s. 38(6): 'Meaning of *affected victim* and *personal harm*'.

Relevant offence

means (as defined in s. 39: 'Meaning of *relevant offence*':

(i) an offence against the person of someone;

(ii) a domestic violence offence within the meaning of s. 1: 'Definitions' of the CC;

(iii) an offence against ss. 177(2): 'Contravention of domestic violence order', 178(2): 'Contravention of police protection notice' or 179(2): 'Contravention of release conditions' of the DFVPA;

(iv) an offence of attempting to commit, or conspiring to commit, an offence mentioned above in (i) to (iii).

As a general rule, *an offence against the person of someone* includes offences listed in Part 5: 'Offences against the person and relating to marriage and parental rights and duties' of the CC.

Examples of such offences include:

(i) dangerous operation of a motor vehicle causing death or grievous bodily harm;

(ii) unlawful stalking, intimidation or harassment or abuse;

(iii) observations or recordings in breach of privacy or

(iv) distributing prohibited visual recordings.

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The Victims' Charter

The Victims' Charter is established under Schedule 1 of the VCSVRBA.

The purpose of the Victims' Charter is to inform affected victims of the rights they can expect to be upheld by prescribed persons who interact with them.

Prescribed persons generally include most government and some government-funded agencies that work with victims.

All members are considered prescribed persons to whom the Victims' Charter applies.

ORDER

Members are to, as far as reasonably practicable and appropriate, observe the rights of affected victims as outlined in the Victims' Charter when dealing with a person they are aware is, or ought to reasonably be aware is, an affected victim.

See also 'General rights of affected victims under the Victims Charter' and 'Rights of affected victims relating to the criminal justice system under the Victims' Charter' of this section'.

General rights of affected victims under the Victims' Charter

As far as reasonably practicable, members are to:

(i) treat affected victims with courtesy, compassion, respect and dignity—taking into account particular vulnerabilities, disabilities or cultural needs (see 'Treating affected victims with courtesy, compassion, respect and dignity' of this section);

(ii) ensure an affected victim's personal information is not disclosed unless authorised by law (i.e. address and phone number);

(iii) provide information about services and remedies available to the victim at the earliest practicable opportunity (see 'Services available to an affected victim' and 'Remedies available to an affected victim' in this section).

Rights of affected victims relating to the criminal justice system under the Victims' Charter

As far as reasonably practicable, members are to:

(i) keep affected victims informed, by:

(a) providing updates about the progress of the crime investigation, unless doing so may jeopardise the investigation; and

(b) if informing the victim could jeopardise the investigation, the victim is to be informed accordingly;

(ii) communicate major decisions by informing the affected victim of each major decision regarding the prosecution of the accused, including:

(a) that charges were brought against the accused;

(b) that a decision to not to proceed with the charges has been made or if charges have been substantially amended; and

(c) the acceptance of a plea of guilty to a different charge;

(iii) provide key information to affected victims about:

(a) the name of the person charged with an offence related to the crime;

(b) the issuance of a warrant for the arrest an accused;

(c) relevant court processes, including:

- when the victim may attend a court proceeding; and
- the date and location of a hearing (including a bail hearing);

(d) any diversionary programs available to the accused; and

(e) the outcome of criminal proceedings, including the sentence imposed and the result of any appeals;

(iv) inform affected victims about bail applications, by:

(a) notifying the affected victim of the outcome of any bail application made by the accused; and

(b) providing details of any arrangements for the release of the accused, including special bail conditions that may affect the victim's safety or welfare;

(v) prepare victims who are witnesses—if an affected victim is a witness at the accused's trial, explain the trial process and the victim's role as a witness (see: 'Affected victim's role as a prosecution witness' in this section);

(vi) ensure protection during court proceedings by protecting the affected victim from unnecessary contact with, or violence or intimidation by:

(a) the accused;

(b) defence witnesses; and

(c) family members or supporters of the accused;

(vii) informing the affected victim about victim impact statements, by:

(a) advising an affected victim of their right to make a victim impact statement under the *Penalties and Sentences Act*; and

(b) explaining that this statement will be considered by the court during sentencing if the accused is found guilty; and

(viii) returning property belonging to an affected victim that was held for an investigation or as evidence as soon as possible.

Treating affected victims with courtesy, compassion, respect and dignity

Treating affected victims with courtesy, compassion, respect and dignity involves effectively communicating investigative updates and outcomes, including cases where no further action is being taken. This can be achieved through the following steps:

OPM Issue 113 Public Edition

(i) prepare before making contact:

(a) review the case to ensure updates are accurate; and

(b) use the victim's preferred contact method to initiate contact;

(ii) start with validation:

(a) acknowledge the affected victim's experiences; and

(b) emphasise the importance of their complaint;

(iii) clearly state the update:

(a) provide investigative updates and outcomes as appropriate;

(b) explain the reasons for any actions taken in plain language; and

(c) avoid using police jargon to ensure clarity;

(iv) offer further support:

(a) offer additional support, even if a referral was previously offered and declined; and

(b) reassure the victim that their welfare and wellbeing are a priority;

(v) keep the door open:

(a) encourage the victim to report any new information;

(b) ensure the victim has the investigator's contact information;

(c) respond promptly to any requests for contact; and

(d) record the nature and outcome of all victim contact in the QPRIME Occurrence Inquiry Log (OEL).

Services available to an affected victim

An affected victim is to be advised of services available to them, which may include:

(i) counselling and emotional support—the following services provide counselling and emotional support:

(a) Lifeline **13 11 14**—Crisis support and suicide prevention services;

(b) Victim Connect **1300 318 940**—Support for emotional and psychological impacts of experiencing or witnessing a violent crime;

(c) DV Connect **1800 811 811**—Specialised support for victims of domestic and family violence;

(d) Kids Helpline **1800 55 1800**—Counselling for children and young people;

(e) Beyond Blue **1300 22 4636**—Support for mental health and emotional wellbeing;

(f) 13 Yarn **13 92 76**—Crisis support specifically for Aboriginal or Torres Strait Islander people;

(g) Queensland Homicide Victims Support Group **1800 774 744**—Support for family members affected by homicide.

Crime scene clean-up for suspected homicides is managed by QHVSG. Officers are to email the completed 'QHVSG – Victims of Homicide Notification Form' to QHVSG as detailed in subsection 'OIC CIB or CPIU responsibilities' of s. 2.6.2: 'Homicide' of this chapter. QHVSG will liaise with a crime scene clean-up provider on behalf of a victim's family or the owner or tenant of the place where the crime scene clean-up is required. QHVSG will arrange for payment to the provider on behalf of:

- Victim Assist Queensland (VAQ) where the crime scene contains biological material; or
- the region where the homicide occurred where the crime scene does not contain biological material but is required to be cleaned as a result of police processes, such as fingerprinting or other forensic testing.

Where crime scene clean-up is required due only to police processes, a 'claim of payment' will occur between the region and the QHVSG.

Where crime scene clean-up is required due to a combination of biological material and police processes, a 'claim of payment' will occur between VAQ and the QHVSG.

Officers are to liaise with QHVSG to advise when the crime scene clean-up can begin.

Crime scene clean-up at non-homicide crime scenes is usually the responsibility of the property owners or tenants. Financial assistance may be available to victims if the crime scene is the result of a violent crime. Officers should refer such victims to VAQ through a Police Referral (see s. 6.3.14 of this Manual);

OPM Issue 113 Public Edition

(h) Sexual Assault Helpline Queensland **1800 010 120**—Support for victims of sexual assault or abuse; and

(i) Other local agencies;

(ii) practical support:

(a) security upgrades or relocation;

(b) compensation for lost wages (see: 'Remedies available to an affected victim' in this section); and

(c) replacement of damaged effects (see: 'Remedies available to an affected victim' of this section).

(iii) legal and advocacy support:

(a) court support officers available throughout Queensland to assist victims during court proceedings; and

(b) assistance with preparing and submitting victim impact statements; and

(iv) victims' registers:

(a) Eligible Persons Register—allows eligible victims of violent or sexual offences to receive detention information about the offender, such as their release date or parole conditions; and

(b) The Victims Register – Youth Offender—allows eligible victims of violent or sexual offences committed by a youth offender to receive detention information about the offender, such as their release date.

Members are to provide information about relevant support options to an affected victim as soon as practicable and appropriate.

Police Referrals should be offered in accordance with s. 6.3.14 'Police Referrals' of this Manual.

If an affected victim does not consent to a referral, members should:

(i) provide information about relevant support services to enable the victim to seek assistance independently; and

(ii) refer the victim to online resources, such as:

(a) Queensland Police Service, Support for Victims of Crime; and

(b) Victim Assist Queensland.

Remedies available to an affected victim

Affected victims may be eligible for compensation or restitution, to help with the recovery from injury, loss or damage caused by crime. Members should provide the following advice where relevant:

(i) Victim Assist Queensland (VAQ)—victims of violent crime may apply to VAQ for financial assistance, for a range of expenses including:

(a) medical cost;

(b) lost wages; and

(c) general compensation.

VAQ may also cover:

(a) exceptional expenses following a homicide, including a range of specialised recovery costs;

(b) costs associated with crime-scene clean up, in the homeowner or insurance company does not cover it; and

(c) costs related to eligible motor vehicle offences (e.g., dangerous driving causing death or grievous bodily harm only).

Note: a compulsory third-party (CTP) insurance claim must be lodged before VAQ can assess the application, and interim payments for funeral and counselling expenses may be provided before the finalisation of a CTP claim;

(ii) CTP insurance—victims of motor vehicle-related offences may lodge a claim against CTP insurance to recover costs incurred as a result of the offence;

(iii) WorkCover—for offences committed in the workplace, victims may be eligible to lodge a WorkCover claim to recover costs associated with workplace injuries; and

(iv) home and contents insurance—a homeowner or tenant may be able to claim compensation for damaged or stolen belongings and for crime scene clean-up costs through their home and contents insurance.

To ensure affected victims receive financial and practical assistance, members should offer a Police Referral for the 'Victim Assist – Information and Financial Assistance for Violent Crimes' category. This referral connects the affected victim with VAQ.

OPM Issue 113 Public Edition

When seeking consent for this referral category, officers should ask the victim whether they prefer to receive:

(i) an information pack (an automated email response); or

(ii) phone contact from VAQ.

The victim's preference is to be recorded in the mandatory data entry field for the referral.

Affected victim's role as a prosecution witness

When informing an affected victim about the trial process and their role as a prosecution witness, officers should provide:

(i) the requirement not to discuss proceedings with other witnesses;

(ii) the standard of proof required in different courts;

(iii) the type of evidence required such as:

(a) hand-up statement under the provisions of s. 110A: 'Use of tendered statements in lieu of oral testimony in committal proceedings' of the *Justices Act*; or

(b) evidence in full;

(iv) the differences between evidence-in-chief, cross-examination and re-examination of a witness; and

(v) courtroom etiquette.

For sexual offence matters, investigating officers should where possible, liaise with the allocated prosecutor (or officer in charge of the relevant prosecutions corps) to:

(i) introduce the affected victim to the prosecutor;

(ii) provide the affected victim with an opportunity to become familiar with the courtroom layout before the trial begins;

(iii) allow the affected victim to observe a trial in progress; and

(iv) advise affected victims of sexual assault of their automatic recognition as a special witness and the protections available to them during the court process.

Explain relevant legislation, including:

(a) s. 21A: 'Evidence of special witnesses' and

(b) Part 2, Division 6: 'Cross-examination of protected witnesses',

of the *Evidence Act*.

These provisions may help affected victims become familiar with the trial process and their role as prosecution witnesses.

Members are to also refer to ss. 3.10.6: 'Special witnesses' and 7.13: 'Preparation of child witnesses for court' of this Manual; and

(v) inform affected victims that court support officers are available throughout Queensland. If an affected victim requests court support, a Police Referral is to be submitted.

Plain language resources to assist victims in preparing for court are available on the Queensland Courts website: Queensland Courts—Witness Information.

Recording contact with victims

During the initial reporting process, investigating officers are to ask a victim of crime how they would like to be contacted (e.g. phone, email) and how often they wish to receive updates. This information, including preference for family representatives, are to be recorded in the relevant Occurrence Enquiry Log.

ORDER

All contact with a victim of crime, including affected victims, is to follow their preferred method of contact. Each interaction is to be documented in the Occurrence Enquiry Log, clearly outlining the nature of the contact and its outcome.

The Victims' Commissioner

The Victims' Commissioner is established under the VCSVRBA as an independent authority tasked with promoting and protecting victims' rights.

The Victims' Commissioner key functions include:

(i) identifying and reviewing systemic issues relating to victims;

(ii) promoting the Victims' Charter and rights of victims;

(iii) advocating on behalf of victims; and

OPM Issue 113 Public Edition

(iv) addressing complaints about alleged contraventions of victims' rights under the Victims' Charter (referred to as the complaints function).

While most of the Commissioner's functions apply to all victims of crime, the complaint's function is limited to complaints involving contraventions of the Victims' Charter by prescribed persons.

Complaints for contraventions of the Victims' Charter

An affected victim who believes a prescribed person has contravened the Victims' Charter, may lodge a complaint with either the Service or to the Victims' Commissioner (see s. 45 'Who may make a complaint' of the VCSVRBA).

A member who receives a complaint about a contravention of the Victims' Charter are to follow the 'Complaint Resolution Guidelines' outlined in the ESC policies. Members must also provide the complainant with information about the process that will be used to resolve the complaint.

When a complaint is lodged with the Victims' Commissioner, they may ask for relevant information from the Service to assist in dealing with the complaint. This may include QPRIME records, emails, notebook entries and body-worn camera footage.

The Service must comply with such requests unless there is a reasonable excuse for non-compliance (see s. 51: 'Requesting information from relevant entities' of the VCSVRBA).

After reviewing the information, the Victims' Commissioner will decide whether to deal with the complaint and may make recommendations to the Service on how it should be resolved. In some cases, complaints made to the Victims' Commissioner may also be referred to ESC for internal review.

Members are reminded of the importance of maintaining regular contact with affected victims in line with the Victims' Charter. Recording all victim contact in the OEL supports responses to the Victims' Commissioner.

Closing the loop for all victims of crime

Closing the loop refers to keeping victims of crime informed about the progress of police investigations. Closing the loop is strongly associated with improved perceptions of the Service and is a key driver of community satisfaction with policing outcomes.

Whilst the Victims' Charter applies to affected victims, investigating officers are encouraged to follow its principles when interacting with all victims of crime, including victims of non-violent property crime.

Wherever possible, investigating officers should maintain regular communication with victims to provide updates on their case, including changes in an offender's status (e.g. bail has been granted, or the alleged offender has failed to appear at court, and an arrest warrant has been issued). Officers are to ensure they close the loop by clearly communicating the outcomes of the investigation.

Eligible persons register (Queensland Corrective Services Victims Register)

Sections 320: 'Eligible persons register' and 325: 'Releasing information' of the *Corrective Services Act* and ss. 282A: 'Eligible persons register' and 282G: 'Releasing information' of the YJA provide that the Chief Executive of Queensland Corrective Services (QCS) must establish a register of persons who are eligible to receive information about a prisoner who has been sentenced to a period of imprisonment for an offence of violence or a sexual offence. The following persons may apply in the approved form to be registered as eligible persons:

(i) the actual victim of the offence;

(ii) if the victim is deceased, an immediate family member of the deceased victim, when the offender is an adult;

(iii) if the victim is deceased because of the offence, an immediate family member of the deceased victim if the offender is a child;

(iv) if the victim is under 18 years or has a legal incapacity, the victim's parent or guardian; when the offender is an adult;

(v) if the victim is a child or has a legal incapacity, the victim's parent when the offender is a child; and

(vi) another person who:

(a) gives the Chief Executive documentary evidence, to the Chief Executive's satisfaction, of the prisoner's or detainee's history of violence against the person; or

(b) satisfies the Chief Executive that the person's life or physical safety could reasonably be expected to be endangered because of a connection between the person and the offence.

The establishment of and access to a register of eligible persons is consistent with the Charter as outlined in Schedule 1 of the VCSVRBA.

Where appropriate, officers should provide eligible persons with information regarding application to the Chief Executive, QCS for registration on the eligible person's register using Form 49: 'Application to Register with the Queensland Corrective Services Victims Register', which is available on the Queensland Publications portal.

OPM Issue 113 Public Edition

2.12.2 Victim Support Service (Office of the Director of Public Prosecutions (State))

The Victim Support Service within the Office of the Director of Public Prosecutions (State) provides information and referral to victims of crime throughout the prosecution process for matters which the Office of the Director of Public Prosecutions is handling, including committals prosecuted by the Office of the Director of Public Prosecutions. To assist the Office of the Director of Public Prosecutions meet its obligations under the *Victims of Crime Assistance Act* it is important accurate contact details regarding victims of crime are forwarded to the Office of the Director of Public Prosecutions by members of the Service.

The Victim Support Service has staff located in the Brisbane, Townsville, Maroochydore, Southport, Cairns, Rockhampton and Ipswich Office of the Director of Public Prosecutions offices. In all other offices, Office of the Director of Public Prosecutions staff liaise with victims (see SMCD).

POLICY

When Office of the Director of Public Prosecutions takes responsibility for prosecuting a case, the investigating officer is to complete and forward a QP 0323: 'List/Non-Availability of Witnesses (Including Police Officers)', including the relevant contact details of the victim of crime, to the relevant Office of the Director of Public Prosecutions office as soon as possible. Changes in these details are to be forwarded to the relevant Office of the Director of Public Prosecutions office when they are made known to investigating officers.

Where a bail application pursuant to s. 13: 'When only particular courts may grant bail', or review of a bail decision, or s. 19C: 'Review by Supreme Court of magistrate's decision on a review' of the *Bail Act* is being made investigating officers are to pass details of victims of crime, including telephone numbers and changes of address, to the Office of the Director of Public Prosecutions office handling the bail application as soon as possible.

2.12.3 Victim Assist Queensland

Victim Assist Queensland, the Department of Justice provides information to victims of crime and is staffed during regular business hours.

Staff from Victim Assist Queensland can assist victims by:

(i) providing general advice to victims;

(ii) providing information regarding referral agencies which may assist victims;

(iii) assisting victims with the initial application for financial assistance under the *Victims of Crime Assistance Act*;

(iv) providing advice of the status of submitted applications for financial assistance; and

(v) providing assistance to victims who are completing a victim impact statement for production in court.

PROCEDURE

Where an officer believes a victim requires the assistance of Victim Assist Queensland, a Police Referral is to be submitted (see s. 6.3.14: 'Police Referrals' of this Manual).

OPM Issue 113 Public Edition

2.12.4 Disease test orders (blood and urine testing)

Definition

For the purpose of this section:

Victim

includes:

(i) the victim of the relevant offence subject of an application for a disease test order; and

(ii) a person other than the victim if semen, blood, saliva or another bodily fluid may have been transmitted to the person during or soon after the commission of the relevant offence.

When an officer arrests a person for a chapter 18 offence (a **relevant person**), the officer is to apply to a Magistrate Court or Childrens Court (as applicable) for a disease test order (DTO).

See s. 538: 'Application of ch 18' of the PPRA and Schedule 9: 'Relevant diseases' of the PPRR.

ORDER

Where an officer intends to apply for a DTO, the officer is to ensure the:

(i) application is made as soon as reasonably practicable following arrest; and

(ii) a relevant person is held in custody for the application to be heard and determined.

A prescribed police officer (PPO) is not to release a relevant person from custody before an application for a DTO is heard and determined, unless the PPO is satisfied the provisions of s. 538 of the PPRA do not apply in the circumstances.

When a relevant person is arrested outside of court hours, officers are to comply with local protocols to arrange for the application to be made as soon as reasonably practicable.

Where a DTO is made, the relevant person is to be held in custody for the time reasonably necessary for blood and urine samples to be taken.

Application for disease test order

The applicant officer is to:

(i) complete Part A of the QP 0728: 'Application for a disease test order', including the offence alleged to have been committed, the relevant person's and victim's details. Multiple victims may be included in one application relating to the same relevant person;

(ii) give a copy of the completed QP 0728 to the relevant person;

(iii) where the relevant person is a child, a copy of the completed QP 0728 is also to be given to:

(a) a parent of the child, unless a parent cannot be found after reasonable inquiry; and

(b) the Chief Executive (Department of Youth Justice and Victim Support) or a person, nominated by that chief executive for that purpose, who holds an office within the department for which that chief executive has responsibility;

(iv) inform the relevant person, whether adult or child, of their right to have a lawyer present at the hearing of the application;

(v) complete Part B of the QP 0728;

(vi) complete a QP 0729: 'Disease test order' as far as practicable (see also 'Police as victims' of this section);

(vii) attend a Magistrates Court or Childrens Court and submit the QP 0728 and QP 0729 and provide all information about the application within the officer's knowledge as may be required by the magistrate. If the application is made outside of court hours, or where a local magistrate is unavailable, the applicant officer is to contact the on-call magistrate in accordance with local protocols and make the application electronically (see 'Use of Police Powers and Responsibilities Act to obtain warrants, orders etc., by telephone or similar facility' of s. 2.1.1: 'Use of Police Powers and Responsibilities Act' of this chapter).

Disease test order

A disease test order authorises an officer to ask a doctor or a prescribed nurse to take a blood sample and a urine sample from the relevant person named in the order.

Upon the issue of a QP 0729 the applicant officer or another officer who is assisting:

(i) is to obtain from the relevant person and victim/s, the contact details of the person's usual treating doctor. If the person does not have a doctor, or will not provide their doctor's details, officers are to make relevant inquiries to identify a doctor the person could visit to obtain the test results (i.e. at a medical centre close to where the person lives);

(ii) is to complete two copies of Part A of a QP 0447: 'Disease test order specimen collection advice'. Where there is more than one victim recorded on the QP 0728, two additional copies of QP 0447 are to be completed for each of the nominated victims;

(iii) is to provide the relevant person and victim/s the relevant disease test order information sheet (attached to the QP 0729–QP 0447 form set). The officer accompanying the relevant person for the sample collection is to use the 'Disease test order—information for applicant officer' (attached to the QP 0728) to assist with the collection process;

(iv) is to hold the relevant person in custody for the time reasonably necessary to enable a sample of the person's blood and urine to be taken; and

(v) is to take the relevant person to an appropriate Queensland Health facility for sample collection and request a doctor or nurse to take a blood and urine sample from the person, and provide:

(a) a copy of the signed QP 0729 for inspection by the doctor or nurse;

(b) basic information of the offence to ensure relevant tests are undertaken; and

(c) the two copies (or multiples) of the QP 0447 to the doctor or nurse taking the samples.

Taking the blood and urine samples

Pursuant to s. 545: 'Taking blood and urine samples' of the PPRA, doctors and prescribed nurses are authorised to take blood and urine samples from a relevant person, using such assistance and force necessary to comply with the request.

The doctor or nurse is to:

(i) take the necessary sample(s) and appropriately package each specimen in accordance with their protocols;

OPM Issue 113 Public Edition

(ii) complete:

(a) a Pathology Request Form; and

(b) Part B of the QP 0447; and

(iii) send the sample(s) and QP 0447 to a Pathology Queensland (PQ) unit for testing.

The PQ member receiving the sample(s) will complete Part C of the QP 0447.

Pathology Queensland will analyse the sample/s and advise the doctors identified in the QP 0447 of the results, generally within forty-eight hours of receipt.

Disclosure of information

ORDER

Section 547: 'Restriction on disclosure of results of analysis' of the PPRA creates offences relating to the disclosure of the analysis results to persons other than those stated therein. Members to whom any such information is disclosed are not to divulge same in contravention of the Act.

The person receiving the results need not be listed as a victim of the offence on the disease test order.

Admissibility of evidence

ORDER

In accordance with s. 548: 'Certain evidence inadmissible' of the PPRA, the application for a disease test order or the analysis results are not admissible in evidence and are not to be included in any brief of evidence.

Appeals

Pursuant to s. 544: 'Appeal against disease test order' of the PPRA a relevant person may appeal against a disease test order to the district court. An appeal does not prevent the blood and urine sampling under the disease test order, unless the court otherwise orders.

Members served with a Notice of Appeal relating to a disease test order or who become aware of an appeal being lodged at a district court under the provisions of s. 544 of the PPRA, are to immediately advise the applicant officer of the appeal application.

The applicant officer is to obtain particulars dealing with the appeal, including any associated stay of disease test order, and the hearing date and time of the appeal, and are to immediately contact QPS Legal Services, Office of the General Counsel (OGC) who will arrange appropriate legal representation for the hearing of the appeal.

QPRIME custody and search reports

ORDER

Officers are to ensure the custody, transport, sampling and search activities are recorded in the relevant QPRIME occurrence (see s. 16.8.4: 'Maintaining QPRIME custody and search reports' of this Manual).

Copies of the QP 0728 and QP 0729 are to be uploaded into the relevant QPRIME occurrence.

The analysis results are not to be attached to the relevant QPRIME occurrence (see s. 547 of the PPRA).

Police as victims

In cases where the provisions of Chapter 18 of the PPRA apply and the victim is an officer in the performance of the their duties, a disease test order application is to be made by an officer other than the victim. Further information on what action to take is available on the Blood and Body Fluid Exposure SharePoint site.

There are three (3) forms available on Forms Select relevant to a disease test order re: QP 0728 (application to a court), QP 0729 (order by a court) and QP 0447 (advice to take a specimen), including the following three information sheets contained in the forms:

(i) Disease Test Order—Information for Relevant Person;

(ii) Disease Test Order—Information for Victim – Member of the Public; and

(iii) Disease Test Order—Information for Victim – QPS Member.

2.12.5 Non-contact orders

If a court convicts an offender of a personal offence (an indictable offence committed against the person of someone) the court may make a non-contact order to prevent the offender from contacting or approaching the victim and an associate for a period of time (see Part 3A: 'Non-contact Orders' of the *Penalties and Sentences Act* (PSA)).

An offender who contravenes a non-contact order commits an offence (see s. 43F(1): 'Contravention of non-contact order' of the PSA).

OPM Issue 113 Public Edition

Application for non-contact order

When investigating a personal offence, officers are to consider the provisions of s. 43C(3): 'Requirements of non-contact order' of the PSA, and whether a non-contact order is necessary to ensure the safety and wellbeing of the victim or an associate.

When a non-contact order is considered necessary, the investigating officer (IO) is to:

(i) request the prosecutor seek a non-contact order by stating so under the title 'non-contact order sought' in:

(a) the summary of facts of the court brief (QP9); and

(b) the notes to the prosecutor of a full brief of evidence; and

(ii) prepare a draft Form 64: 'Non-contact order', including all conditions sought for consideration by the court. The completed draft order is to be attached to the court brief (QP9) or full brief of evidence for presentation to the court by the prosecutor.

Service of order

Where a new, amended or revoked non-contact order is issued by a court, the police prosecutor is to obtain copies of the order and provide them to a relevant person, which is:

(i) for a new order, the victim or associate as applicable;

(ii) for an amended or revoked order, a victim, associate or offender who was not the applicant,

where they are present in court.

Where it is not practicable for a prosecutor to give a copy of the order to the relevant person, the prosecutor is to forward a copy of the order to the IO, who will provide it to the relevant person.

Upon receipt of an order the IO is to ensure that a copy is given to the relevant person as soon as practicable.

Entering orders in QPRIME

Upon receipt of a new, amended or revoked non-contact order, the Manager, Police Information Centre is to ensure that:

(i) the expiry date of the order is established;

(ii) QPRIME is checked for any existing records for the person against whom the order is made (subject person);

(iii) particulars of the order are immediately entered as a flag against the person; and

(iv) the order is scanned into the relevant QPRIME occurrence as an attachment.

Application to amend or revoke an order

A court may amend or revoke an order only if satisfied there has been a material change in the circumstances of the offender, the victim or any associate named in the order that justifies the amendment or revocation.

Officers who receive inquiries relating to amendment or revocation of a non-contact order, are to consider whether there are sufficient grounds for police to apply for the revocation or amendment of the order. Sufficient grounds may include circumstances where the victim or associate would be placed in danger if the non-contact order was not amended. Where sufficient grounds do not exist, or the inquirer is the offender, officers are to:

(i) refer the inquirer to the relevant court for the making of such application in the first instance; and

(ii) where appropriate assist a victim or associate to make an application.

Any member who receives a Form 65: 'Application to amend/revoke a non-contact order' from an offender, victim or associate or prosecutor is to give the form to their OIC immediately.

Upon receipt of a completed Form 65, the OIC of the station is to:

(i) forward a copy of the application to:

(a) where the prosecutor who appeared before the court making the non-contact order was an officer, the police prosecution corps (PPC) in the area where the application is to be heard; or

(b) where the prosecutor who appeared before the court making the non-contact order was a Crown prosecutor, the Office of the Director of Public Prosecutions (ODPP) in the area where the application is to be heard.

(ii) ensure a copy of the application is given to the relevant parties (persons other than the applicant) as soon as practicable;

(iii) forward to the relevant court, copies of the served applications and relevant affidavits of services; and

OPM Issue 113 Public Edition

(iv) enter details of the application in QPRIME, adding a flag against the person. The details should include the date the application was made, hearing date, court, purpose of application including details of any amendments or revocation sought.

Officers giving copies of an application to amend/revoke a non-contact order to the offender, victim or any associate named in the application are to prepare an appropriate affidavit of service.

Police prosecutors

Where a copy of an application to amend/revoke a non-contact order is received, by the OIC of a PPC, they are to consider whether the Service is to be heard in the application and if so they are to allocate a police prosecutor to represent the Service at the hearing of the application.

Investigating officers responsible for the original matter are to provide all assistance necessary to prosecutors involved in hearings of applications for amendment or revocation where requested.

Applications for revocation or amendments of non-contact orders by police

Where sufficient reasons exist for officers to apply for the revocation or amendment of a non-contact order, the officer is to submit a report to their OIC seeking consideration of the application.

When considering the necessity of revocation or amendment to a non-contact order, officers are to consider whether there has been a material change in the circumstances of the offender, victim or any associate named in the order that justifies the amendment or revocation.

The OIC is to submit the report with a recommendation to a commissioned officer for consideration. The commissioned officer is to consult with the OIC of the relevant PPC or ODPP when determining whether to approve the making of the application.

Where the commissioned officer approves the application and the original prosecutor was a police prosecutor, the commissioned officer is to return the report to the OIC of the station where the report originated.

The OIC is to:

(i) ensure a Form 65 (see Queensland Court's Forms site) is completed by the initiating officer;

(ii) ensure a hearing date allowing at least 21 days for service upon the offender, victim and/or associate is obtained;

(iii) make an entry reflecting the details of the application in QPRIME;

(iv) forward a copy of the application to the relevant OIC, PPC; and

(v) ensure a copy of the application is given the relevant parties at least 21 days before the day on which the application is to be heard.

Where the commissioned officer approves the application and the original prosecutor was a Crown prosecutor, the report with a recommendation is to be forward to the relevant ODPP.

OPM Issue 113 Public Edition

2.12.6 Continuing detention and supervision orders

Section 5: 'Attorney-General may apply for orders' of the *Dangerous Prisoners (Sexual Offenders) Act* provides that where a prisoner:

(i) is in custody and is serving a period of imprisonment for a serious sexual offence; or

(ii) is serving a period of imprisonment that includes a term of imprisonment for a serious sexual offence,

during the last six months of the prisoner's period of imprisonment, the Attorney-General may apply to the Supreme Court or relevant appeal court for an order or orders under the *Dangerous Prisoners (Sexual Offenders) Act* in respect of that prisoner.

If on the hearing of an application the court or relevant appeal court is then satisfied that a prisoner is a 'serious danger to the community', the court or relevant appeal court may order that:

(i) the prisoner be detained in custody for an indefinite term for control, care or treatment, this is a continuing detention order; or

(ii) the prisoner be released from custody subject to certain requirements stated in the order, this is a supervision order;

See s. 2.12.7: 'Electronic monitoring of Dangerous Prisoners (Sexual Offenders)' of this chapter.

Supervision orders or interim supervision orders (action by Child Protection Offender Registry)

The Registrar, Child Protection Offender Registry, Crime Command will receive notification from:

(i) a court or a relevant appeal court, when the relevant court makes a supervision order or an interim supervision order, or alters or revokes an existing supervision order under the *Dangerous Prisoners (Sexual Offenders) Act*; or

(ii) Queensland Corrective Services when a released prisoner is the subject of a supervision order or interim supervision order, including details of the corrective services officer who the prisoner is to report.

On receipt of a copy of a supervision order or an interim supervision order, the Registrar, Child Protection Offender Registry, is to ensure that:

(i) particulars of the order are immediately:

(a) flagged in QPRIME against the person named in the order;

(b) recorded in the Australian National Child Offender Registry (ANCOR) where the person is also a reportable offender; and

(ii) a copy of the supervision order or interim supervision order is stored at the Child Protection Offender Registry.

See also s. 7.15: 'Child Protection (Offender Reporting and Offender Prohibition Order) Act' of this Manual.

Contravention of supervision orders or interim supervision orders

If a police officer or corrective services officer reasonably suspects that a released prisoner, who is the subject of a supervision order or interim supervision order, is likely to contravene, is contravening or has contravened a requirement of the order, pursuant to s. 20: 'Warrant for released prisoner suspected of contravening a supervision order or interim supervision order' of the *Dangerous Prisoners (Sexual Offenders) Act*, the officer may, by a complaint to a magistrate, apply for a warrant for the arrest of the released prisoner to bring the released prisoner before the Supreme Court. If a magistrate issues a warrant under this section, the Commissioner must give a copy of the warrant to the Attorney General within 24 hours after the warrant is issued.

See also ss. 3.4: 'General prosecution policy' and 3.5: 'Institution of proceedings' of this Manual.

2.12.7 Electronic monitoring of dangerous prisoners (sexual offenders)

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

2.12.8 Electronic monitoring of prisoners on parole

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

2.12.9 Victims' Register—Youth Offenders

Definitions

For the purposes of this section:

Sexual offence

means an offence defined in Schedule 4 of the *Corrective Services Act*.

Violent offence

means an offence in which a victim suffers actual or threatened violence.

Eligible person

means a victim of the offence or, if the victim is deceased, an immediate family member of the deceased victim.

Relevant information for a person

means:

(i) the name and contact details of the person; and

(ii) the person's consent to be registered as an eligible person.

The Victims' Register—Youth Offenders (VRYO) established under Part 8, Division 7: 'Releasing information to eligible persons' of the YJA, obligates the Department of Youth Justice and Victim Support (DYJVS) to keep a register of persons eligible to receive information (detainee information) about a young person serving a period of detention in a detention centre for a violent or sexual offence. The establishment of the register of eligible persons is in accordance with victim rights outlined in Schedule 1 of the *Victims' Commissioner and Sexual Violence Review Board Act*.

From 28 July 2025, amendments to ss. 282A: 'Eligible persons register' and 282B: 'Requirement for non-release declaration' of the YJA improved the registration process by dispensing of the need for victims or immediate family members of a deceased victim to make an application to be registered. Under the new scheme eligible victims will be

OPM Issue 113 Public Edition

automatically registered following receipt of relevant information from the Commissioner or the Office of the Director of Public Prosecutions (ODPP). Relevant information will only be shared with VRYO with the eligible person's consent.

Providing relevant information for registration on behalf of eligible persons

The Victim Support Service, attached to ODPP, will contact eligible persons and share relevant information directly with the VRYO for matters in which the ODPP is involved (i.e. higher court matters).

The Service's responsibility to provide relevant information to the VRYO on behalf of eligible persons, applies to Magistrates Court matters only for where a young person is sentenced to detention in a detention facility for a sexual or violent offence. In these cases, after contact by Information Victim Register (IVR), the investigating officer should:

(i) contact eligible persons to explain the VRYO, which may include the giving of the Victims' Register—Youth Offender Factsheet (available on the Queensland Government Publications Portal);

(ii) seek the eligible persons consent to be registered. Consent may be given verbally or in writing and is to be recorded on the Victims' Register—Youth Offenders application form (available on the Queensland Government Publications Portal);

(iii) complete the details of the person to be registered and the young person sentenced to detention on the Victims' Register—Youth Offenders application form;

(iv) send the completed application form to victimsregister@youthjustice.qld.gov.au; and

(v) upload a copy of the completed application form to the relevant occurrence (i.e. the occurrence to which the sentence of detention applies) as a record of the information disclosure.

See also s. 2.12.2: 'Victim Support Service (Office of the Director of Public Prosecutions (State))' of this chapter.

Matters to be explained to an eligible person when seeking consent to be registered on Information for Victims Register

The following information should be explained to eligible persons when seeking the person's consent to be registered on the Information for Victims Register (IVR):

(i) the person has been identified as a person eligible to be registered on the IVR to receive certain information about a young person detained in a detention centre;

(ii) the Department of Youth Justice and Victim Support (DYJVS) manage the register of eligible persons;

(iii) to be considered for registration, consent is required from the eligible person;

(iv) where consent is given, the:

(a) eligible person's details (name and contact details) will be supplied to DYJVS; and

(b) DYJVS will contact the person to confirm their eligibility and consent;

(v) personal information will be stored securely and will not be disclosed to any third parties, unless authorised or required by law; and

(vi) inquiries may be directed to victimsregister@youthjustice.qld.gov.au or by phone on 13 74 68.

Officers receiving requests from Information for Victims Register to contact eligible persons

In some instances, a young person may be sentenced to detention following a breach of Supervised Release Order or a breach of a Conditional Release Order originally imposed for a sexual or violent offence. This sentence of detention may enliven the eligibility of relevant persons to be registered on the VRYO.

In cases where eligibility is enlivened upon re-sentence, DYJVS will initiate a request for the investigator to contact eligible persons in accordance with subsection 'Providing relevant information for registration on behalf of eligible persons' of this section.

2.13 Statements

This section outlines the method of obtaining a statement from a witness or victim. Officers are to refer to Chapter 3: 'Prosecution Process' of this Manual relating to the obligation of officers in respect to compiling briefs of evidence, and also s. 7.6.5: 'Recording of evidence of a child witness' of this Manual.

2.13.1 Introduction

ORDER

Officers interviewing adult witnesses who are willing to provide a written statement are not to use electronic recorded statements as a substitute for a written witness statement (see s. 2.13.2: 'Information to be included in a statement' of this section) unless utilising the provisions of:

(i) s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind'; or

OPM Issue 113 Public Edition

(ii) Part 6A: 'Evidence related to domestic relationships and domestic violence' (see s. 9.3.17: 'Recorded statements' of this Manual),

of the EA or other statutory provision.

Statements form a written version of the oral testimony of a witness and should be obtained at the earliest practicable opportunity from victims or witnesses. A statement should contain all relevant evidence and be as comprehensive as possible. There is no obligation on a member of the public to supply a statement. In all cases a copy of the statement is to be provided to the person making the statement. In appropriate situations statements are to be obtained and should be accepted from suspects or offenders.

The electronic recording of a witness's statements should only be used as a tool to help free recall of an event when taking a written statement and cannot be solely relied upon as evidence in chief in a court proceeding unless the statement was taken in compliance with Part 6A of the EA. In some cases, an electronic recording of a witness's statements may be admissible as a prior inconsistent statement if the witness proves hostile in court (see ss. 17: 'How far a party may discredit the party's own witness', 101: 'Witness's previous statement, if proved, to be evidence of facts stated' of the *Evidence Act* (EA) and Criminal Law Bulletin No. 291.3: 'Body Worn Video').

Electronically recorded statements of a witness may be subject to disclosure by the prosecution and should be included in a brief of evidence. Officers are to consult ss. 3.14: 'Disclosure of information to defence (relevant proceeding)', 3.8: 'Preparation and submission of briefs of evidence', 3.14.9: 'Disclosure of Evidence Act section 93A device statement or recorded statement in a relevant proceeding' and 3.14.10: 'Viewing of evidence in relation to a relevant proceeding' of this Manual).

Witness statement preparation considerations

When preparing a statement, officers should consider the various aspects surrounding the types of evidence and persons mentioned in this section (see Chapter 3: 'Prosecution Process' of this Manual).

Prior to obtaining a statement from a victim or a witness, officers should:

(i) gather and record known facts relevant to the incident;

(ii) identify elements to be proved regarding offences committed;

(iii) identify the best appropriate venue;

(iv) introduce themselves to the victims or witnesses; and

(v) clearly state the purpose of the statement.

Where a crime against the person has been committed, the victim may wish to prepare a victim impact statement.

Officers are to refer to:

(i) in the case of adult victims, s. 2.12.1: 'Victims' Commissioner and Sexual Violence Review Board Act and Victims of Crime Assistance Act' of this chapter; or

(ii) in the case of child victims, s. 7.12: 'Impact statements' of this Manual,

for the procedures to compile an appropriate statement.

ORDER

Statements not taken under ss. 93A or Part 6A of the EA are to be typed on a QP 0125: 'Statement of Witness' unless exceptional circumstances exist (see s. 3.8.5: 'Presentation of statements' of this Manual).

2.13.2 Information to be included in a statement

ORDER

Officers who take statements from victims and witnesses in the preparation of briefs of evidence are not to include the address of such persons in statements, unless the address is important to the evidence.

Officers are to ensure that statements are:

(i) endorsed with the date:

(a) that the information contained in the statement was first given to the police, identifying the identity of the member to whom the information was given; and

(b) the statement was signed and declare (see the subsection 'Declarations on statements' of this section);

(ii) either read aloud by the witness or victim, or read to the witness or victim prior to signing; and

(iii) endorsed with the date and in whose presence the statement is signed.

PROCEDURE

Statements from victims or witnesses should include:

OPM Issue 113 Public Edition

(i) the time and date of the incident;

(ii) the victim or witness's version of the full circumstances of the incident;

(iii) the victim/witness's own words;

(iv) full descriptions of suspects or offenders;

(v) any relationship with the suspect, offender or any other witnesses or victims;

(vi) full descriptions of vehicles used or involved; and

(vii) any other relevant material.

When more than one statement is taken from a witness in relation to a particular incident, each additional statement should be endorsed as an addendum to the original statement.

Declarations on statements

ORDER

Officers who take statements as part of an investigation, which may be produced in court, are to ensure the person providing the statement:

(i) signs each page of the original statement; and

(ii) completes a:

(a) written acknowledgement under the *Justices Act;* or

(b) sworn declaration under the *Oaths Act* before a Justice of the Peace or a Commissioner of Declarations,

on the final page of the original statement.

POLICY

Whenever practicable, statements for offences which may be committed to a district or supreme court should be sworn under the *Oaths Act* before a Justice of the Peace or a Commissioner of Declarations at the time of taking a statement.

PROCEDURE

Where there is insufficient room on the final page, the declaration or acknowledgement is to be placed on the reverse of the last page. The declaration or acknowledgement is not to be placed on any page of the statement other than the last page.

OPM Issue 113 Public Edition

2.13.3 Hearsay evidence

It is generally accepted that witnesses, whether for the prosecution or the defence, are required to testify about what they: did, saw, heard, smelt or felt; and not about what they know because of what they have been told.

The rule against hearsay evidence may be described as "an assertion other than one made by a witness while testifying in the proceedings is inadmissible as evidence of any fact asserted".

Although this rule has never been fully formulated judicially, the authorities concur that "evidence of a statement made to a witness by a person who is not himself called as a witness may or may not be hearsay. It is hearsay and inadmissible when the object of the evidence is to establish the truth of what is contained in the statement. It is not hearsay and is admissible when it is proposed to establish by the evidence, not the truth of the statement but the fact that it was made".

The rule applies to all kinds of assertions whether made orally, in writing or by conduct. Exceptions to the hearsay rule include:

(i) **telephone conversations** where it is admissible to lead evidence by a witness that, in that witness's presence, a party to a telephone conversation identified the other party to the conversation by a statement made during or immediately before or after the conversation in those cases where the identity of the other party to the conversation is relevant;

(ii) **dying declarations** where it is permissible to lead evidence of a conversation with a victim who identifies the assailant immediately after the event and provided that the victim has a hopeless expectation of death at the time the declaration is made; and

(iii) **preliminary complaints** where it is admissible for evidence from a complainant in a sexual assault or domestic violence offence committal proceeding or trial to include any complaint before the complainant's first formal witness statement to an officer. Evidence of a preliminary complaint is only relevant to the complainant's credibility and cannot be used as proof of the facts in issue.

See s. 94A: 'Admissibility of preliminary complaint in sexual offences and domestic violence offences' of the *Evidence Act*.

2.13.4 Persons with vulnerability, disability or cultural needs

Officers who are contemplating obtaining a statement from a person who they believe may be disadvantaged due to some physical, intellectual, cultural or emotional need are to first consider the issues raised in Chapter 6: 'Persons who are vulnerable, disabled or have cultural needs' of this Manual.

2.13.5 Sexual assault victims

Officers are to be sensitive to the trauma suffered by victims of sexual assaults and are to adopt appropriate techniques when interviewing them. Where possible, statements are to be taken by officers of the victim's preferred gender. Additional guidance and policy relating to obtaining statements from victims of sexual assault are contained in s. 2.6.3: 'Sexual offences' of this chapter.

2.13.6 Statements by members of the Service

Members who may be required to give evidence of conversations, events or occurrences are to compile relevant notes at a time during the conversation, event or occurrence, or as soon as practicable thereafter while details are still fresh in their mind.

This practice ensures any notes made are accurate and when subsequently referred to, may be properly used to revive a member's memory.

Admissibility and acceptance of evidence is based on that evidence being relevant to the issues in question and, generally, the witness having an independent recollection of the matters stated.

Witnesses may revive their recollection by reference to notes or documents made at the time or shortly after the event to which they refer. In such cases, witnesses must have either made the notes themselves, or adopted notes made by another person, at a time when the events were still fresh in their mind.

POLICY

To preclude argument as to the weight of the evidence, members are to prepare statements either from their own unaided independent recollection of conversations, events or occurrences or by reference to their notes. When notes have been made the statement is to be prepared by reference to those notes. It is not improper for members to discuss their evidence at the time of preparing statements for court in order to clarify matters or to refresh memory about the events that transpired. However, if members do discuss the case during the preparation of statements, they should be able to give evidence about the reasons for doing so, and the manner of the corroboration.

Courts do consider it improper for witnesses to be 'coached' or jointly rehearsing their evidence before a court case, particularly when such coaching takes place immediately before evidence is given in court.

Members should not prepare a corroborator's statement or alternatively, supply a statement to another member for copying or duplicating purposes. Members should also avoid discussing in detail the evidence they are going to give with other members or witnesses involved in the case. Generally, these practices may be considered to be inappropriate and may affect the weight of the evidence to be given.

Members are to retain their independence throughout the investigation and subsequent court process. This includes reviewing of notes made contemporaneous to the event; preparation of statements; and presentation of evidence in court hearings. In so doing, members retain their independence by providing individual evidence as to an event which the courts have indicated they seek from police officers.

2.13.7 Human source statements

The provisions of this section are in addition to the provisions of s. 803: 'Protection of methodologies' of the PPRA, s. 2.9: 'Covert operations involving law enforcement participants' and s. 2.13: 'Statements' of this chapter. The meaning of the term 'human source' is contained in the Human Source Management Policy (HSMP) (see s. 2.9.2: 'Human source management' of this chapter).

Members are to be aware of the sensitive nature of information supplied to police by human sources. At all times consideration is to be given to protecting the confidentiality of human sources. Statement confidentiality is subject to the provisions of the *Right to Information Act*. In the event of an application for information being made under the Act see s. 5.6: 'Release of information' of the MSM.

Statements from human sources generally do not form part of a brief of evidence and therefore the investigation requires additional evidence to substantiate issues raised by a human source. Circumstances where a statement from a human source might be taken include an application for a surveillance warrant under the provisions of the PPRA.

ORDER

Unless lawful authority exists, members are not to give an undertaking regarding human source confidentiality or the confidentiality of the contents of human source statements.

Members are not to include a clause in a human source statement regarding confidentiality of that statement.

OPM Issue 113 Public Edition

Where evidence has been obtained from information supplied by a human source, investigating officers are to ensure statements or other documents relating to those persons are not included as part of the brief of evidence.

All requests for access to those statements or other documents are to be referred to the Manager, Right to Information and Subpoena Unit, Right to Information and Privacy Services. See also ss. 5.6: 'Release of information' and 5.7: 'Right to information and privacy' of the MSM.

The identity of a human source is not to be disclosed other than in compliance with s. 11.5: 'Release of Information' in the HSMP (see s. 2.9.2: 'Human source management' of this chapter).

A member who is aware that the confidentiality of any human source may be raised during a court proceeding is to advise the prosecutor, or if no prosecutor has been allocated the officer in charge of the police prosecutions corps, or relevant Office of Director of Public Prosecutions (State or Commonwealth), as soon as possible.

2.14 Deleted

2.15 Crime and Corruption Commission

2.15.1 Use of specialist investigation units

An officer attached to the Crime and Corruption Commission of the rank of superintendent or above may contact an assistant commissioner and request the assistance of a specialist investigation unit under the assistant commissioner's control (e.g. scientific, scenes of crime, forensic crash unit, child abuse) in matters where the responsibility for investigation rests with the Crime and Corruption Commission.

Officers in charge of specialist investigation units are to assist officers attached to the Crime and Corruption Commission where:

(i) the request has been approved by the assistant commissioner having responsibility for that unit or by the Deputy Commissioner, People and Assets or, after hours, the on call deputy commissioner;

(ii) the nature of any action to be taken by the specialist investigation unit is specified in the request; and

(iii) the investigation is into a case of alleged or suspected misconduct by members of the Service or into a fatality or serious injury from incidents involving a member acting in the course of official duties (s. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (Police related incidents)' of this Manual) or an investigation into other persons holding appointments in other units of public administration.

Officers assisting the Crime and Corruption Commission are to comply with any lawful direction given by Crime and Corruption Commission police officers in regard to the investigation.

The officer in charge of the specialist investigation unit assisting a Crime and Corruption Commission investigation will be responsible for ensuring that proper liaison is maintained with the officer in charge of the Crime and Corruption Commission investigation.

The Crime and Corruption Commission has undertaken to fund any overtime, penalty units and travelling allowance incurred by the specialist unit exceeding that which would normally be incurred by the unit in conducting such an investigation provided the Crime and Corruption Commission has approved such expenditure in advance in each case.

2.15.2 Witness protection

'Witness protection' is defined in Schedule 2: 'Dictionary' of the *Witness Protection Act*. Participation in the Witness Protection Program is voluntary and a witness may reject an offer of witness protection or withdraw from the program at any time. The Chairman of the Crime and Corruption Commission may suspend or terminate a person's participation in the Witness Protection Program under certain circumstances.

The Crime and Corruption Commission operates the Witness Protection Unit, who are responsible for running the Witness Protection Program (see s. 5: 'Witness Protection Program' of the *Witness Protection Act*) (see also SMCD).

The Chairman of the Crime and Corruption Commission may include a person in the Witness Protection Program if the Chairman considers that:

(i) the person needs protection from a danger arising because:

(a) the person has helped, or is helping, a law enforcement agency in the performance of its functions; or

(b) of the person's relationship or association with a person who has helped, or is helping, a law enforcement agency in the performance of its functions; and

(ii) it is appropriate to include the person in the program (see s. 6: 'Person may be included in program' of the *Witness Protection Act*).

OPM Issue 113 Public Edition

POLICY

Prior to making an application for witness protection, officers are to:

(i) to carry out all appropriate checks on a prospective applicant and the applicant's family to ensure that they are not currently wanted for questioning or on a warrant;

(ii) to finalise as far as possible all outstanding matters prior to seeking assistance from the Witness Protection Unit.

Officers are

(i) not to make any promises to witnesses in relation to any of the services that may or may not be provided by the Witness Protection Program.

PROCEDURE

Officers who believe that it is necessary or desirable to include a person in the Witness Protection Program are to complete a Form 1: 'Witness Protection Application' for submission to the Witness Protection Unit (see 'Witness Protection Applications' on the Crime and Corruption Commission (Police Group) webpage on the Service Intranet).

The application is to be forwarded through the chain of command to the applying officer's supervising commissioned officer, who is to consider the application to determine whether it is an appropriate matter to be considered for witness protection. Where the supervising commissioned officer is satisfied that the application is appropriate and has been completed in full, the commissioned officer is to complete the 'Authorisation' portion of the application. The applicant officer is to contact the Witness Protection Program Operations Coordinator prior to forwarding the application directly to the Witness Protection Unit.

The Witness Protection Unit may seek information from applying officers regarding the witness' background and their assistance to police, for the purpose of conducting a threat assessment and risk analysis.

POLICY

Officers seeking to make contact with persons included in the Witness Protection Program (**'protected witnesses'**) are to contact the Witness Protection Unit Operations Coordinator.

The Witness Protection Unit will make all arrangements regarding a protected witness' appearance at court and will provide protection for the witness during the proceedings. The Witness Protection Unit will make the protected witness available for consultation and interview by investigating officers upon reasonable written request.

ORDER

Members are to ensure that information about a person who is, or has been included in the Witness Protection Program is not disclosed or recorded if the information compromises the security of the person or integrity of the Witness Protection Program except in accordance with s. 36: 'Offence of disclosure about particular persons or the program' of the *Witness Protection Act*.

OPM Issue 113 Public Edition

2.16 False complaints

Persons who by their conduct, statements or a combination of statements and conduct knowingly and falsely represent that an action has been done or circumstances exist which reasonably call for an investigation by police commit an offence (see s. 10.21: 'False representation causing police investigations' of the *Police Service Administration Act*).

ORDER

Prosecutions for a breach of s. 10.21 of the *Police Service Administration Act* are to be commenced only on the complaint of an officer authorised in writing, by the Commissioner, a deputy or an assistant commissioner, to make that complaint.

Complaints made for this offence are to contain an averment that the complainant officer was authorised in writing by the Commissioner to make the complaint.

Officers proposing to commence a prosecution against a person suspected of making a false complaint should submit a full brief of evidence through the chain of command to the assistant commissioner responsible for their unit. Officers attached to units which are not under the control of an assistant commissioner are to forward such briefs of evidence to the Deputy Commissioner, Specialist Operations.

Officers are to obtain a detailed statement of costs incurred as a result of investigating the false complaint from their region or command finance officer. The statement of costs should be attached to the brief of evidence. To assist finance officers prepare this statement, officers should calculate the:

(i) number and ranks or grades of members of the Service involved;

(ii) hours spent;

(iii) distances travelled in particular Service vehicles; and

(iv) quantity of other equipment and supplies used.

Only costs incurred by the Service in the investigation of the alleged offender's false complaint to the point that its falsity was ascertained should be included in the statement of costs.

2.17 Investigation of perjury and fabricating evidence offences

POLICY

Officers, who reasonably suspect that an offence of perjury or fabricating evidence (see ss. 123: 'Perjury' and 126: 'Fabricating evidence' of the Criminal Code) has been committed during a judicial proceeding, are to:

(i) raise their suspicion with the prosecutor at the earliest reasonable opportunity and, where possible, before the relevant witness is excused; and

(ii) submit a QPRIME occurrence for further investigation by an officer not involved in the proceedings.

The prosecutor is to consider the information and may address the issues raised by the officer in the course of the prosecutorial process.

For an offence of fabricating evidence suspected of being committed before the commencement of a proceeding, see s. 2.18: 'Attempting to pervert justice' of this chapter.

ORDER

Officers are not to approach a person suspected of an offence of perjury or fabricating evidence without the approval of the prosecuting officer. This may include during any appeal period.

Seizure of evidence

PROCEDURE

Evidence tendered in proceedings that may provide evidence of the commission of a perjury or fabricating evidence offence is to be obtained from the court at the end of the relevant appeal period. An application may be made by the prosecutor to the court for a copy of exhibits for investigative purposes.

Commencement of proceedings

ORDER

Officers are not to commence proceedings under ss. 123 and 126 of the Criminal Code without the approval of their supervising commissioned officer.

PROCEDURE

Officers are to submit a full brief of evidence to their supervising commissioned officer for review and approval to prosecute offences under ss. 123 and 126 of the Criminal Code.

OPM Issue 113 Public Edition

2.18 Attempt to pervert justice investigations

A person is guilty of attempting to pervert the course of justice when that person engages in conduct that has the tendency to pervert the course of justice and does so with the intention of perverting the course of justice (see ss. 132: 'Conspiring to defeat justice' and 140: 'Attempting to pervert justice' of the Criminal Code).

Whether or not proceedings have commenced or the conduct succeeds in perverting the course of justice is irrelevant. It must be proven the conduct was intended to frustrate, deflect, impair or prevent the capacity of a court to do justice.

The offence can be committed when no proceedings are imminent, probable or even possible. It is enough that an act has a tendency to frustrate or deflect a prosecution even though a prosecution has not been considered by an officer.

Police investigations do not in themselves form part of the 'course of justice'.

POLICY

Officers, who reasonably suspect that an offence of attempting to pervert justice has occurred, are to submit a QPRIME occurrence for further investigation.

Commencement of proceedings

ORDER

Officers are not to commence proceedings under s. 140 of the Criminal Code without the approval of their supervising commissioned officer.

PROCEDURE

Officers are to submit a full brief of evidence to their supervising commissioned officer for review and approval to prosecute under s. 140 of the Criminal Code.

2.19 Specialist support

2.19.1 Call out procedure for specialist support

Unless a section of this Manual contains a specific call out procedure, officers requesting the attendance of specialist support at incidents are to comply with the call out procedure contained in this section.

Members of specialist support units, when on duty and not deployed to a specific task, are available for tasking, relevant to the officer's specialist skill, by the officer in charge of the relevant police communications centre.

The first response officer/police forward commander/investigating officer should advise the RDO, DDO or patrol group inspector who will assess the situation. If it is considered the attendance of specialist support is necessary, that RDO, DDO or patrol group inspector should ensure the request is transmitted to the:

(i) Duty Officer, Brisbane Police Communications Centre (PCC) (in areas covered by Brisbane PCC);

(ii) officer in charge of the relevant police communications centre (in areas not covered by Brisbane PCC); or

(iii) OIC of the station where the incident occurred in areas where a PCC doesn't exist,

who will ensure the OIC of the relevant specialist support area is contacted and notified of the request to attend and the particulars of the incident.

Specialist support for non-urgent operations or intelligence driven patrols

A member seeking the services of the:

(i) Explosive Ordnance Response Team (EORT) (see s 17.10.1: 'Explosive Ordnance Response Team (EORT)' of this chapter);

(ii) Negotiators (see s 17.10.2: 'Negotiators' of this chapter);

(iii) Public Safety Response Team (PSRT) (see s 17.10.3: 'Public Safety Response Team (PSRT)' of this chapter); and/or

(iv) Special Emergency Response Team (SERT) (see s 17.10.4: 'Special Emergency Response Team (SERT)' of this chapter),

should complete a SRG SENTRY notification, the completed form is transmitted to the Specialist Response Group and the officer in charge of the required unit(s). Advice will be provided to the requesting officer as soon as practicable following receipt of the form.

A member seeking the services of the:

(i) Dog Squad;

(ii) Mounted Unit;

(iii) Railway Squad; or

(iv) Water Police,

for non-urgent operations subject to an operational order, action plan or intelligence driven patrols should access the Specialist Services Group SharePoint page and complete the necessary application.

A member seeking non-urgent operational assistance, subject to an operational order, action plan or intelligence driven patrols from:

(i) POLAIR (Rotary) (see s. 2.21.3: 'Polair Queensland tasking' of this chapter);

(ii) POLAIR (RPAS);

(iii) QGAir (Rotary Wing); or

(iv) QGAir (Fixed wing),

should access the Aviation Capability Group SharePoint page.

A member seeking the services of the Police Diving Unit, for non-urgent operations subject to an operational order, action plan or intelligence driven patrols should access the QPS Diving Unit SharePoint page.

2.19.2 Costs and compensation

A number of sections within this chapter contain call out procedures for specialist work units such as Special Emergency Response Team and Police Diving Squad, Emergency Response and Coordination Command, or Forensic Services Group, Security, Counter-Terrorism and Forensic Services Command. Where relevant, within each of these sections the issue of cost recovery is addressed.

Costs for deployment do not include payment of compensation for damage to private property caused by Security, Counter-Terrorism and Forensic Services Command personnel in the performance of their duties.

OPM Issue 113 Public Edition

The region or command requesting the deployment of Security, Counter-Terrorism and Forensic Services Command personnel is responsible for:

(i) any claim for compensation arising from the deployment of Security, Counter-Terrorism and Forensic Services Command personnel; and

(ii) furnishing and submitting any required Ministerial submission to obtain a decision pursuant to s. 804: 'Compensation' of the PPRA.

2.19.3 Disaster Victim Identification Squad

Disaster Victim Identification (DVI) is the term given to internationally recognised procedures used to positively identify deceased victims of a multiple fatality event. The Service maintains a part time Disaster Victim Identification Squad (DVIS) comprising a full time State DVI Coordinator and volunteer officers who may be deployed throughout Queensland, nationally and internationally (Indonesia, Thailand and New Zealand).

Disaster Victim Identification Squad members are volunteers and are entitled to cease being members of the DVIS at any time, notification of an intention to withdraw from the squad is to be in writing to the State DVI Coordinator.

For the purposes of this section:

Human remains

means the body or part thereof of a deceased person.

Role and capability of the Disaster Victim Identification Squad

The role and capability of the DVIS is outlined on the unit's SharePoint page.

Attendance of Disaster Victim Identification Squad at incidents

Disaster Victim Identification Squad assistance should be sought for incidents:

(i) involving multiple fatalities;

(ii) involving incineration, crushing or mutilation of human remains; or

(iii) where identification or recovery of human remains is difficult.

The State DVI Coordinator, or another designated member of the DVIS, upon receiving a request for assistance will consult with the:

(i) requesting/investigating officer; and

(ii) forensic coordinator at the scene,

to determine the response required before briefing the State DVI Commander (Superintendent, Forensic Services Group, Security, Counter-Terrorism and Forensic Services Command), who has the authority to activate the DVIS.

Disaster Victim Identification personnel from other jurisdictions may be required to assist the Service in larger DVI operations. Requests for this assistance are to be made to the State DVI Commander by the State DVI Coordinator after a thorough assessment has been completed.

At an incident, DVIS officers are under the operational control of the DVI Scene Coordinator. The DVI Scene Coordinator will initially report to and then subsequently liaise with the forensic coordinator, or delegated forensic officer who is responsible to the Police Forward Commander. The State DVI Commander and Coordinator will maintain quality and discipline specific coordination of DVI scene personnel.

Disaster Victim Identification Squad liaison officer (investigation centre or police operations centre)

A DVIS liaison officer may be deployed to an investigation centre or police operations centre (POC) to provide DVI operations advice.

Incident commanders may request the Assistant Commissioner, Security, Counter-Terrorism and Forensic Services Command to appoint a DVI liaison officer to an investigation centre or POC where needed. Such requests are to be made through the State DVI Commander.

A Disaster Victim Identification Coordination Centre (DVICC) may be established separate to an investigation centre or POC and will coordinate the DVI operations and provide information to assist the investigation centre or POC.

Requirements prior to the arrival of the Disaster Victim Identification Squad

Officers in attendance at the incident scene should ensure that all human remains are left in-situ, where possible. Where it becomes necessary for any human remains to be moved, the forensic officer in attendance should accurately record this movement and all officers involved, tag the relevant human remains, mark the original and new location and photograph it in situ prior to removal. Any information relating to the movement of human remains is to be passed on to the DVI Scene Coordinator on arrival at the scene.

OPM Issue 113 Public Edition

Call out procedure

See s. 2.19.1: 'Call out procedure for specialist support' of this chapter.

Training and deployment of Disaster Victim Identification Squad officers

Disaster Victim Identification Squad officers operate on a part-time, volunteer basis. The State DVI Coordinator will forward a training schedule to all relevant officers in charge of DVIS members. Any alterations to the schedule will be communicated to the relevant officers in charge.

Disaster Victim Identification Squad members are required to attend all scheduled DVIS training days, unless a legitimate reason exists for their non-attendance. The training is essential to ensure all DVIS members retain currency in DVI procedures.

When DVIS officers are not activated in relation to a DVI operation, the officers perform duty as rostered at their home police station or establishment.

Officers in charge are to ensure that DVIS officers are:

(i) made available to attend scheduled training days; and

(ii) released for deployment to DVI operations on request of the State DVI Coordinator,

unless exceptional circumstances exist.

Where deployment of DVI officers is required after hours and it is impracticable to contact the relevant officer in charge, the State DVI Commander, may authorise the deployment of the DVI officers. Under such circumstances, the State DVI Commander will provide advice of the deployment to the relevant officers in charge of the station/establishment and the region/command where the DVI officer is attached as soon as practicable. This advice may be provided through the State DVI Coordinator.

The State DVI Coordinator is to provide regular advice to the officer in charge of the deployed DVI officers if the need for on-going deployment exists.

Stand down days after the conclusion of a Disaster Victim Identification Squad operation

Disaster Victim Identification Squad officers may be granted 'stand down days' after attending some DVIS operations.

The State DVI Commander in consultation with Security, Counter-Terrorism and Forensic Services Command Human Services Officer will determine and can approve the granting of 'stand down days'.

Officers in charge are to ensure that DVIS officers avail themselves of approved 'stand down days'. The State DVI Commander will notify officers in charge in writing when 'stand down days' have been approved.

'Stand down days' are to be recorded on the relevant officer's roster and are not deductible from any leave or other entitlements.

Cost recovery

Expense incurred by external agencies and individuals to assist a DVI operation will not be met by the Service unless prior arrangements have been made.

OPM Issue 113 Public Edition

2.19.4 Dog squad

Dog squads are located in Brisbane, Gold Coast, Logan City, Ipswich, Toowoomba, Moreton, Sunshine Coast, Maryborough, Bundaberg, Gladstone, Rockhampton, Mackay, Townsville, Cairns, Mt Isa, the Explosive Ordnance Response Team (EORT) and the Special Emergency Response Team (SERT).

Police dog training issues are managed by the OIC State Dog Squad Training and Development Centre, Specialist Services Group.

Dog squads attached to a region are a resource for that region and are under the control of the assistant commissioner for that region.

Role of the dog squad

The role and functions of dog squads are outlined on the Dog Squad webpage on the Service Intranet.

In addition to general purpose dogs, the Service has trained dogs in a number of aspects of work including:

(i) cadaver and blood detection;

(ii) drug, firearms and cash detection; and

(iii) electronic storage (technology) detection.

Further information regarding the specialist capabilities of dogs is contained on the Dog Squad webpage on the Service Intranet and in the Police Dog Capability Manual.

Officers requesting the assistance of a specifically trained dog should contact the Brisbane Dog Squad, Specialist Services Group (see s. 2.19.1: 'Call out procedure for specialist support' of this chapter).

The Police Dog Capability Manual deals with specific issues relating to the operation of dog handlers and police dogs. The OIC, State Dog Squad Training and Development Centre, Specialist Services Group is responsible for the maintenance of the Police Dog Capability Manual.

ORDER

Members attached to a dog squad are to comply with the policies and procedures contained within the Police Dog Capability Manual.

Where applicable OICs are to ensure that dog squad officers are not tasked to perform any duties other than those directly related to the functions of a dog squad unless:

(i) no other officer is available to perform the duty; or

(ii) the circumstances require immediate police intervention.

Custody

Where dog squad officers track an offender, the custody details are to be recorded in the relevant QPRIME occurrence custody report.

Specific information regarding drug detection dogs

Drug detection dogs are capable of searching for illicit drugs during the execution of a search warrant or for passive drug detection in a public place (for example a nightclub or music concert).

ORDER

Police dogs are not to be used to conduct general drug searches or drug 'sweeps' on school premises (or other educational institutions) or to search students' bags or lockers.

Officers requesting a drug detection dog for the purpose of passive drug detection are to obtain the approval of a commissioned officer in the district the operation is to be conducted.

Should the commissioned officer approve the operation the request should be forwarded to the Inspector, Specialist Services Group, Emergency Response and Coordination Command (ERCC) for consideration of drug detection dog deployment approval.

Authorised requests for the use of drug detection dogs will be coordinated by the dog squad OIC to whom the detection dogs are attached. Priority will be given to those requests that are based on available intelligence.

In areas that require the handler/dog team to be flown in to assist with drug detection, an appropriate caged vehicle is to be provided by that area.

Drug detection is not a search or enforcement act

Drug detections are excluded from the definitions of 'search' and 'enforcement' contained in Schedule 6: 'Dictionary' of the PPRA.

Members are not to enter drug detections carried out under Chapter 2, Part 3 of the PPRA in the relevant QPRIME custody and search reports.

Searches of persons or vehicles during drug detection

Under s. 29: 'Searching persons without warrant' and 31: 'Searching vehicles without warrant' of the PPRA a police officer who reasonably suspects that any of the prescribed circumstances for searching either a person or a vehicle without warrant exist may invoke certain powers.

The prescribed circumstances are contained in s. 30: 'Prescribed circumstances for searching persons without warrant' and 32: 'Prescribed circumstances for searching vehicle without warrant' of the PPRA respectively. Both these sections include that the person has something that may be a dangerous drug, or that a vehicle may have in it something that may be a dangerous drug.

Section 37: 'Reasonable suspicion may be based on indication of detection dog' of the PPRA provides that for the reasonable suspicion required under s. 29 and 31 of the PPRA, it is sufficient for the police officer if the drug detection dog indicates it has detected a dangerous drug.

Use of police dogs for crowd management incidents

Police dogs may be used, in certain circumstances, to assist with crowd management incidents, including incidents of demonstrations, riot or civil unrest (see s. 17.3.9: 'Crowd management incidents' of this Manual).

A commissioned officer is to, where practicable, attend and overview the incident whenever a police dog is to be used for crowd management.

Deployment of a police dog at a crowd management incident is to be at the direction of a commissioned officer.

OPM Issue 113 Public Edition

The dog handler has the right to decline the deployment of the dog if, in the opinion of the police dog handler, the request for deployment of the police dog is not commensurate with the capabilities of the police dog or its training.

Dog squad officers are not to attend crowd management incidents unless specifically requested. They may, if they believe a request for attendance may be made, take up a position in the vicinity of the incident but sufficiently distant so as not to inflame the situation. Whenever possible, dog squad units are to remain out of sight of the incident until a formal request is made for their attendance.

Deployment of a police dog in a crowd management incident is to be assessed on its merits having regard to all existing information bearing in mind the 'Situational Use of Force Model' (see s. 14.3.2: 'Situational Use of Force Model (2016)' of this Manual). See also ss. 4.1: 'Use of force' and 4.2: 'Deploying dogs in specific circumstances' of the Police Dog Capability Manual.

ORDER

Officers are to only use police dogs for crowd management where:

(i) there is no doubt that all other means available to control the crowd have been exhausted; and

(ii) a real threat to the safety of police or other persons exists.

An officer, prior to calling for assistance of a dog squad unit for crowd management, should consider:

(i) the total number of persons directly involved in the incident relative to the number of police in attendance;

(ii) the level of perceived danger to police or other parties not involved in the incident;

(iii) whether the presence of the police dog is likely to aggravate or inflame the incident; and

(iv) whether there are sufficient police units available to deal with the matter without dog squad assistance.

Miscellaneous points regarding the working of police dogs

Officers requesting the attendance of a police dog squad should be aware:

(i) time is important. Assess the situation and call a dog squad first, not as a last resort;

(ii) the dog will follow the most recent human scent;

(iii) if anyone, apart from the offender, has walked in the area, the dog handler should be advised;

(iv) where the offender has decamped, the spot where the offender was last seen should be marked, e.g. the exit point of a burglary;

(v) people should not be allowed to intrude into areas where a police dog is working;

(vi) the scene of the incident should be contained;

(vii) spotlights or headlights should not be shone on the police dog or dog handler;

(viii) the police dog and dog handler, when working, should not be followed in a vehicle;

(ix) the dog handler should be kept in sight, where possible;

(x) the dog handler will flash a torch or call on the radio, where assistance is required;

(xi) it is important to proceed in a manner that does not distract the police dog when passing the dog handler and police dog;

(xii) the police dog should not be approached without permission from the dog handler; and

(xiii) wet conditions do not necessarily have an adverse effect on the police dog's capability.

The dog handler and police dog are to be deployed to the scene as soon as possible, as the time which has elapsed between the scent being laid and the commencement of tracking is proportional to the likelihood of success. The dog handler is to assess the situation and decide how best to apply the police dog.

Use of external dog handlers and their dogs

There may be instances where a dog and handler from another law enforcement agency, including:

(i) Australian Federal Police;

(ii) Australian Border Force; and

(iii) Queensland Corrective Services,

may be requested to assist officers in performing a policing activity. Other law enforcement agencies should only be approached to assist in exceptional circumstances where a police dog and handler is not available.

Civilian dog handlers and their dogs should not be used for any searches or be involved in police operations unless exceptional circumstances exist and a police dog and handler is not available.

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Requests for a dog and handler from another law enforcement agency are to be made through the OIC, Brisbane Dog Squad.

Officers are to obtain permission from a commissioned officer prior to requesting the services of civilian dog handlers and their dogs, after identifying that no police dogs or dogs and handlers from other law enforcement agencies are available or suitably qualified for the proposed activity.

Call out procedure

See s. 2.19.1: 'Call out procedure for specialist support' of this chapter.

Cost recovery

The services of the Brisbane Dog Squad are provided at no cost, except in circumstances which may require a prolonged deployment or travel and then it is as agreed between the requesting region and ERCC.

The costs associated with the services of dog squad officers and their police dogs attached to regions is the responsibility of those regions.

Police Dog Review Committee

A Police Dog Review Committee has been established in ERCC, holding monthly meetings to consider all matters involving the police dog squad, including:

(i) incident reports;

(ii) use of force;

(iii) complaints from public relating to bites sustained from police dogs;

(iv) operational functions of police dogs; and

(v) training needs.

See s. 3.9: Governance' of the Police Dog Capability Manual for information on the Police Dog Review Committee.

Review of police dog incidents by Significant Event Review Panel

The ERCC Significant Event Review Panel is responsible for reviewing:

(i) any category 1 or category 2 incidents as defined in s. 3.9 of the Police Dog Capability Manual;

(ii) complaints from the public relating to incidents involving police dogs;

(iii) issues involving the operational functions of police dogs; and

(iv) any training needs related to police dogs,

no matter where in the state the relevant incident occurred.

OPM Issue 113 Public Edition

2.19.5 Deleted

2.19.6 Forensic Services Group (FSG)

Forensic officers can provide a range of services to assist officers. All personnel performing these duties have specialist training and can determine when other specialist support services are required to complete an examination or investigation of a scene. Forensic officers consist of scientific officers, fingerprint officers, photographic officers and scenes of crime officers.

Role and function of Forensic Services Group

The role and functions of the Forensic Services Group (FSG) and forensic officers is outlined on the FSG SharePoint page.

National Accreditation

The Service holds corporate accreditation with the National Association of Testing Authorities (NATA) for its forensic services. The accreditation requires all forensic facilities to comply with the Quality Management System and various standards relating to facilities, equipment, procedures, training and management as published on the FSG SharePoint page.

Superintendent, Forensic Services Group

The Superintendent, FSG, Security, Counter-Terrorism and Forensic Services Command (SCTFSC) is responsible for the effective and efficient delivery of forensic services across the State in accordance with NATA standards.

ORDER

Forensic officers are to comply with:

(i) all directions relating to technical and quality matters given by the Superintendent, FSG; and

(ii) the provisions of the Forensic Services Group Quality Manual.

Quality Manager

The Inspector, Quality Management Section, is responsible for the overall management of the quality system as documented in the Forensic Services Group Quality Manual.

Forensic Coordinators

Forensic coordinators are placed within regions/districts and their role is to attend, plan, coordinate and manage the multidisciplinary forensic response to major incidents to ensure investigative priorities are met in compliance with the QPS forensic service quality system established by the Superintendent, FSG. The forensic coordinator negotiates service delivery expectations and priority with an appointed commissioned officer from the host area.

Attendance of forensic officers at incidents

First response officers are to evaluate incident scenes (see s. 2.4: 'Incident management' of this chapter) and, where appropriate, arrangements are to be made for the call out of a forensic officer.

The responding forensic officer will make a determination whether other specialist support services are required to complete an examination or investigation of a scene. If there are forensic officers stationed in the region who can perform the requested duties, those personnel are to undertake the performance of any requested duties.

Call out procedure

See s. 2.19.1: 'Call out procedure for specialist support' of this chapter.

Cost recovery

The services of forensic officers from the FSG, SCTFSC are provided at no cost, except in circumstances which may require a prolonged deployment or travel and then it is as agreed to by the requesting region and SCTFSC.

Requests for reports and statements for DNA Evidence

For advice on matters relating to DNA person samples, DNA exhibits, case prioritisation and DNA statement requests, officers should contact the DNA Management Section.

For advice on matters relating to the results of DNA analysis, officers should contact the DNA Results Management Unit.

Requests for reports and statements for fingerprint evidence

ORDER

Requests for a statement from a fingerprint expert relating to a fingerprint identification are only to be made:

(i) in the event the matter has been set down for:

(a) a committal mention;

(b) a hearing; or

(c) trial; or

(ii) at the direction of a magistrate.

On requesting a statement, the requesting officer must provide the:

(i) court date;

(ii) court location; and

(iii) name of the magistrate, in the event of a direction.

Appointment as analysts under the Drugs Misuse Act

Section 4C: 'Analysts' of the *Drugs Misuse Act* (DMA) provides that the Minister may, by gazette notice, appoint as an analyst for this Act, a person the Minister is satisfied has the qualifications, standing and experience necessary to be an analyst for this Act.

The function of members appointed as analysts under the DMA is restricted to the analysis or examination of cannabis only.

Forensic officers are to undertake training for appointment as analysts under s. 4C of the DMA as required by the Superintendent, FSG, SCTFSC.

Sexual offence kits and seminal fluid

During a forensic medical examination of subject person (e.g. victim/suspect/offender) regarding a sexual assault, a medical practitioner may collect:

(i) forensic medical examination kit (FMEK);

OPM Issue 113 Public Edition

(ii) toxicology kit (TOX); and

(iii) clothing collection kit (CCK).

These kits have pre-allocated forensic exhibit numbers applied by the medical practitioner during collection.

Lodgement of forensic samples for testing

In order to reduce the risk of test results being compromised as a result of forensic samples (e.g. arson debris, blood and firearm residue) being delivered to unsuitable facilities, the below guidelines have been developed.

Queensland Public Health and Scientific Services (QPHSS) consist of:

(i) Coronial and Public Health Sciences (CPHS);

(ii) Forensic Science Queensland (FSQ);

(iii) Forensic toxicology;

(iv) Forensic DNA and biology;

(v) Forensic chemical testing;

(vi) Forensic Pathology and Coronial Services (FPCS); and

(vii) Coronial Family Services,

and share a common exhibit reception facility, located at the government campus at 39 Kessels Road, Coopers Plains.

Samples to be analysed

Forensic **toxicology samples** taken from post mortem examinations and from living subjects such as vehicle drivers requiring analysis for alcohol, drugs or poisons (toxicology) are to be sent to Forensic Toxicology, Forensic Science Queensland (FSQ). In the case:

(i) where a person has died in hospital after a significant period of survival and where toxicology is forensically relevant, samples taken from the person upon admission to hospital should, where possible, also be sent to Forensic Toxicology; and

(ii) of suspected poisoning due to cholinesterase inhibitors (e.g. organ phosphorus and carbamate type pesticides) blood samples are to be sent to a hospital pathology laboratory with the capacity to estimate cholinesterase levels (e.g. Royal Brisbane and Women's Hospital and Princess Alexandra Hospital).

Histology samples from post mortem examinations requiring microscopic examination of tissues (histology), including whole organs, are to be sent to Forensic Pathology, FSQ unless the autopsy is performed by a pathologist other than a FSQ Pathologist. In such cases histology is normally performed in the pathologist's own laboratory.

Crime scene exhibits suspected of yielding DNA (other than seminal fluid) requiring examination for the presence of DNA are to be collected by a forensic officer (scenes of crime officer or scientific officer). If circumstances prevent this, a forensic officer should be contacted for advice prior to collection. The collected item is to be delivered to a forensic officer for assessment of probative value and sub-sampling if required.

FSQ will not accept submission of crime scene exhibits for DNA testing (other than in tube samples and other exempt items as per FSG procedures) without approval from the Inspector, DNA Management Section.

All crime scene exhibits collected by non-forensic police officers for DNA examination must be:

(i) recorded as property in QPRIME;

(ii) taken to a forensic officer for entering on the forensic register and either:

(a) examined/sub-sampled by the forensic officer and the sub-sample submitted to FSQ if required; or

(b) approved in accordance with FSG procedures prior to submission to FSQ.

See also s. 169: 'Preserving evidence at crime scene' of the PPRA.

For **drugs (other than cannabis)**, FSQ will only receive illicit drug items of evidence that have been recorded as property in QPRIME, individually identified with a nine-digit illicit drug barcode and are listed as checked out to 'sent to QHSS'.

Illicit drug items are to be packaged in a manner that ensures the nine-digit illicit drug barcode is able to be scanned by FSQ property officers upon lodgement. Service property officers are to ensure the nine-digit illicit drug barcode is recorded as a Miscellaneous ID and that tamper evident seals are placed at either end of the heat-sealed plastic bag containing the drug items, prior to being 'checked out to CPHS'.

Miscellaneous examinations performed by the Forensic Chemistry Section, FSQ perform the following examination types:

(i) physical fit examinations;

OPM Issue 113 Public Edition

(ii) explosive analysis (intact and residues);

(iii) white powder testing (chemical testing only);

(iv) personal defence sprays;

(v) chemical warfare agents;

(vi) trace fibre examinations;

(vii) comparison of textiles (fabric, textile garments, carpets, etc);

(viii) comparisons of ropes and cordage, examination of knots;

(ix) textile damage examinations (level 1—identification of type of damage);

(x) adhesive tape comparisons;

(xi) personal lubricant examinations (sexual assault matters);

(xii) oil comparisons (motor oil, transmission fluids, greases);

(xiii) chemical identifications and comparisons (chemical-based evidence found at crime scenes that needs identification and potential future comparison to a suspect source);

(xiv) drink spiking /stupefying agent testing;

(xv) pesticide and herbicide testing; and

(xvi) poisons (only for matters where the poison alleged to have been used has not resulted in the death of a person).

All crime scene exhibits (other than drugs) collected by non-forensic police officers, which are to be submitted to FSQ for testing by the Forensic Chemistry Section, must be:

(i) recorded as property in QPRIME;

(ii) taken to a forensic officer for primary examination and triage; and

(iii) entered on the Forensic Register and barcoded prior to lodgement at FSQ.

Sample analysed by Forensic Science Queensland (FSQ)

Procedure for storage and delivery of **FMEK and TOX**

(i) officers and property officers are to prioritise the delivery of FMEK and TOX to FSQ as soon as possible. The FMEK/TOX are to be added to the Forensic Register prior to delivery to FSQ;

(a) officers are to ensure the FMEK is sealed, signed and dated by the medical practitioner. If this has not occurred the officer is to seal, sign, and date the kit making notes of these actions and recording these actions in QPRIME;

(b) FMEKs should be refrigerated and kept at stable temperature of 2–8 degrees Celsius, prior to and during transportation to FSQ;

(c) delivery of FMEKs to FSQ is to occur as soon as possible, with transport arrangements to commence the next business day;

(d) in exceptional circumstances such as extreme weather events, FMEKs that are unable to be transported to FSQ within 7 days are to be immediately frozen. The packaging should be clearly marked to advise FSQ the contents have been frozen, and the FMEK should be transported to FSQ as soon as possible once circumstances allow; and

(e) FMEKs are not to be opened or repackaged without approval from DNA Liaison and Major Crime Unit or FSQ; and

(ii) the investigating officer is to contact the DNA Liaison and Major Crime Unit if analysis of a FMEK/TOX that has been submitted to FSQ is no longer required.

Procedure for collection, storage and delivery of items requiring analysis for **seminal fluid**:

(i) an investigator who identifies item(s) at an offence location that require examination for seminal fluid are to wherever possible arrange for the collection of the item(s) by a forensic officer to:

(a) minimise the risk of contamination; and

(b) ensure the items are packaged correctly, including sealing, signing and dating the packaging;

(ii) underwear worn by the subject person during the medical examination is routinely packaged by the medical practitioner into the FMEK that is sent to FSQ;

(iii) underwear that has been:

OPM Issue 113 Public Edition

(a) packaged by the medical practitioner into a CCK; or

(b) collected from an offence location by investigators,

is to be initially retained by the Service;

(iv) an FMEK often provides the most probative evidence for a sexual offence investigation. If the investigating officer believes circumstances exist that support the examination of the underwear, contained in a CCK or collected separately by investigators as it may yield additional probative evidence alternate to the results of the FMEK, that examination is undertaken by FSQ. The investigating officer should contact DNA Liaison and Major Crime Unit to discuss submission of the underwear for examination;

(v) investigators are to ensure that underwear contained in a CCK or collected separately by investigators, that is being submitted to FSQ, is:

(a) packaged separately from any other clothing items. If requiring separation, this is to be undertaken by a forensic officer in a DNA laboratory;

(b) allocated a forensic exhibit number, if required;

(c) entered onto the forensic register by a forensic officer; and

(d) delivered to FSQ; and

(vi) the Service retains the responsibility to process other investigator-located exhibits and CCK items collected in relation to sexual offences. These items are to be retained by the investigating officer whilst awaiting the results of the FMEK analysis. If the investigating officer believes circumstances exist to support the examination of the items:

(a) as that examination will provide alternate evidence to the FMEK; or

(b) the analysis of the FMEK has failed to identify the offender.

See also Forensic Medical Examinations (Sexual Assault) webpage on the Specialist Operations SharePoint page and s. 169: 'Preserving evidence at crime scene' of the PPRA.

Samples analysed by Forensic Services Group

Trace physical evidence including paint and glass are analysed by the Analytical Services Unit (ASU), Scientific Section, FSG. These items will only be accepted for testing where analysis is likely to yield evidence of significant probative value. As a minimum the investigating officers must provide the suspect's identity and an outline of how the analysis results will confirm involvement in the offence. Reference samples should also be available for comparison purposes. Investigating officers should make prior contact with the ASU to ensure case acceptability.

Gunshot residue analysis is conducted by the Analytical Services Unit (ASU), Scientific Section, FSG. Gunshot residue evidence can be used to indicate that a person has handled or discharged a firearm. Gunshot residue is particularly susceptible to contamination. As officers handle firearms on a regular basis, it would be normal for most officers and police vehicles to have trace levels of gunshot residue on them. To prevent contamination through police contact, all gunshot residue sampling should be conducted by a forensic officer wherever possible.

As a result of the susceptibility of gunshot residue to contamination, the Scientific Section have adopted strict case acceptance criteria. Officers requesting gunshot residue analysis must liaise with the ASU prior to lodgement.

Cannabis is analysed by authorised forensic officers within FSG. Contact the Scientific Section to locate your closest analyst. Examinations are performed by appointment only.

Other samples

Saliva samples see s. 4.5.3: 'Saliva analysis' of this Manual.

Clinical samples from post mortem and assault victim examinations requiring clinical testing such as HIV or hepatitis testing should be sent to the most appropriate local clinical pathology service. The examining doctor will determine the most appropriate local pathology service.

Delivery of samples at Queensland Public Health and Scientific Services (QPHSS)

Queensland Public Health and Scientific Services (QPHSS) consist of:

(i) Coronial and Public Health Sciences (CPHS);

(ii) Forensic Science Queensland (FSQ);

(iii) Forensic toxicology;

(iv) Forensic DNA and biology;

(v) Forensic chemical testing;

(vi) Forensic Pathology and Coronial Services (FPCS); and

OPM Issue 113 Public Edition

(vii) Coronial Family Services,

and share a common exhibit reception facility, located at the government campus at 39 Kessels Road, Coopers Plains.

CPHS and FSQ will only receive items of evidence that have been recorded as property in QPRIME and listed as checked out to 'sent to QHSS'.

Items can be delivered on normal working days Monday to Friday (except public holidays) to the Forensic Property Point (see SMCD) between 0800 hours and 1600 hours.

Unless it is absolutely necessary to record the delivery of an exhibit to FSQ, officers are to refrain from operating their BWC within the FSQ forensic property point.

In cases where it is permissible to deliver a sample by mail it should be directed to CPHS or FSQ (see SMCD).

See ss. 8.3.2: 'Responsibility for investigation and reporting on deaths', 8.3.3: 'Additional responsibilities of investigating officers' and 8.14.5: 'Attendance at the autopsy' of this Manual for responsibilities associated with delivering of a copy of a Form 1: 'Police report of death to the Coroner' where specimens are required to be forwarded and responsibilities of officers attending autopsy examinations.

2.19.7 Deleted

2.19.8 Mounted Unit

The Mounted Unit is located in Brisbane (Anstead) and is a capability under the control of the Assistant Commissioner, Emergency Response and Coordination Command (ERCC).

Role of Mounted Unit

The primary function of the Mounted Unit is to support frontline policing by utilising trained police horses to deliver tactical mobility, a visible policing presence and operational versatility.

Specific information regarding the use of police horses.

Police horses enhance and provide a tactical advantage to frontline policing across the State. The Mounted Unit target environments where traditional policing methods face limitations—such as dense crowds, complex terrain or limited mobility—they provide high-visibility support, strategic mobility and unique community engagement opportunities. Horses allow officers to operate with increased presence and efficiency, while also building trust and visibility and confidence in the communities they serve.

Attendance of the Mounted Unit at incidents

The Mounted Unit can provide valuable assistance at incidents through:

(i) tactical mobility—highly effective in dense crowds and challenging environments, making it ideal for major or public events, stadiums, safe night precincts, festivals, and other large gatherings;

(ii) versatility—supplements frontline policing with flexible deployment across urban and regional settings. The Mounted Unit can cover significantly more ground than foot patrols and are ideal for case and place policing purposes such as:

(a) patrolling evacuated areas affected by significant events to safeguard property and prevent looting;

(b) patrolling and assisting in the maintenance of inner and outer cordons at incident scenes; and

(c) intelligence driven patrols including targeted community safety patrols in high-pedestrian traffic outdoor areas such as pathways, bikeways and trails;

(iii) elevated visibility—provides officers with a higher vantage point for enhanced situational awareness, improved communication and more responsive policing by:

(a) assisting at public demonstrations to identify ringleaders, splinter groups and persons of interest;

(b) superior visibility over crowds and obstacles compared to officers on foot, enabling more effective observation, situational awareness, and crowd oversight in complex environments;

(iv) search and rescue—covering large distances with elevated outlooks; and

(v) community engagement—the horses attract attention, making officers more approachable and creating opportunities to build trust and share key policing messages.

Cost recovery

Depending on the location of an event, travelling times and distances involved, there may be limitations placed on the use of the Mounted Unit.

ERCC will be responsible for all costs associated with the use of the Mounted Unit, if the duty can be performed within the normal daily operating parameters and using the vehicles attached to the unit.

OPM Issue 113 Public Edition

Costs such as travelling allowance and overtime are as agreed to by the requesting region and ERCC.

Call out procedure

See s. 2.19.1: 'Call out procedure for specialist support' of this chapter.

Further information regarding the Mounted Unit can be found on the Mounted Unit SharePoint page, including key points of contact and service request.

2.19.9 Deleted

2.19.10 Queensland Government Air (QGAir)

Queensland Government Air (QGAir) provides a service to officers and staff members of the Service, other government departments and members of the public in emergency or search and rescue situations. Police aircraft are based in Brisbane, Cairns, Townsville, Horn Island and Mount Isa.

Role of the Queensland Government Air

The role and function of QGAir is outlined on the Aviation Capability Group SharePoint page.

Responsibility for Queensland Government Air operation

In accordance with Federal legislation and aviation transport regulators, the Chief Pilot is responsible for all aspects of the operation of QGAir, and as such maintains operational control of QGAir activities.

The pilot-in-command of an aircraft is responsible for the:

(i) start, continuation, diversion and end of a flight;

(ii) operation and safety of the aircraft during the flight time;

(iii) safety of persons and cargo carried on the aircraft; and

(iv) conduct and safety of members of the crew on the aircraft.

The pilot in command, a crew member or Air Wing Coordinator is responsible for the movement of Service passengers or cargo and any vehicles assisting with such movement during 'airside' operations.

For operations at security controlled airports pilots and coordinators are to comply with the provisions of the *Aviation Transport Security Act* (Cwlth) and are to ensure that the conduct of passengers and crew does not hinder or obstruct compliance with the transport security programs of another aviation industry participant.

ORDER

All persons travelling or assisting travel on Service aircraft are to comply with any direction issued by a QGAir member when transiting:

(i) 'airside areas' at any airport, or

(ii) any airside or landside security area at a security controlled airport.

All persons on board Service aircraft are to comply with any direction issued by the pilot regarding air safety.

Application to use Queensland Government Air (QGAir) aircraft

Travel may be on a 'seat only' basis or as a request to utilise the aircraft to undertake a specific task.

All requests are to be directed to a coordinator but in an emergency the Chief Pilot may be contacted outside of normal business hours. Special flights may be undertaken either funded by the QGAir or on a cost recovery basis. Formal authorisation and acceptance of any costs are to be made by the appropriate officer within the initiator's region or command.

Members of the Service may only travel on QGAir for official purposes or approved welfare purposes or where the use would be of clearly demonstrable benefit to the Service.

All bookings for official travel require the authorisation of a commissioned officer or a manager.

Members requiring the use of a QGAir aircraft should make inquiries to the:

(i) Coordinator, QGAir during business hours;

(ii) Chief Pilot or acting chief pilot outside business hours;

(iii) Chief Superintendent, Aviation Capability Group, Emergency Response and Coordination Command (ERCC); or

(iv) Assistant Commissioner, ERCC,

and should note that response times depends on the availability of Service aircraft.

The QGAir schedule and booking information may be accessed via the Aviation Capability Group SharePoint page.

OPM Issue 113 Public Edition

See also s. 10.4.16: 'Transporting persons in custody' of this Manual. Members are also to comply with ss. 10.4.17: 'Queensland Government Air (QGAir)' (with respect to escorting prisoners) and 14.11.3: 'Additional storage and packaging requirements for transport of dangerous goods' of this Manual.

Use of Queensland Government Air for concessional travel

At various times it is necessary for members of the Service to travel on QGAir for compassionate/welfare (concessional) reasons.

ORDER

The assistant commissioner of the region/command of the member making the request is responsible for authorising concessional travel.

For passengers boarding in Brisbane, the Superintendent, Specialist Services Group may approve concessional travel.

At all times priority will be given to the use of QGAir aircraft by Service members on official duties.

2.19.11 Police Diving Unit

The Police Diving Unit is based in Brisbane and provides support to operational police on a statewide basis where underwater search and recovery by police is required. Its area of responsibility covers waters within Queensland.

Role of Police Diving Unit

The role and function of the Police Diving Unit is outlined on the unit's SharePoint page.

Personnel in the unit are specifically commercially trained for diving in high risk environments. These include black water (where no visibility exists), waterways where weed and obstacles may cause entrapment, polluted waters or suspected polluted waters where conditions necessitate the use of dry suit protective equipment and recovery of bodies where injuries or decomposition may cause body fluid contact health hazards.

For these situations the services of the Police Diving Unit are to be used in preference to personnel from other organisations.

Attendance of Police Diving Unit at incidents

POLICY

Officers are to consider the use of the Police Diving Unit at incidents which necessitate:

(i) underwater searches for deceased persons, weapons or property;

(ii) underwater recovery of deceased persons, weapons or property;

(iii) underwater clearances of vessels, bridge foundations, wharves and pier supports;

(iv) the operation of specialist equipment (e.g. air lifting bags for retrieving submerged vehicles, aircraft, vessels and safes);

(v) the use of underwater metal detectors, dry suits and full face diving masks for polluted water searches or underwater cameras for crime scene recording; and

(vi) assistance to investigating police in relation to diving related fatalities or diving incidents.

Call out procedure

PROCEDURE

Requests for the attendance of the Police Diving Unit should be made in compliance with s. 2.19.1: 'Call out procedure for specialist support' of this chapter.

All diving operations outside the Brisbane Region which require the deployment of the Police Diving Unit are to be authorised by the Superintendent, Specialist Services Group, Emergency Response and Coordination Command (ERCC).

Officers requesting the assistance and authorisation for use of the Police Diving Unit should provide the following information when making the request:

(i) the urgency of the request;

(ii) an accurate location of where the dive is required;

(iii) the description of the object and details of the time, date, weather and tide at time object entered the water; and

(iv) details of any diving hazards that may be encountered (e.g. depth, currents and marine hazards such as crocodiles or sharks).

OPM Issue 113 Public Edition

Use of non-police divers

POLICY

The use of recreational and commercial divers should not be undertaken unless exceptional circumstances exist. This includes the use of members of the Service who may hold diving qualifications but are not members of the Police Diving Unit.

All diving operations which may require the use of non-police divers are to be authorised by the Superintendent, Specialist Services, ERCC.

In the absence of the Police Diving Unit, the services of accredited occupational or commercial divers only are to be used. Recreationally certified divers are only to be used where the saving of a life is a consideration. The use of Defence Force divers is to be in accordance with current Defence Assistance to Civil Community (DACC) arrangements (see s. 11.14: 'Commonwealth support and Australian Defence Force assistance and aid' of this Manual).

Police engaging divers who are not members of the Service should be mindful of the provisions of ss. 612: 'Assistance in exercising powers' and 613: 'Protection for assistants from liability' of the PPRA and the obligations placed upon them under the *Work Health and Safety Act*.

Cost recovery

In the normal course of events, ERCC will be responsible for all costs associated with a Police Diving Unit call out.

2.19.12 Deleted

2.19.13 Deleted

2.19.14 Deleted

2.19.15 Water police

Water police establishments are located in Brisbane, Thursday Island, Cairns, Townsville, Whitsunday, Yeppoon, Hervey Bay, Sunshine Coast, Gladstone, Wynnum and the Gold Coast.

The Brisbane Water Police, Marine Technical Section, State Marine Training Unit and Police Diving Unit are under the control of the Inspector, Specialist Services Group Coordinator, ERCC. Other water police establishments throughout the state are under the control of their relevant district officers.

Role of the water police

The role and functions of the water police are outlined on the State Water Police SharePoint page.

In locations on the Queensland coast not serviced by a water police establishment, an OIC of the respective police station should assume the responsibilities of an OIC of a water police establishment as far as practicable in the prevailing circumstances.

Attendance of water police at incidents

Where applicable, water police officers should be requested to attend incidents to:

(i) provide specialist resources such as qualified operators for small and large vessels, marine communications and global positioning system (GPS) equipment;

(ii) recover bodies from waterways;

(iii) assist in policing large aquatic events, as water-borne transport or for general policing of waterways;

(iv) assist in providing officers and resources for searching of waterways;

(v) establish cordons on waterways;

(vi) provide suitable ocean-going vessels to accommodate personnel for extended operations. These vessels are suitable for use as a command post with advanced navigation and communication equipment;

(vii) in the case of Brisbane, Gold Coast, Wynnum, Sunshine Coast and Hervey Bay, provide high speed craft up to ten metres in length, that are equipped with communications and navigation equipment;

(viii) provide smaller vessels available for creek and dam work and body recovery;

(ix) coordinate searches, through the use of fully trained Search and Rescue Mission Coordinators (SARMCs) and Assistant Search and Rescue Mission Coordinators (ASARMCs);

(x) assist the QAS with medical evacuations (MEDIVACs) where appropriate; and

(xi) investigate marine incidents as a shipping inspector under the *Transport Operations (Marine Safety) Act*;

(a) as the primary investigator of the incident; or

OPM Issue 113 Public Edition

(b) in conjunction with MSQ (see s. 13.8.3: 'Investigation of offences and marine incidents under the Transport Operations (Marine Safety) Act or the Regulation' of this Manual).

Officers are to note that not all water police officers are SARMCs or ASARMCs and not all SARMCs and ASARMCs are water police officers. The State Search and Rescue Coordinator, attached to the Brisbane Water Police, is responsible for the coordination of SARMCs and ASARMCs (see s. 17.5: 'Search and Rescue' of this Manual).

Response times for water police vessels vary depending on where the vessel is situated when called upon and the location of the incident. Vessels of various sizes can travel to an incident site by water or be trailered by land.

Call out procedure

See s. 2.19.1: 'Call out procedure for specialist support' of this chapter.

Cost recovery

The cost of the use of the Brisbane Water Police and its resources to regions requesting assistance is determined through negotiation between the requesting region and ERCC.

Water police establishments located within the regions are the responsibility of those regions and cost recovery is in accordance with regional policy.

2.19.16 Railway Squad

The Railway Squad, Specialist Services Group, Emergency Response and Coordination Command (ERCC) is a specialist squad located at the Brisbane Transit Centre, Roma Street, with work units located at Petrie, Manly, Redbank, Ipswich, Beenleigh and Robina. The squad provides a high profile uniform presence on the Queensland Rail City Network and responds to requests for attendance at railway stations on the Queensland Rail City Network.

The primary objective of the Railway Squad is to enhance the safety of all rail users.

Role and function of Railway Squad

The role and functions of Railway Squad are outlined on the unit's web page on the Service Intranet.

For procedures on requesting copies of video recordings of images captured by Queensland Rail closed circuit television cameras (CCTV), (see subsection 'Railway related offences' of s. 2.4.11: 'Video and photographic evidence recorded during the commission of offences' of this Manual).

Advising Railway Squad of planned policing action on the Queensland Rail City Network

POLICY

When an offence or incident occurs on the Queensland Rail City Network, the officer in charge of the relevant division is responsible for investigating the matter.

ORDER

When an officer is planning to undertake planned policing action (e.g. operations, action plans, planned patrols, criminal investigations) or receives information relating to threats to safety on the Queensland Rail City Network, the officer is to advise the Officer in Charge, Railway Squad whether assistance is requested or not (see 'Staff contact' on the Service Intranet).

POLICY

When advised of planned policing action on the Queensland Rail City Network, the Officer in Charge, Railway Squad is to ensure relevant information is provided to the officer in charge of the operation regarding:

(i) enforcement practices on the network;

(ii) conducting criminal investigations on the network;

(iii) protocols for entering the rail infrastructure (see also s. 17.3.4: 'Rail incidents' of this Manual);

(iv) accessing Queensland Rail City Network CCTV;

(v) access to available Railway Squad staff;

(vi) access to transit officer staff from Queensland Rail;

(vii) access to security network officers from Translink; and

(viii) any other operations on the network which may be impacted by or have an impact on the planned policing action.

Call out procedure

Officers requesting the attendance of Railway Squad staff are to comply with s. 2.19.1: 'Call out procedure for specialist support' of this chapter.

OPM Issue 113 Public Edition

Cost recovery

POLICY

The services of officers from the Railway Squad, Specialist Services Group, ERCC are provided at no cost, except in circumstances which may require a prolonged deployment or travel and then it is as agreed to by the requesting region and ERCC.

2.19.17 Deleted

2.20 State Emergency Service

The State Emergency Service (SES) is established pursuant to the *State Emergency Service Act* (SESA) and information regarding their role and function (see s. 7: 'Functions and powers' of the SESA) and how they can assist the Service is detailed in s. 1.8.2: 'Function of the SES' of the MSM.

SES members comprise employees and volunteers (who provide their time to assist the community), and are to be treated with dignity and respect and their safety is not to be compromised.

Individual SES units are equipped, trained and managed to perform various specialised functions, which may affect their operational capabilities. SES are able to assist with more than search and rescue operations (see s. 1.8.2 of the MSM).

Local liaison by OICs

OICs of stations and establishments are to:

(i) regularly engage with the SES local controllers and develop an understanding of their local operational capability; and

(ii) consider including SES members in appropriate joint training exercises.

When deciding whether to deploy SES resources, or to what extent they should be deployed, the SES local controller will assess all relevant factors relating to the incident including the level of risk linked to any identified hazard, the level of training of members and the availability and condition of equipment and other necessary resources.

Assistance of SES at search and rescue incidents

Officers requesting the assistance of SES at any search and rescue incident should, in the first instance and whenever practicable, contact a:

(i) senior search and rescue officer (senior SARO);

(ii) search and rescue officer (SARO); or

(iii) field search coordinator (FSC),

and obtain advice on the appropriateness of tasking and any potential cost recovery implications (see the subsection 'SES cost recovery' of this section).

OPM Issue 113 Public Edition

Considerations when activating SES in all instances

Officers requesting activation of the SES are to:

(i) be satisfied that insufficient police resources exist and assistance is required;

(ii) ensure the activity is an approved function and requires skills specific to the SES; and

(iii) confirm with the SES local controller that those SES members being activated are trained for the tasks to be undertaken.

The district officer, regional duty officer or patrol group inspector for the relevant area is to determine if the:

(i) assistance of the SES will be used if cost recovery is applicable; and

(ii) attendance of a senior SARO, SARO or FSC is required to assist with the management of SES activations.

Call out procedure

See s. 2.19.1: 'Call out procedure for specialist support' of this chapter.

SES Cost recovery

There will be instances where the Service may be required to provide reimbursement for costs incurred during activations. Where a claim is likely to be made, the officer, authorising the activation of the SES is to obtain approval for that cost from the appropriate authorised delegate (see Delegation D 12.11).

The following costs are regarded, by the SES, as legitimate charges against the Service:

(i) reasonable and necessary cost of food for SES members;

(ii) the cost of fuel used by official SES vehicles or vessels authorised for use by the SES local controller to perform tasks requested by the Service member in charge; and

(iii) the cost of expendable and consumable items purchased in connection with carrying out necessary tasks and/or items purchased to replenish SES stocks consumed during operations.

The first response officer/police forward commander/investigating officer is to collect any invoices or actual receipts and forward them to the relevant finance officer as soon as possible after the activity.

2.21 Helicopter operations

The use of a helicopter can assist greatly in police operations due to the ability of the aircraft to land and depart in small areas and conduct aerial searches at relatively slow speed. Helicopters fitted with specialised equipment such as Forward Looking Infrared (FLIR) cameras can continue to operate at night time and low visibility where the human eye cannot easily discern a target. Night search operations are further enhanced with the use of Night Vision Imaging System by pilots and aircrew.

Factors affecting the capability of helicopters

The ability of helicopters to be of use to police in incident management is affected by:

(i) poor weather conditions: apart from reducing visibility, may produce atmospheric conditions which can affect the handling of helicopters;

(ii) high temperatures and altitudes: lessens the 'lift' which is produced by the helicopter rotors thereby reducing the maximum load which can be carried; and

(iii) distance from base: helicopter 'stay time' may be very short due to fuel expenditure. Refuelling points should be established close to the area of operations.

Command within a helicopter

POLICY

The pilot is responsible for the safety of the helicopter, crew and passengers. All persons on board are to comply with any direction issued by the pilot regarding air safety.

Helicopter landing areas

POLICY

Officers are to comply with guidelines contained in Appendix 2.9: 'Helicopter landing areas' of this chapter in relation to helicopter landing areas and general safety precautions associated with helicopters.

Completion of helicopter tasking

PROCEDURE

After the helicopter has been released from tasking, the requesting officer is to advise the relevant police communications centre that the task is completed.

OPM Issue 113 Public Edition

2.21.1 Assistance of government and community helicopter providers at incidents

Most helicopters used by the Service are provided by the government through Queensland Health or organisations in receipt of some government funding either as community helicopter providers (CHP) or contract providers.

Helicopters from the following organisations are members of the Emergency Helicopter Network and are available 24 hours a day subject to tasking and other prior operational requirements (e.g. servicing):

(i) Brisbane: Queensland Government Air—Rescue; Brisbane: RACQ LifeFlight, (CHP);

(ii) Bundaberg: Sunshine Coast Helicopter Rescue Service 'RACQ LifeFlight', (CHP);

(iii) Cairns: Emergency Management Queensland—Helicopter Rescue;

(iv) Horn Island: Australian Helicopters, (Contract Provider—This service is user pay in all circumstances);

(v) Mackay: Central Queensland Helicopter Rescue Service 'RACQ CQ Rescue', (CHP);

(vi) Rockhampton: Capricorn Helicopter Rescue Service 'RACQ Capricorn Rescue', (CHP);

(vii) Sunshine Coast: 'RACQ LifeFlight', (CHP);

(viii) Toowoomba: 'RACQ LifeFlight', (CHP); and

(ix) Townsville: Emergency Management Queensland—Helicopter Rescue.

The functions of these providers include:

(i) search and rescue operations (marine and land) as tasked by the Service;

(ii) aero-medical operations;

(iii) providing support in urgent police operations, e.g. where life is at risk or likely to be at risk, or to alleviate a significant risk to the community; and

(iv) providing support during disaster management operations.

The helicopters within the Emergency Helicopter Network are all configured to perform aero-medical retrievals, which makes the bulk of their taskings during normal operational periods (i.e. non-disaster).

Officers are to be aware that helicopter support from Emergency Helicopter Network aircraft may not always be available, due to competing priorities of other agencies. There are conflict resolution processes set in place, which are outlined at s. 2.21.2: 'Helicopter tasking (government and community helicopter providers)' of this chapter.

The Surf Life Saving Queensland (SLSQ) 'Westpac Lifesaver Helicopter Rescue Service' (CHP) is available to assist with land and sea searches (see the subsection titled 'Use of helicopters during search and rescue operations' of s. 2.21.2 of this chapter). SLSQ helicopters are not equipped to conduct aero-medical retrievals and its use may be on a cost recovery basis (see 'Cost recovery' of this section).

See also s. 2.21.3: 'Helicopter tasking (Queensland Police Service helicopter)' of this chapter.

Cost recovery

POLICY

Urgent QPS taskings are provided at no cost to the Service by the Emergency Helicopter Network, with the exception of Australian Helicopters (Horn Island), which provides its services at full cost recovery in all circumstances.

SLSQ may require cost recovery for the use of their helicopters, depending in the duration and type of activity requested. Inquiries are to be made by the SAR Coordinator when seeking the assistance of a SLSQ helicopter whether the Service would be charged for the use of the asset.

Non-urgent tasks such as training, aerial photography and surveillance may involve cost recovery in relation to all government and community helicopter providers.

2.21.2 Helicopter tasking (government and community helicopter providers)

As part of the Queensland Emergency Helicopter Network (QEMN) Guidelines all requests for helicopter support by emergency services, including the Service are to be submitted in accordance with the QEHN: Single Point Tasking Protocol to the Queensland Emergency Medical System (QEMS) Coordination Centre (CC). The QEMS CC is jointly operated by the Queensland Ambulance Service and Queensland Health Retrieval Services Queensland (RSQ).

Use of helicopter during normal operations

Officers requiring the assistance of a government or community helicopter provider (see s. 2.21.1: 'Assistance of government and community helicopter providers at incidents' of this chapter) should advise their:

(i) RDO;

(ii) DDO; or

(iii) patrol group inspector;

who is to assess the situation. If it is considered that helicopter support is necessary, the request is to be forwarded to the:

(i) Duty Officer, Brisbane Police Communications Centre (BPCC), in areas covered by BPCC;

(ii) Comco of the police communications centre (PCC) responsible for managing the incident area; or

(iii) the OIC of the station where the incident has occurred in a place where no PCC exists,

who will submit the request for helicopter support to the QEMS CC (see SMCD), provide details of the officer coordinating the helicopter deployment and receive a QEMS CC incident number.

The comco, duty officer or OIC who contacted the QEMS CC is to provide the officer coordinating the helicopter deployment with the QEMS CC incident number.

After the request is made and a QEMS CC incident number is issued, the helicopter pilot will contact the officer coordinating the helicopter deployment directly. The officer should then provide a complete and accurate situation report to the helicopter pilot. The following information should be compiled and provided by the requesting officer to the helicopter pilot at the initial briefing:

(i) actual task required of the helicopter e.g. SAR (search and rescue), surveillance, siege;

(ii) estimated length of time that flying task at the location should take to complete;

(iii) the number of passengers and estimated weight of equipment;

OPM Issue 113 Public Edition

(iv) geographical location of the flight/search area, including wherever possible the latitude and longitude of the location (available from a GPS enabled alcolmeter, GPS device, QPRIME Mapping Application, 'Google Earth' or similar);

(v) the location of closest helicopter refuelling site (if known);

(vi) if the location of the operation is to be kept confidential, the pilot is to be advised so that necessary radio transmission precautions can be taken; and

(vii) any requirement for the transport of animals, e.g. police dogs.

Providing this information in full and clear terms will ensure adequate fuel and equipment is arranged by the helicopter pilot and will provide the maximum benefit of the helicopter use.

Use of helicopter during search and rescue operations

The most effective search and rescue asset for most searches is a helicopter. They have the ability to search in most conditions, cover extensive search areas, carry sophisticated equipment (direction finding equipment, forward looking infra-red radar and night vision imaging systems.) and may be able to commence a rescue once the target has been located.

Officers requiring the assistance of a government or community helicopter provider when conducting a search and rescue operation (see s. 17.5: 'Search and rescue' of this Manual) should advise the search and rescue coordinator managing the search and rescue operation who is to assess the situation. If the search and rescue coordinator considers helicopter support is necessary and after obtaining commissioned officer approval, the request is to be forwarded to the:

(i) QEMS CC during normal operations; or

(ii) State Disaster Coordination Centre (SDCC) Aviation Cell during disaster management operations.

The search and rescue coordinator, or delegated officer, will brief the helicopter pilot with the information outlined in points (i)–(vii) above.

Use of helicopter during disaster management operations

All requests for helicopter services to undertake tasks relating to disaster management operations are to be made to the District Disaster Coordinator (DDC) as appointed under the provisions of s. 25: 'Chairperson and deputy chairperson' of the *Disaster Management Act*. (See s. 17.2.1: 'District Disaster Coordinator' of this Manual.)

Requests will be processed by the DDC, or delegated officer, in accordance with Queensland Disaster Management Committee (QDMC) policies and procedures.

Officers authorising the use of helicopters as part of disaster management response, should be aware these requests are subject to cost recovery through the Commonwealth's Natural Disaster Relief and Recovery Arrangements (NDRRA) and reimbursement is not automatic. Any application for cost recovery is subject to external scrutiny and not all responses will be covered through the arrangement.

Officers should also note NDRRA funding only covers helicopter assets being used for a disaster management specific task and will not fund assets being used on a standby basis.

If a request for helicopter services is not approved under the QDMC scheme, consideration may be given to requesting helicopter services in accordance with the subsection titled 'Use of helicopter services during normal operations' of this section or s. 2.21.4: 'Helicopter tasking—private helicopter services' of this chapter.

When helicopter deployment is required during disaster management operations, the DDC, or delegated officer, is to request helicopter services by submitting the request for helicopter support to the SDCC Aviation Cell and receive a QEMS CC incident number. The QEMS CC incident number should be provided to the officer coordinating the helicopter deployment who will be contacted by the responding helicopter pilot to conduct the briefing as outlined in points (i) to (vii) of this section.

Tasking conflict resolution process

Due to the specialised role fit-outs of helicopters within the QEHN, tasking conflicts will occur on occasion. Whenever possible, tasking conflicts are to be resolved by a collaborative response between the agencies. Generally, the priority of tasking is as follows:

(i) overt rescue operations;

(ii) aero-medical retrievals;

(iii) urgent QPS or Queensland Fire Department (QFD) taskings;

(iv) non-urgent QPS or QFD taskings.

For the purpose of this section:

OPM Issue 113 Public Edition

Urgent QPS taskings

are emergent incidents, accidents or credible threats with a potential to cause death or serious injury or loss or serious damage to property/assets. These may include sieges, abductions and the restoration of urgently needed communication equipment where ground access to the site of the equipment is not practical.

Non-urgent QPS taskings

include prisoner transfers, crime scene photography, public relations, proactive policing activities and post-incident deployment of officers.

Tasking conflict is resolved on a multiple tier process, with each step involving more senior officer involvement as follows:

(i) **Tier 1 resolution**. Where a competing helicopter demand is identified, the QEMS CC will convene a teleconference with the:

(a) requesting police communication centre comco, and other officers as appropriate or practicable; and

(b) RSQ Medical Coordinator,

to resolve the conflict and agree on the tasking priority of the request;

(ii) **Tier 2 resolution**. Where the competing demand cannot be resolved, the QEMS CC will extend the teleconference to include the:

(a) respective DDO, RDO, search and rescue coordinator or a commissioned officer; and

(b) Senior QEMS CC on Call Medical Coordinator,

to resolve the conflict and agree on the tasking priority of the request; or

(iii) **Tier 3 resolution**. Where the competing demand cannot be resolved, the QEMS CC will extend the teleconference to include:

(a) during normal operations, the Duty Officer, BPCC and the State Medical Director, RSQ, or delegate. A tasking priority must be determined by the parties; or

(b) during disaster response operations, the SDCC Aviation Cell Manager, or delegate and the State Medical Director, RSQ, or delegate to resolve the conflict and agree on the tasking priority of the request.

If the tasking priority cannot be resolved, the SDCC Aviation Cell Manager, or delegate and the State Medical Director, RSQ, or delegate, are to seek a direction from the Chair State Disaster Coordination Group to determine the tasking priority.

The following points are to be discussed and considered when negotiating the priority tasking of a helicopter:

(i) the nature of the incident (the QEMS CC and other agencies are aware that some Service taskings are classified);

(ii) the number of lives at risk or potentially at risk;

(iii) the likelihood of helicopter tasking eliminating risk to those lives or achieving other high priority tasking agency objectives;

(iv) the reasons a rapid response is required; and

(v) any alternatives that do not increase the risk to lives.

2.21.3 Polair Queensland tasking

The Service operates two helicopters, which normally conduct operations within the greater South East Queensland area.

The helicopters are based at:

(i) Polair Queensland Gold Coast (Carrara) and operates within the South Eastern Region; and

(ii) Polair Queensland Brisbane (Archerfield) and operates within the Brisbane Region, Ipswich and Moreton Districts.

The helicopters may be deployed to other parts of the state upon request to the Inspector, Specialist Services Group, Emergency Response and Coordination Command.

The Inspector, Specialist Services Group is responsible for the overall coordination of the Service helicopters.

The helicopters are fitted with:

(i) Forward Looking Infrared radar with high definition camera;

(ii) video recording capability;

OPM Issue 113 Public Edition

(iii) searchlight;

(iv) digitally protected voice communications;

(v) video downlink capability;

(vi) night vision goggle capability; and

(vii) GPS and advanced moving map navigation systems.

Each helicopter is crewed by a pilot and two police officer tactical flight officers.

The Service helicopters are not equipped to conduct winch or aero-medical retrievals.

The role and function of Polair Queensland is outlined on the Aviation Capability Group SharePoint page.

ORDER

Carriage of firearms on police helicopters must be in the unloaded state. Firearms can be carried in a holster or an approved storage device and ammunition must be stored separately. Conducting a load or unload must be in accordance with the Weapon Clearing Station Guidelines available on the Operational Equipment and Armoury SharePoint page.

Requesting Polair Queensland for planned activities

Officers requiring the assistance of Polair Queensland are to:

(i) create a 'Police Air Operations Request' through IMAC; or

(ii) If urgent, utilisation of the dedicated aviation channel GWN711.

Tasking requests submitted via email or QPRIME will be returned and requested to resubmit through IMAC.

Information and instructions on creating IMAC request are available on the Polair SharePoint page.

Use of Polair Queensland during normal operations

Officers requiring the assistance of Polair Queensland:

(i) whilst the helicopter is airborne or on standby, Polair can be contacted via the dedicated aviation channel GWN 711. The aircrew will determine if the helicopter is able to assist with the request; and,

(ii) when Polair Queensland is off duty, officers requiring airborne assistance are to advise their regional duty officer who is to assess the situation. If it is considered that helicopter support is necessary, the aircrew will be called out to attend the incident. Any callouts must be authorised in accordance with the Regional Instruction for the respective helicopter.

A tactical flight officer will contact the officer coordinating the helicopter deployment directly. The following information is to be compiled and provided by the requesting officer to the tactical flight officer at the initial briefing:

(i) complete and accurate situation report and details of actual task required of the helicopter e.g. search for an offender or missing person, surveillance or siege;

(ii) estimated length of time the flying task at the location should take to complete;

(iii) geographical location of the flight/search area, including wherever possible the latitude and longitude of the location (available from a GPS enabled device, QPRIME Mapping Application, 'Google Earth' or similar); and

(iv) if the location of the operation is to be kept confidential, the tactical flight officer is to be advised so that necessary radio transmission precautions can be taken.

Providing this information in full and clear terms will ensure adequate fuel and equipment is arranged by the helicopter crew and will provide the maximum benefit of the helicopter use.

Use of Polair Queensland during disaster management operations

All requests for Polair Queensland to undertake tasks relating to disaster management operations are to be made in accordance with the subsection titled 'Use of helicopter services during disaster management operations' of s. 2.21.2: 'Helicopter tasking (government and community helicopter providers)' of this chapter.

Use of Polair Queensland during a pursuit

ORDER

Service helicopters are to be operated in accordance with s. 15.5.10: 'Use of Polair or other Service tasked air assets during a pursuit' of this Manual.

Surveillance of Australian Defence Force facilities

ORDER

Where a service helicopter is operating in the vicinity of an Australian Defence Force (ADF) establishment, whenever practicable, the tactical flight officers are to ensure the electronic surveillance sensors do not view/record any part of

OPM Issue 113 Public Edition

the facility, unless the mission incorporates the entry of a defence facility e.g. an offender enters a military facility whilst under surveillance.

Where a video recording has been made of an ADF facility during a mission, the Inspector, Aviation Capability Group is to liaise with the commander of the facility for the review of the footage prior to any release (e.g. court, investigator, media) to ensure no sensitive information is disseminated.

2.21.4 Helicopter tasking (private helicopter services)

POLICY

The use of helicopter services provided by private contractors is only to be considered in urgent cases and only after all government and community helicopter resource options have been exhausted.

PROCEDURE

Requests by a member of the Service for the use of private helicopter services should only be made with the approval of the relevant district officer, who should ensure that a written quote is obtained from the contractor, and considered prior to giving such approval. (See Delegation D 12.11) Any written quote obtained is to include cost estimates for helicopter transfer times to the location as well as time on site prior to the task being undertaken.

2.22 Police Drug Diversion Program

Definitions

For the purposes of this section:

Personal use

means for one's own consumption, use or enjoyment.

Polydrug possession

means a minor drugs offence that may include a person being in possession of different types of drugs or medicines, provided the quantity of each drug or medicine is not more than the respective prescribed quantity.

Police drug diversion

is a sequential 3-tiered program as follows:

(i) drug diversion warning;

(ii) initial drug diversion assessment program (DDAP); and

(iii) subsequent DDAP.

Minor drugs offence

is as defined by s. 378B: 'Meaning of *minor drugs offence*' of the PPRA, an offence against:

(i) s. 9: 'Possessing dangerous drugs' of the *Drugs Misuse Act* (DMA) involving possessing not more than the prescribed quantity of the drug(s);

(ii) ss. 10(1), (2), (4), (4A) and 10A(1)(a), (b), (c) of the DMA, involving possessing a thing(s) for use, or that has been used, for the administration, consumption or smoking of a dangerous drug, unless the possession under (i) or (ii) relates to an offence by the same person against the DMA involving the production or supply of a dangerous drug of trafficking in a dangerous drug; or

(iii) s. 34(1): 'Offence to buy or possess S4 or S8 medicines or hazardous poisons' of the *Medicines and Poisons Act* (MPA) involving possessing not more than the prescribed quantity of the medicine(s), unless the possession relates to an offence by the same person against the MPA involving dealing with, manufacturing or supplying an S4 or S8 medicine.

Information and resources to assist officers with the police drug diversion program process are located on the Drug and Alcohol Coordination Unit (DACU) SharePoint page. For the purposes of this section, a reference to 'drug diversion' is a reference to (i), (ii) or (iii) above, as is relevant in the circumstances.

ORDER

Where a person is eligible for drug diversion, an investigating officer is to offer the person drug diversion as an alternative to prosecution.

Identifying particulars and DNA sample

Where an eligible person agrees to drug diversion, officers are not to take or cause identifying particulars or a DNA sample to be taken for the minor drugs offence.

OPM Issue 113 Public Edition

2.22.1 Eligibility for drug diversion

Where:

(i) a person has committed a minor drugs offence (see s. 378B: 'Meaning of minor drugs offence' of the PPRA) and not committed another indictable offence related to the minor drugs offence (excluding another related minor drugs offence);

(ii) the person has not previously been sentenced to serve a term of imprisonment for an offence against:

(a) s. 5: 'Trafficking in dangerous drugs';

(b) s. 6: 'Supplying dangerous drugs';

(c) s. 8: 'Producing dangerous drugs'; or

(d) s. 9D: 'Trafficking in relevant substances or things',

of the *Drugs Misuse Act*; and

(iii) an officer reasonably believes each minor drugs matter (substances and things) the subject of the minor drugs offence was for the person's personal use,

the person is eligible to be offered the opportunity to:

(i) be given a drug diversion warning (DDW) if the person has not previously been offered a DDW or an opportunity to participate in a drug diversion assessment program (DDAP) (see s. 378C: 'Drug diversion warning' of the PPRA);

(ii) participate in an initial DDAP if the person has previously been offered a DDW, but not offered the opportunity to participate in a DDAP (see s. 379: 'Initial drug diversion assessment program' of the PPRA); or

(iii) participate in a subsequent DDAP if the person has previously been offered the opportunity to participate in a DDAP but not offered the opportunity to participate in a subsequent DDAP (see s. 379AA: 'Subsequent drug diversion assessment program' of the PPRA).

A person does not have to admit to committing a minor drugs offence to be eligible for drug diversion, however, an investigating officer is to:

(i) be satisfied there is a prima facie case the defendant has committed a minor drugs offence; and

(ii) have formed a reasonable belief the minor drugs matter was for the person's personal use,

before offering a person drug diversion.

Court ordered drug diversion under s. 122A: 'Particular proceedings for minor drugs offences' of the DMA will affect a person's eligibility for police drug diversion under the PPRA. For example, if a person has previously been ordered by a court to participate in and complete a DDAP, the person will not be eligible to be offered a DDW but may be eligible for a subsequent DDAP.

OPM Issue 113 Public Edition

Child offender

When an investigating officer is dealing with a child who has committed a minor drugs offence, the officer is to consider the range of diversionary options in s. 11: 'Police officer to consider alternatives to proceeding against child' of the YJA and deal with the child in accordance with s. 5.3: 'Diversion from the court system' of this Manual. However, the sequential eligibility criteria of the police drug diversion program will apply to the child.

For example, if a child has committed a minor drugs offence and has previously:

(i) been cautioned for a minor drugs offence and given a DDW for a different minor drugs offence, the child may be eligible for another caution but will not be eligible for another DDW; or

(ii) completed a DDAP, the child may be eligible for a caution or may be offered the opportunity to participate in and complete a subsequent DDAP but will not be eligible for a DDW.

2.22.2 Initial contact with minor drug offender

An investigating officer who reasonably believes a person has committed, or is committing, a minor drugs offence is to:

(i) take possession of all relevant exhibits and deal with the property in accordance with Chapter 4: 'Property' of this Manual;

(ii) question the person about the offence, complying with relevant provisions of the PPRA relating to investigating indictable offences; and

(iii) establish the person's eligibility for drug diversion.

2.22.3 Determining eligibility for drug diversion

When questioning a person about a minor drugs offence, an investigating officer should:

(i) investigate whether the:

(a) person has committed another related indictable offence (this does not include another minor drugs offence); and

(b) relevant drug matter was for the person's personal use;

(ii) ascertain by checking QPRIME whether the person has previously been offered drug diversion; and

(iii) check the person's criminal history record to establish whether the person has previously been sentenced to serve a term of imprisonment for an offence against:

(a) s. 5: 'Trafficking in dangerous drugs';

(b) s. 6: 'Supplying dangerous drugs';

(c) s. 8: 'Producing dangerous drugs'; or

(d) s. 9D: 'Trafficking in relevant substances or things',

of the *Drugs Misuse Act*.

2.22.4 Offer of drug diversion

Questioning of a person in relation to the relevant minor drugs offence is to be concluded prior to an investigating officer offering a person drug diversion.

Where a person is eligible, the investigating officer should offer the person drug diversion as an alternative to prosecution and ascertain whether the person wishes to accept or refuse the offer.

Officers are to electronically record on their body worn camera (BWC) the offer of drug diversion and the person's acceptance or refusal of the offer.

ORDER

When offering a person drug diversion, the investigating officer is to explain the nature of the drug diversion warning (DDW) or drug diversion assessment program (DDAP) and that if the person:

(i) is given a DDW or participates in and completes the DDAP, the person will not:

(a) be charged with a criminal offence;

(b) have to attend court; and

(c) have a criminal record in relation to the relevant minor drugs offence; and

(ii) where offered the opportunity to participate in a DDAP, fails to participate in and complete the DDAP, a prosecution for an offence under s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA may be commenced.

OPM Issue 113 Public Edition

Offer of drug diversion assessment program

Before offering a person the opportunity to participate in a DDAP, the investigating officer should provide information to the person about the DDAP, including:

(i) that the DDAP will include an assessment (including patterns of drug/alcohol use and personal circumstances) and a brief intervention relevant to the assessment of the person's drug use. The intervention may include motivational interviewing, harm reduction advice and further referral to drug or alcohol treatment;

(ii) that the time required to complete a DDAP is approximately two hours;

(iii) the requirement to complete the DDAP within the time period agreed, unless exceptional circumstances apply;

(iv) that the person may be accompanied by a family member or friend to support them while they complete the program; and

(v) the possibility that, where practicable and if providers are available, the person may undertake the DDAP at a locality of their choice (e.g. if the offender lives or works at a place other than where apprehended) or via an appointment mode of their choice (e.g. telephone appointment).

2.22.5 Acceptance of offer of drug diversion

Drug diversion warning

Where a person agrees to be given a drug diversion warning (DDW), the investigating officer is to:

(i) complete a QP 0701A: 'Minor Drugs Offence Warning' and provide a copy of the form to the person; and

(ii) create a QPRIME occurrence for the relevant minor drugs offence.

In addition to electronically recording the offer of drug diversion, the investigating officer is to electronically record on their body worn camera (BWC) the:

(i) person's agreement to be given a DDW; and

(ii) giving of the DDW.

Where practicable, the following persons are to be present during the giving of a DDW to a child:

(i) a parent of the child; or

(ii) an adult chosen by the child.

If a parent or chosen adult cannot be contacted at the time of the diversion, an investigating officer is to make every effort to notify the parent or chosen adult of the diversion action taken.

Officers should offer a person a police referral when giving a person a DDW (see s. 6.3.14: 'Police Referrals' of this Manual).

Drug diversion assessment program

Where a person agrees to participate in and complete a drug diversion assessment program (DDAP), the investigating officer is to:

(i) inform the person that if they fail to participate in and complete the DDAP they may be prosecuted for an offence under s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA;

(ii) if the person has previous convictions for offences involving violence or sexual offences, consider whether it would be appropriate to refer the person for a remote mode of appointment only (e.g. a telephone appointment);

(iii) contact Diversion Coordination Service (DCS) (see SMCD) and obtain a diversion reference number and appointment details;

(iv) complete a QP 0701: 'Minor Drugs Offence Diversion' and ask the person to sign the form. If the person declines to sign the form, the officer is to warn the person that a failure to sign the QP 0701 will constitute a withdrawal of the person's agreement to participate in and complete a DDAP and the officer will proceed as if the offer had been refused;

(v) provide a copy of the completed QP 0701 to the person and explain that the QP 0701 is a written requirement to participate in and complete a DDAP;

(vi) email a copy of the completed QP 0701 to DCS;

(vii) release the person at the earliest reasonable opportunity (see s. 379AB(6): 'Drug diversion agreement' of the PPRA); and

(viii) create a QPRIME occurrence for the relevant minor drugs offence.

OPM Issue 113 Public Edition

2.22.6 Rescheduling of a drug diversion assessment program

Where an officer is contacted by a person in relation to a request to reschedule a DDAP, the officer should:

(i) refer the person to the DCS;

(ii) if the person does not have access to their minor drugs offence diversion agreement (QP 0701) with details necessary to reschedule, police are able to provide the person a copy of the relevant agreement; and

(iii) update the relevant QPRIME occurrence to record the person's request to reschedule and reasons, if provided.

2.22.7 Refusal of offer of drug diversion

Where a person refuses an offer of drug diversion, the investigating officer is to:

(i) commence a prosecution, or in the case of a child take such action as is appropriate in accordance with s. 5.3: 'Diversion from the court system' of this Manual, in respect of the minor drugs offence;

(ii) consider releasing the person under any relevant provisions of Chapter 14, Part 4: 'Discontinuing arrest' of the PPRA;

(iii) where relevant, take, or issue a notice to take, identifying particulars and a DNA sample in accordance with ss. 2.25: 'DNA' and 2.26: 'Identifying particulars' of this chapter or;

(iv) create a QPRIME occurrence for the relevant minor drugs offence;

(v) outline in the summary of facts in the court brief (QP9) that the person was offered drug diversion and the person's response to the offer and reasons, if any, why the person refused the offer.

2.22.8 Eligible defendant not offered drug diversion

ORDER

If an officer identifies a defendant is eligible, but was not offered drug diversion, the officer is to offer the defendant the opportunity to participate in the police drug diversion program (warning, initial and subsequent drug diversion assessment program appointment) (see ss. 378C: 'Drug diversion warning', 379: 'Initial drug diversion assessment program' and 379AA: 'Subsequent drug diversion assessment program' of the PPRA).

If the defendant agrees to an offer of a warning or to participate in and complete a DDAP, the officer making the offer is to ensure:

(i) the charge of the relevant minor drugs offence is withdrawn; and

(ii) arrange for the destruction of:

(a) identifying particulars; and

(b) DNA sample where relevant in accordance with ss. 2.25.15: 'When DNA samples and results must be destroyed' and 2.26.7: 'Destruction of identifying particulars' of this chapter.

2.22.9 Ineligible for drug diversion

Where a person, who has been arrested for, or is being questioned about, a minor drugs offence, is not eligible to be offered drug diversion, the investigating officer is to:

(i) proceed with the prosecution of the minor drugs offence;

(ii) outline in the summary of facts in the court brief (QP9) the reasons why the person was ineligible to be offered drug diversion. Where relevant, this includes the factual foundation for the reasonable belief that the minor drugs matter was not for personal use; and

(iii) update the relevant QPRIME occurrence by creating a new drug diversion record from the Disposition area of the Offence/Charge window and enter the reasons why the person was ineligible to be offered drug diversion.

In the case of a child, officers should take such action as is appropriate in accordance with s. 5.3: 'Diversion from the court system' of this Manual.

2.22.10 Forfeiture of minor drugs matter

Where a person agrees to drug diversion all minor drugs matter (substances and things), the subject of the minor drugs offence, is forfeited to the State (see ss. 379AB(5): 'Drug diversion agreement' and 378C(7): 'Drug diversion warning' of the PPRA) and an OIC or property officer may authorise the immediate destruction or disposal of the minor drugs matter (see s. 4.6.14: 'Disposal of drug matter' of this Manual and Delegation D 24.24).

All forfeited property is to be dealt with in accordance with Chapter 4: 'Property' of this Manual.

2.22.11 Drug diversion assessment program outcomes

The drug diversion assessment program (DDAP) provider will advise of the outcome of the person's DDAP by written advice to the Diversion Coordination Service (DCS). The Drug Diversion Coordinator (DDC), Drug and Alcohol Coordination Unit, Domestic and Family Violence and Community Engagement Group will complete a weekly update on program outcomes from the DCS online system.

The DDC will, where the DCS online system indicates the person:

(i) completed the DDAP, modify the QPRIME drug diversion disposition to show the diversion outcome as successful; or

(ii) did not complete the DDAP:

(a) modify the QPRIME drug diversion disposition to show the diversion outcome as unsuccessful and the reason why; and

(b) send a 'Failed to attend' task to the investigating officer's organisational unit. The task will be reassigned for an officer to investigate an offence under s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA.

Where a person, without reasonable excuse, fails to participate in and complete a DDAP, officers may:

(i) issue an infringement notice to the person (see s. 13.15: 'Issue of infringement notices generally' of this Manual);

(ii) issue a notice to appear to the person; or

(iii) where appropriate, arrest the person,

for an offence under s. 791(2)(c) of the PPRA relating to a requirement to participate in and complete a DDAP under s. 379AB(3): 'Drug diversion agreement' of the PPRA.

OPM Issue 113 Public Edition

Officers are only to issue an infringement notice to a person in circumstances where the person would have otherwise been issued with a notice to appear or arrested for the offence.

Officers are not to charge the person with the original minor drugs offence unless the person:

(i) was ineligible for drug diversion; or

(ii) has withdrawn agreement to participate in and complete the DDAP.

2.22.12 Other outcomes from the diversion process

Ineligible persons offered drug diversion

Members who become aware that:

(i) a person has been offered drug diversion and accepted the offer; and

(ii) the person is not eligible for drug diversion,

should advise the investigating officer for the original minor drugs offence.

ORDER

Officers are not to commence proceedings against a person for a minor drugs offence if the person was given a drug diversion warning (DDW) for the minor drugs offence even though the person was not actually eligible to be offered a DDW.

Where a person has accepted an offer to participate in an initial or subsequent drug diversion assessment program (DDAP), an officer may commence proceedings against the person for the relevant minor drugs offence if the:

(i) person was not actually eligible to be offered drug diversion for the minor drugs offence;

(ii) person has not participated in and completed the initial or subsequent DDAP; and

(iii) the officer is satisfied sufficient evidence exists to prove the offence (i.e. the minor drugs matter can be photographed and/or tested before being destroyed).

Officers who commence proceedings in the above circumstances are to:

(i) contact the Diversion Coordination Service to cancel the person's DDAP appointment;

(ii) update the relevant QPRIME occurrence by:

(a) modifying the drug diversion disposition to not offered and the reason why the person was not eligible; and

(b) where applicable, withdrawing the drug diversion previously offered flag.

Persons withdrawing agreement to participate in and complete drug diversion assessment program

If a person who has agreed to participate in a DDAP advises an investigating officer that the person no longer agrees to participate in and complete a DDAP:

(i) before signing and being given the QP 0701: 'Minor Drugs Offence Diversion', the officer should:

(a) commence a prosecution for the original minor drugs offence;

(b) if necessary, contact the Diversion Coordination Service to cancel the DDAP appointment made for the person; and

(c) update the QPRIME drug diversion disposition to show that the offer of drug diversion is not accepted, (see 'Refusal of offer' in s. 2.22.3: 'Eligible for drug diversion' of this chapter; and

(ii) after signing and being given a copy of the QP 00701 the officer should advise the person that failure to participate in or complete the DDAP will render the person liable to prosecution.

2.22.13 Limit on re-arrest

ORDER

Officers who arrest a person for a minor drugs offence and subsequently release that person after acceptance of an offer of drug diversion are not to re-arrest the person for the minor drugs offence irrespective of the outcome of the DDAP or whether the drug diversion was offered in error (see s. 381: 'Limit of re-arrest' of the PPRA).

2.22.14 Duty of prescribed police officers

ORDER

The prescribed police officer (PPO) into whose custody an adult person arrested for a minor drugs offence is delivered is to ensure:

(i) the arresting officer has considered whether the person is eligible for drug diversion; and

OPM Issue 113 Public Edition

(ii) if the person is eligible, the person has been offered drug diversion as an alternative to prosecution.

Where an arresting officer reasonably believes a person is ineligible for drug diversion because the relevant drug matter was not for the person's personal use, a PPO is not to offer a person drug diversion.

If the PPO is satisfied the requirements of ss. 378C: 'Drug diversion warning' or 379AB: 'Drug diversion agreement' of the PPRA have been complied with, the PPO is to release the person at the earliest opportunity (see s. 394: 'Duty of police officer receiving custody of person arrested for offence' of the PPRA and s. 16.9.4: 'Responsibilities of receiving officer and prescribed police officer accepting a prisoner into a watch-house' of this Manual).

2.22.15 Members investigated for a minor drugs offence

An officer investigating a minor drugs offence involving another member of the Service is to fully investigate the circumstances surrounding the offence and record the details and outcomes of that investigation in the relevant QPRIME occurrence.

If the member is eligible for drug diversion (see s. 2.22.1: 'Eligibility for drug diversion' of this chapter), the investigating officer is to offer the member drug diversion as an alternative to a prosecution.

A member's acceptance of drug diversion (including a warning) does not alter a member's reporting obligations under s. 6A.1: 'Duty concerning misconduct and other grounds for disciplinary action' of the PSAA.

ORDER

Where a member accepts an offer of drug diversion, the investigating officer is to:

(i) report the matter in accordance with the Complaint Resolution Guidelines available on the ESC SharePoint page); and

(ii) ensure any minor drugs matter (substances and things), the subject of the minor drugs offence, is not destroyed or disposed of until any workplace investigation is finalised.

2.23 Forensic procedures

The criteria for officers to lawfully conduct forensic procedures with consent or under orders on a relevant person are outlined in Chapter 17: 'Forensic procedures' of the PPRA. Some provisions authorise officers to conduct a variety of non-intimate forensic procedures (such as taking identifying particulars or DNA samples and conducting non-medical examinations) or issue notices to a relevant person, without the need for a forensic procedure consent or forensic procedure order, under certain circumstances.

A forensic procedure may be performed when authorised (see s. 447: 'When forensic procedures are authorised' of the PPRA).

Appendix 2.6: 'Forensic procedure type table' is a reference table to assist officers in deciding which provisions of the legislation are to be used to affect the required procedure.

OPM Issue 113 Public Edition

2.23.1 Forensic procedure consent

Chapter 17, Part 2, ss. 448–456: 'Obtaining consent for forensic procedure' of the PPRA provides general rules relating to asking for consent, that consent must be informed consent and for this to be so, an officer is to ensure that the provisions of s. 454: 'General requirements for giving informed forensic procedure consent' are explained to the relevant person.

There are special requirements for a relevant person who is:

(i) a child who is at least 14 years (s. 450: 'Special requirement for child of at least 14' of the PPRA);

(ii) a child who is under 14 years (s. 451: 'Special requirement for child under 14' of the PPRA); or

(iii) a person with impaired capacity (s. 452: 'Special requirement for person with impaired capacity' of the PPRA).

Officers satisfied that the person's ability to give the consent is not affected by alcohol or a drug, may obtain forensic procedure consent following the general rules in Chapter 17, Part 2 of the PPRA for a forensic procedure:

(i) from a person suspected of committing an offence; or

(ii) in relation only to the taking of a DNA sample from a person for any of the following purposes:

(a) to help decide whether a person is a suspect in relation to an offence;

(b) to help locate a missing person; or

(c) to help identify a deceased person or the remains of a deceased person.

In relation to obtaining forensic procedure consent for an intimate forensic procedure (see SMD), an officer must not ask a relevant person, or another person who may act for the relevant person, to give a forensic procedure consent for an intimate forensic procedure unless the officer suspects the relevant person may have committed an indictable

offence, whether or not the relevant person has been proceeded against for an offence for which the results of performing the forensic procedure may be relevant.

Forensic procedure consent is not required under Chapter 17, Part 2 of the PPRA to perform a forensic procedure under Chapter 17:

(i) if the PPRA does not specifically require consent for the forensic procedure (e.g. Chapter 17, Parts 4: 'Identifying particulars' and 6: 'Non-medical examinations'); or

(ii) for a non-intimate forensic procedure (other than the taking of a DNA sample) (see SMD) on a person if the procedure does not involve the touching of the person by anyone other than the person (e.g. photographing a part of the person's body, which would not constitute an intimate forensic procedure).

Also, if the relevant person is not suspected of having committed an offence, and subject to subsection (1)(b) of s. 448: 'What pt 2 provides' of the PPRA, Chapter 17, Part 2 of the PPRA does not require a police officer to act under Part 2 to obtain the consent of a person to the performance of a forensic procedure on the person (e.g. performance of a forensic procedure on a victim).

In circumstances where a relevant person is suspected of committing an indictable offence and there are reasonable grounds to believe that a forensic procedure may provide evidence of the commission of the offence, investigating officers may, in appropriate circumstances, ask for the relevant person's consent for a forensic procedure before making an application for a forensic procedure order under s. 458: 'Application for forensic procedure order' of the PPRA. However, consideration is to be given to the possibility that the relevant person may give forensic procedure consent on the condition the use of the DNA evidence taken during the forensic procedure is limited only to the purpose for which the police officer originally proposed to perform the forensic procedure. Such a limitation would not allow the evidence to be used in any other investigation or allow the relevant person's DNA profile to be recorded on the DNA database. Further consideration is also to be given to the possibility that the evidence may be lost if the relevant person refuses to give forensic procedure consent.

The reasonable grounds to believe that a forensic procedure may provide evidence must be more than mere suspicion.

When obtaining forensic procedure consent from a relevant person or a person who may give consent for a child under 14 years or a person with impaired capacity, officers are to:

(i) be satisfied that the person's ability to give the consent is not affected by alcohol or a drug (see s. 449(1): 'General rules about asking for consent' of the PPRA);

(ii) not ask a relevant person, or another person who may give consent for a child under 14 years or a person with impaired capacity, to give a forensic procedure consent for an intimate forensic procedure, unless the officer suspects the relevant person may have committed an indictable offence (see s. 449(2) of the PPRA);

(iii) record the informed consent either electronically or in writing. If the explanation required under s. 454 of the PPRA is given orally, officers must, unless it is not practicable, electronically record the explanation. Where consent is given in writing, the officer is to obtain the signature of the relevant person and support person present with the relevant person (where applicable), on the appropriate section of the approved form (see s. 455: 'Recording consent' of the PPRA).

(iv) when asking a relevant person to give a forensic procedure consent, ensure that the explanation required under s. 454 of the PPRA and a reasonable time to consider the explanation is given to the relevant person. (This is to result in the relevant person giving informed consent.) (see ss. 453: 'Consent must be informed consent' and 454 of the PPRA).

The officer should provide the relevant person with a copy of the appropriate 'statement of explanation' using the relevant form (see Form 80A, Form 81A, Form 82A, Form 83A, Form 84A, Form 85A, Form 86A or Form 87A (all available in QPRIME) should be used will depend on the age of the relevant person and whether the relevant person is a person with impaired capacity);

(v) officers should use the appropriate approved 'Forensic procedure consent (written)' form available on QPS Forms Select when informed consent is obtained in writing. (Whether a Form 80B, Form 81B, Form 82B, Form 83B, Form 84B, Form 85B, Form 86B or Form 87B should be used will depend on the age of the relevant person and whether the relevant person is a person with impaired capacity.);

Additionally, the relevant person is to be provided with a copy of the completed written forensic procedure consent document.

(vi) if an officer reasonably suspects that the relevant person is a child who is at least 14 years or a person with impaired capacity and the child or person gives a written forensic procedure consent, ensure the written consent is also signed by the support person present when the consent is given (see ss. 450 & 455(3) of the PPRA);

(vii) if an officer reasonably suspects a relevant person is unable because of an inadequate knowledge of the English language or a physical disability to speak with reasonable fluency in English arrange for the presence of an interpreter and delay asking for the consent until an interpreter is present (see ss. 433: 'Right to interpreter' & 512: 'Right to interpreter' of the PPRA). Additionally, the presence of an interpreter is required where a person is

OPM Issue 113 Public Edition

giving consent for a child under 14 or for a person with impaired capacity if the person is unable to speak English with reasonable fluency;

(viii) in cases where an officer reasonably suspects the relevant person is a child who is at least 14 years, comply with the provisions of s. 450 of the PPRA;

(ix) in cases where an officer reasonably suspects the relevant person is a child who is under 14 years, comply with the provisions of s. 451 of the PPRA; and

(x) in cases where an officer reasonably suspects the relevant person is a person with impaired capacity, comply with the provisions of s. 452 of the PPRA;

When obtaining forensic procedure consent in writing from a relevant person, officers are to:

(i) ensure that sufficient copies of the appropriate forensic procedure consent form are completed and signed by the required person(s);

(ii) provide a copy to the person providing the forensic procedure consent or the person acting for the relevant person;

(iii) where the forensic procedure to be performed involves the taking of a DNA sample, ensure the original of the appropriate forensic procedure consent form is forwarded to the DNA unit with a QP 0442: 'DNA Sample Particulars Form' (available in QPRIME); and,

(iv) retain a copy for the investigation file.

Forensic procedure consent withdrawal

ORDER

Where a forensic procedure is being performed under a forensic procedure consent and the relevant person withdraws the consent, officers are to ensure that the person performing the forensic procedure and any person helping that person immediately stops performing the procedure.

For the purpose of this policy, where the relevant person is:

(i) a child under 14 years; or

(ii) a person with impaired capacity and the consent was given for the person by a parent of the person;

the person who consented to the procedure is taken to have withdrawn their consent if the child or person with impaired capacity objects to the performance of the procedure or resists while the procedure is being performed (see s. 520: 'Effect of withdrawal of consent' of the PPRA).

However, withdrawal of consent does not affect the admissibility in evidence of:

(i) anything observed, taken or collected before the consent was withdrawn; or

(ii) an analysis done on anything taken or collected before the consent was withdrawn; or

(iii) anything else done under this chapter in relation to a thing mentioned in paragraph (i) or an analysis mentioned in paragraph (ii).

Officers are to ensure that whenever consent is withdrawn, anything taken or collected before the consent was withdrawn is dealt with as if consent had not been withdrawn.

Where the person who has withdrawn the forensic procedure consent is suspected of having committed an indictable offence and:

(i) the performance of a forensic procedure on the person may provide evidence of the commission of the offence; and

(ii) the performance of the required forensic procedure is not otherwise authorised by Chapter 17: 'Forensic procedures' of the PPRA (e.g. ss. 467: 'Taking identifying particulars of person in custody', 468: 'Taking identifying particulars—proceeding started by notice to appear or complaint and summons', 470: 'Identifying particulars notice may be given', 481: 'Taking DNA sample if proceedings started or continued against an adult by arrest, notice to appear or complaint and summons etc.', 482: 'DNA sample notice', 498: 'Examination if proceeding started against an adult by arrest, notice to appear or complaint and summons' and 499: 'Non-medical examination notice' of the PPRA),

officers are to consider making application for a forensic procedure order under s. 458: 'Application for forensic procedure order' of the PPRA (see s. 2.23.2: 'Forensic procedure orders' of this chapter).

2.23.2 Forensic procedure orders

Officers can apply to a magistrate for a forensic procedure order authorising a qualified person to perform an intimate or non-intimate forensic procedure or both, if an officer is satisfied that performing a forensic procedure on a person suspected of committing an indictable offence may provide evidence of the commission of the offence (see Chapter 17, Part 3, ss. 457–466: 'Forensic procedure orders' of the PPRA).

OPM Issue 113 Public Edition

These provisions apply whether or not the relevant person is dead. However, the provisions requiring notice to be given to the relevant person of an application for forensic procedure order do not apply if the relevant person is dead or s. 460: 'When notice of application need not be given etc' of the PPRA applies.

ORDER

Officers are not to apply for a forensic procedure order in relation to a child where:

(i) the only purpose of the application is to obtain authority to take:

(a) a sample for DNA analysis; or

(b) an identifying particular within the meaning of s. 25: 'Application by police officer for permission to take child's identifying particulars' of the YJA; and

(ii) it is practicable to make an application:

(a) under s. 488: 'Taking DNA sample from child' of the PPRA for an order to take a DNA sample from a child; or

(b) under s. 25 of the YJA for an order to take the identifying particular from the child; and

(iii) it is likely that an order made under s. 488 of the PPRA or s. 25 of the YJA can be given immediate effect (see s. 457(3) and (4): 'Application of pt 3' of the PPRA).

Obtaining a forensic procedure order

Officers, if satisfied that performing a forensic procedure on a person suspected of committing an indictable offence may provide evidence of the commission of the offence, may apply to a magistrate for the issue of a forensic procedure order, whether or not the person has previously consented to the forensic procedure being performed. In making the application officers are to:

(i) complete a Form 75: 'Application for forensic procedure order'. Ensure that in the 'grounds for the application' section of the form the following matters are addressed:

(a) the grounds for believing performing the forensic procedure concerned may provide evidence of the commission of the indictable offence the person is suspected of having committed and that carrying out the forensic procedure is justified in the circumstances; and

(b) the matters the magistrate may have regard to in balancing the rights and liberties of the person and the public interest (see s. 461(3): 'Making forensic procedure order' of the PPRA);

(ii) attend a Magistrates Court, or if the relevant person is a child, Childrens Court and lodge the application for a forensic procedure order with the clerk of the court, swear the application before a magistrate or justice of the peace and obtain a suitable date for the hearing of the application;

(iii) where it is necessary to serve notice of the application for a forensic procedure order on the relevant person (see ss. 459: 'Notice of application must ordinarily be given' and 460: 'When notice of application need not be given etc.' of the PPRA):

(a) complete a Form 74: 'Notice of application for forensic procedure order';

(b) serve a copy of the completed Form 74 on the relevant person at least 7 days before the day the application is to be heard;

(c) where the relevant person to whom the application for a forensic procedure order relates is a child, a copy of the completed Form 74 is to be served on the child and, although not required by the PPRA, on:

- a parent of the child, unless a parent cannot be found after reasonable inquiry; and
- the Chief Executive, Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS) nominated by the Chief Executive for the purpose, who holds an office within the department for which the Chief Executive has responsibility; and

(d) endorse a copy of each of the served Form 74 as to service. A copy of the endorsed form(s) is to be attached to the prosecution file (see subsection 'Documentation required for hearing of application for forensic procedure' of this section) and a copy returned to the clerk of the court where the application is to be heard.

Documentation required for hearing of application for forensic procedure order and attendance at the hearing

Prior to the date for the hearing of the application, the officer applying for the forensic procedure order (applicant officer) is to forward the following documentation to the relevant police prosecutions office:

(i) a copy of the Form 75;

(ii) a copy of each endorsed service copy Form 74 where applicable; and

(iii) a blank QP 0748: 'Forensic procedure order' to be completed by the magistrate.

OPM Issue 113 Public Edition

On the day the application is to be heard, the applicant officer is to attend the hearing and provide any additional information the magistrate requires about the application.

Issuing and enforcing forensic procedure orders

A magistrate, being satisfied, on the balance of probabilities, of the requirements of s. 461 of the PPRA, will issue a forensic procedure order on a QP 0748. The order will authorise that a forensic procedure may be performed on the relevant person by a qualified person. The order will also contain the provisions of s. 464: 'Powers for enforcing forensic procedure order' of the PPRA. These powers are detention of the relevant person or direction to the relevant person to enable the performance of the relevant forensic procedure.

Recording forensic procedure orders in QPRIME

Following the issue of a forensic procedure order, applicant officers are to make all necessary inquiries to locate the person to whom the order relates. Where the forensic procedure order cannot be enforced within a reasonable time after it has been issued, the applicant officer is to forward the original forensic procedure order to the Police Information Centre (PIC) with a covering report containing the details of the:

(i) investigating officer (name, rank and station);

(ii) relevant person (e.g. name, date of birth, last known address); and

(iii) investigation to which the order relates, including the QPRIME occurrence number(s).

PIC is to ensure that the order is entered in QPRIME on the warrants system, indicating that the relevant person is wanted for the enforcement of the relevant forensic procedure order.

Where an officer locates a person in respect of whom an order has been made, but is not in possession of the relevant order, the officer is to:

(i) request a copy of the forensic procedure order from PIC using org unit [1226] through QPRIME in the same manner as a warrant;

(ii) on receipt of the faxed or e-mailed copy, ensure the order is legible and complete. If the copy is not legible or incomplete due to a malfunction occurring during transmission or printing:

(a) update the QPRIME status to 'warrant not executed' and request another copy of the forensic procedure order through QPRIME;

(b) include relevant comments outlining the reason why the forensic procedure order has been requested again including sufficient detail to identify the relevant person and the forensic procedure order; and

(c) destroy the faulty copy of the order;

(iii) when a legible and complete copy of the forensic procedure order has been obtained, and the forensic procedure subject of the order has been performed, execute the forensic procedure order in QPRIME as if it is a warrant; and

(iv) modify the occurrence in QPRIME to indicate that the forensic procedure order has been executed and the forensic procedure has been performed.

OPM Issue 113 Public Edition

When a forensic procedure order held at PIC and recorded in QPRIME has been finalised, PIC is to ensure that the original forensic procedure order is returned to the investigating officer.

Enforcing forensic procedure orders

Wherever practicable the relevant person named in the forensic procedure order is to be detained for a reasonable time and taken to a place with appropriate facilities and persons for performing the relevant forensic procedure in accordance with the provisions of s. 464(1)(a) of the PPRA. However, where circumstances do not allow for the relevant person to be detained, a QP 0751: 'Direction by a police officer to attend a stated place (original direction)' is to be completed and given to the relevant person.

An officer who detains a relevant person or who gives a QP 0751 to a relevant person under s. 464 of the PPRA, is to also give the relevant person a copy of the QP 0748: 'Forensic procedure order' at time of detention or giving of the QP 0751 in compliance with s. 465: 'Order must be given before forensic procedure is performed' of the PPRA.

Section 464(2) of the PPRA provides that the power to detain applies whether or not the relevant person is given a QP 0751. Therefore, once a forensic procedure order is issued, a relevant person may be detained until such time as the forensic procedure authorised by the order is performed. For example:

(i) subsequent to the giving of the QP 0751 information is received that the relevant person intends to leave the usual place of residence and not attend in accordance with the direction; or

(ii) should a relevant person attend in compliance with a QP 0751 and:

(a) in unforeseen circumstances, the forensic procedure may have to be performed at another place; or

(b) the relevant person refuses to stay at the stated place for the time reasonably necessary for the relevant procedure to be performed.

Prior to detaining, or completing a QP 0751 and giving it to, a relevant person, the detaining or issuing officer is to ensure that the appropriate facilities and persons to perform the forensic procedure are available at the time of detention or, where a QP 0751 is issued, the time the relevant person is required to attend the stated place.

In relation to forensic procedure orders, s. 464 of the PPRA provides the power to issue an original direction and s. 518: 'General power to require further attendance' of the PPRA provides the power to issue a later direction to a relevant person, who attends at a stated place as required by an original direction, to attend the stated place or another place for the performance of the relevant forensic procedure at a stated reasonable time on a stated reasonable day. This is subject to a police officer considering it is not reasonably practicable to perform the forensic procedure because of one of the reasons outlined in s. 518 of the PPRA.

A later direction given under these circumstances has effect as an extension of the original direction. For the procedures for issuing a later direction, refer to s. 2.27.2: 'Later direction' of this chapter.

Where an officer intends to give a relevant person a QP 0751 in relation to a forensic procedure order, the officer is to complete the form for an original direction. In completing the form officers should refer to the relevant provisions of s. 464 of the PPRA.

When the form has been completed, the issuing officer is to ensure that a copy of the QP 0751 together with a copy of the QP 0748 is given to:

(i) the relevant person, and where the relevant person to whom the forensic procedure order relates is a child, to:

(a) a parent of the child, unless a parent cannot be found after reasonable inquiry; and

(b) the Chief Executive, DFSDSCS, nominated by the Chief Executive for the purpose, who holds an office within the department for which the Chief Executive has responsibility;

(ii) where the relevant person is directed to attend at a station or establishment, the OIC of the relevant station/establishment prior to the nominated date;

(iii) where the relevant person is directed to attend a stated place (other than a station or establishment), the qualified person who is to perform the forensic procedure prior to the nominated date; and

(iv) where the officer giving the two forms is not the investigating officer, the investigating officer.

Where officers have issued a QP 0751 they are to:

(i) advise the person that when attending the stated place personal identification, preferably photographic identification such as, a driver licence, passport is to be produced;

(ii) modify the QPRIME occurrence, in accordance with s. 1.11.3: 'Amendments/updates of Policelink entered occurrences (supplementary reports)' of this Manual, to record details of the direction given including the details of the nominated place and time the relevant person is to attend, the officer who gave the direction and the forensic procedure to be performed; and

(iii) ensure that the QPRIME occurrence is checked within a reasonable time following the stated date and time the relevant person is required to attend in compliance with the form issued. In cases where the occurrence indicates the relevant person has failed to comply with the direction contained in the QP 0751 comply with the provisions of subsection 'Failure to comply with a direction contained in a QP 0751 or QP 0752 of this section.

Where the forensic procedure to be performed is one that a police officer may perform (e.g. DNA sample, non-medical examination or taking identifying particulars), ensure the relevant person is directed to attend at an appropriate police station or establishment to enable the procedure to be performed.

Where the forensic procedure to be performed is one that only a doctor, dentist or forensic nurse examiner may perform, ensure the relevant person is directed to attend at a place with appropriate facilities and persons to perform the procedure authorised by the order. In this instance the officer giving the direction is to attend, or ensure another officer is available to attend, the place.

Officers at a place where a forensic procedure is to be performed are to refer to, and where required comply with, the provisions of the following sections of the PPRA:

(i) s. 516: 'General power for performing forensic procedure';

(ii) s. 517: 'Help with, and use of force for, performing forensic procedure';

(iii) s. 519: 'Protecting the dignity of person in performing a non-intimate forensic procedure';

(iv) s. 519A: 'Gender Safeguard for photographing breasts';

(v) s. 520: 'Effect of withdrawal of consent'; and

(vi) s. 521: 'Powers under this part are additional to other powers'.

OPM Issue 113 Public Edition

OICs of stations and establishments, upon receipt of a copy of a QP 0751 or QP 0752: 'Direction by a police officer to attend a stated place (later direction)', are to ensure that appropriate staff and facilities are available to conduct the required forensic procedure(s). The copy of the form is to be filed at the station in a place accessible to officers required to conduct forensic procedures.

Following the performance of a forensic procedure in accordance with a forensic procedure order, the officer in attendance is to:

(i) endorse a copy of the order to indicate that the forensic procedure mentioned therein has been performed, the qualified person who performed it and the time and date of its performance;

(ii) return the endorsed copy of the forensic procedure order to the investigating officer for retention and inclusion to the investigation file;

(iii) modify the occurrence for the original offence to indicate the forensic procedure has been performed, including the qualified person who performed it and the time and date of its performance;

(iv) where a copy of the forensic procedure order was obtained from PIC, execute the forensic procedure order in QPRIME as if it is a warrant; and

(v) deal with the evidence/samples collected in accordance with local arrangements for having the samples examined/analysed.

Failure to comply with a direction contained in a QP 0751 or QP 0752

Where it is established that a relevant person given a QP 0751 or a QP 0752 has failed to comply with the direction contained in the form:

(i) the OIC of the station or establishment to which the relevant person was directed to attend, or the police officer in attendance, in cases where the stated place is not a police station or establishment, is to ensure that the relevant occurrence entry in QPRIME is modified to indicate how the direction was not complied with;

(ii) the officer who issued the QP 0751 or QP 0752 is to ensure that:

(a) the relevant person is interviewed to establish whether a prosecution is to be commenced against that person for an offence under s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA and where appropriate commence a prosecution against the person in accordance with the provisions of Chapter 3: 'Prosecution Process' of this Manual;

(b) where appropriate, the relevant person is detained for a reasonable time and taken to a place with appropriate facilities and persons for performing the relevant forensic procedure authorised by the forensic procedure order;

(c) where the relevant person cannot be located within a reasonable time, following that person's failure to comply with the direction contained in the QP 0751 or the QP 0752, the provisions of the subsection 'Recording forensic procedure orders in QPRIME' of this section relating to recording of the forensic procedure order on a Policelink entered occurrence as a warrant in QPRIME where necessary are complied with; and

(d) an occurrence is generated through the Police Intranet Reporting (PIR2) interface on the Service Intranet (see 'PIR2 available occurrence types' of the PIR2 User Guide) in relation to the suspect offence against s. 791 of the PPRA.

In relation to persons who fail to comply with a reporting notice (i.e. an identifying particulars notice, DNA sample notice or non-medical examination notice), officers are to comply with the provisions of s. 2.27: 'Attendance required by court orders, directions to attend and reporting notices for the performance of a forensic procedure' of this chapter.

Conducting a forensic procedure with consent or under a forensic procedure order

Forensic procedures may only be performed by qualified persons. The forensic procedure to be performed will generally dictate who is qualified to perform it. In relation to a forensic procedure, s. 445: 'Who are qualified persons' of the PPRA provides categories of qualified persons for each forensic procedure.

Officers involved in the performance of a forensic procedure, that is authorised either by a forensic procedure consent or a forensic procedure order are to:

(i) for the procedure being performed, ensure that either a forensic procedure consent has been given or that a forensic procedure order is in existence (see s. 447: 'When forensic procedures are authorised' of the PPRA);

(ii) in cases where the forensic procedure is authorised by a forensic procedure order, ensure that:

(a) a copy of the relevant forensic procedure order is obtained;

(b) that the relevant person is given a copy of the forensic procedure order before the forensic procedure is performed (see s. 465: 'Order must be given before forensic procedure is performed' of the PPRA);

(c) where the relevant person is a child, a copy of the forensic procedure order is given to:

OPM Issue 113 Public Edition

- a parent of the child, unless a parent cannot be found after reasonable inquiry; and
- the Chief Executive, CSSDS, nominated by the Chief Executive for the purpose, who holds an office within the department for which the Chief Executive has responsibility;

(iii) ensure the officer, or person, who is to conduct the forensic procedure is an appropriately qualified person for performing the forensic procedure (see ss. 456: 'Qualified person may perform forensic procedure' and 466: 'Qualified person may perform forensic procedure' of the PPRA);

(iv) where an officer reasonably suspects a relevant person is unable, because of an inadequate knowledge of the English language or a physical disability to speak with reasonable fluency in English, before a qualified person performs a forensic procedure are to arrange for the presence of an interpreter and delay performing the forensic procedure until an interpreter is present (see s. 512: 'Right to interpreter' of the PPRA and s. 6.3.7: 'Interpreters' of this Manual);

(v) for performing a forensic procedure under Chapter 17: 'Forensic procedures' of the PPRA, give any reasonable necessary directions for ensuring the procedure is performed (Note, that if the procedure is being performed under a forensic procedure consent it is not an offence for the person who gave the consent or the person to whom it relates to fail to comply with a direction given). See s. 516: 'General power for performing forensic procedure' of the PPRA;

(vi) if a direction under the previous paragraph, relating to a non-intimate forensic procedure requires a person to remove stated items of the person's clothing and if it is reasonably necessary for clothing other than outer garments to be removed, ensure:

(a) the relevant person is not required to remove more clothing than is necessary for the procedure to be performed; and

(b) if reasonably practicable, the procedure is not performed:

- in the presence of someone whose presence is not required while the procedure is being performed; or
- where someone not involved in performing the procedure can see the procedure being performed,

(see ss. 516(2) and 519: 'Protecting the dignity of person in performing a non-intimate forensic procedure' of the PPRA);

(vii) if appropriate, advise the qualified person performing the forensic procedure that the qualified person may use any equipment necessary for the purpose (see s. 516 of the PPRA);

(viii) if a qualified person may perform a forensic procedure on a relevant person, if appropriate, advise the qualified person that the qualified person may ask another person to give reasonable necessary help and that it is lawful for the qualified person and the person helping to use reasonable necessary force for performing the procedure (see s. 517: 'Help with, and use of force for, performing forensic procedure' of the PPRA);

(ix) if it is reasonably necessary for performing a non-intimate forensic procedure on a relevant person, where appropriate, ask the relevant person to remove stated items of the person's clothing (see s. 519 of the PPRA);

(x) The photographing of a person's breast/chest area is a non-intimate forensic procedure which may require the removal of clothing. It should only be undertaken by a qualified persons under a non-intimate forensic procedure order: For process of gender safeguards for photographing breasts, see ss. 2.26.4: 'Photographs' of this chapter and 519A: 'Gender safeguard for photographing breasts' of the PPRA;

(xi) where the forensic procedure relates to the taking of a DNA sample, ensure that, the place where the DNA sampler (see Schedule 6: 'Dictionary' of the PPRA) is to take the DNA sample is at a location that provides reasonable privacy for the relevant person and is:

(a) a station or establishment;

(b) a hospital;

(c) a prison or detention centre; or

(d) another place the sampler considers is appropriate in the circumstances,

(see s. 477: 'Where DNA sample may be taken' of the PPRA);

(xii) where the forensic procedure relates to the taking of a DNA sample and the DNA sampler is a doctor or nurse, ensure that the doctor or nurse is asked by a police officer to do so (see s. 475: 'Taking DNA sample by doctor or nurse' of the PPRA);

(xiii) where the forensic procedure relates to the taking of a DNA sample, ensure the DNA sampler takes the DNA sample from the relevant person only by having the person use a mouth swab to swab the person's mouth or by collecting hair, including roots of the hair, from the person (see s. 478: 'How DNA samples may be taken' of the PPRA);

OPM Issue 113 Public Edition

(xiv) where the forensic procedure relates to the taking of a DNA sample under a forensic procedure consent, and the relevant person is a person with impaired capacity, ensure a support person is present when the sample is being taken if it is reasonably practicable to do so (see s. 480: 'Taking DNA sample from person with impaired capacity' of the PPRA);

(xv) in cases where the relevant person attends as a result of a QP 0751 or QP 0752, ensure the relevant person is required to state their name and address and to produce evidence of the stated name and address, (see ss. 40: 'Person may be required to state name and address' and 41(e): 'Prescribed circumstances for requiring name and address' of the PPRA) and ascertain, as far as is practicable, that the person named in the QP 0751 is the person attending;

(xvi) after the forensic procedure has been performed, if reasonably practicable, ensure that the back of the original forensic procedure order is endorsed with the following writing and signing the document (see s. 638: 'Record of execution of warrant or order' of the PPRA):

(a) day and time the forensic procedure was performed;

(b) name of the person on whom it was performed;

(c) identity of the qualified person who performed the procedure; and

(d) name, rank, registered number and station of the officer concerned;

(xvii) ensure all samples/things taken as a result of a forensic procedure are sealed in appropriate packaging, labelled clearly, and are transported to the appropriate place(s) for examination/analysis in a manner that ensures continuity of evidence;

(xviii) samples or other things are to be delivered in the following manner:

(a) person samples (blood, saliva, hair) requiring DNA analysis:

- evidence sample is to be transported to the DNA Management Section in a manner that ensures continuity of evidence;
- intelligence sample is to be forwarded through internal mail, in the envelope provided with the sample kit, to the DNA Management Section;

A completed QP 0442: 'DNA Sample particulars form' (available in QPRIME and on QPS Forms Select) is to accompany each sample for DNA analysis together with any other associated paperwork (e.g. forensic procedure consent form or copy of forensic procedure order);

(b) crime scene (unknown) samples including blood, saliva, hair, urine etc. are to be forwarded to Forensic Science Queensland (FSQ) (see SMCD);

(c) samples involving residue of weapon discharges (gunshot residue sample/swab) and dental impressions including photographs and x-rays of teeth to the Inspector, Scientific Section, Forensic Services Group (FSG), Security, Counter-Terrorism and Forensic Services Command; and

(d) forensic medical examination kits (FMEKs), formerly known as sexual assault investigation kits (SAIK) are to be initially taken to a forensic section so that the kit can be entered into the Forensic Register prior to delivery to FSQ. The kit is then to be delivered as soon as possible to the forensic property point of FSQ. For further requirements specific to FMEKs see s. 2.19.6: 'Forensic Services Group (FSG)' of this chapter.

In-tube samples, FMEKs and other exempt items, in accordance with FSG procedures, can be delivered to FSQ Forensic Biology without a QP 0127. All other items being submitted to FSQ forensic property point at the Queensland Public Health and Scientific Services (QPHSS) campus, including whole items being submitted to Forensic Biology require a QP 0127 to be completed and attached to the item before delivery.

Whenever person or crime scene samples, other samples or dental impressions are forwarded to the Inspector, Scientific Section, FSG, officers are to complete and attach to the sample or thing a QP 0127: 'Submission of Articles for Forensic Examination'.

(xix) where the officer endorsing the forensic procedure order after its performance is not the investigating officer, ensure the endorsed order is returned to the investigating officer; and

(xx) following the performance of the forensic procedure, modify the relevant QPRIME occurrence, in accordance with s. 1.11.3: 'Amendments/updates of Policelink entered occurrences (supplementary reports)' of this Manual, with the following information:

(a) details of the forensic procedure performed (e.g. intimate or non-intimate forensic procedure and the nature of the procedure);

(b) details of the person who performed the forensic procedure;

(c) details of the date and place the forensic procedure was performed; and

OPM Issue 113 Public Edition

(d) what was done with any evidence/sample(s) taken as a result of the performance of the forensic procedure.

Performance of forensic procedure by a doctor, a dentist or forensic nurse examiner, other than the taking of a DNA sample under Part 5: 'DNA procedures'

Chapter 17, Part 7: 'Forensic procedures performed by doctors, dentists or forensic nurse examiners' of the PPRA provides what is required to lawfully perform a forensic procedure by a doctor, dentist or forensic nurse examiner under Chapter 17: 'Forensic procedures' of the PPRA, other than the taking of a DNA sample under Chapter 17, Part 5: 'DNA procedures' of the PPRA.

Doctor's powers

Under s. 509: 'Doctor's powers' of the PPRA, if an officer asks a doctor under s. 502: 'When a forensic examiner may be asked to perform forensic procedure' of the PPRA:

(i) the doctor may perform a forensic procedure that may provide evidence of the commission of the offence to which the forensic procedure consent or forensic procedure order relates; and

(ii) if the doctor is performing an intimate forensic procedure and considers it reasonably necessary to also perform a non-intimate forensic procedure or a medical examination, the doctor may also perform a non-intimate forensic procedure or a medical examination on the person that may provide evidence of the commission of the offence whether or not it is necessary to do so to enable the doctor to perform the intimate forensic procedure;

(iii) in performing a forensic procedure, the doctor may:

(a) use any equipment necessary for the purpose;

(b) ask another person to give reasonably necessary help, if reasonably practicable the person helping must be:

- a doctor, dentist or forensic nurse examiner; or
- the same gender as the person undergoing the procedure,

if the person helping is not a doctor, dentist or forensic nurse examiner, the person to undergo the procedure must be:

(a) given an explanation of the procedure; and

(b) offered the opportunity to express a preference about the gender of the helper and given a reasonable opportunity to express their gender preference. This gender preference must be accommodated, unless:

- there are reasonable grounds to believe the preference is for an improper purpose;
- there is significant risk of loss of evidence if the procedure is delayed; or
- it is not reasonably practicable to accommodate the preference,

see s. 16.10.1: 'General requirements concerning search of persons' of this Manual for clarification on improper purpose and reasonably practicable; and

(iv) in performing the forensic procedure, it is lawful for the doctor, and the person helping, to use reasonably necessary force. See s. 517: 'Help with, and use of force for, performing forensic procedure' of the PPRA.

Forensic nurse examiner's powers

Under s. 509A: 'Forensic nurse examiner's powers' of the PPRA, if an officer asks a forensic nurse examiner under s. 502 of the Act:

(i) the forensic nurse examiner may perform a forensic procedure that may provide evidence of the commission of the offence to which the forensic procedure consent or forensic procedure order relates;

(ii) if the forensic nurse examiner is performing an intimate forensic procedure and considers it reasonably necessary to also perform a non-intimate forensic procedure or medical examination, the forensic nurse examiner may also perform a non-intimate forensic procedure or medical examination on the person that may provide evidence of the commission of the offence whether or not it is necessary to do so to enable the forensic nurse examiner to perform the intimate forensic procedure;

(iii) in performing a forensic procedure, the forensic nurse examiner may:

(a) use any equipment necessary for the purpose; and

(b) ask another person to give reasonably necessary help, if reasonably practicable the person helping must be:

- a doctor, dentist or forensic nurse examiner; or
- the same gender as the person undergoing the procedure,

OPM Issue 113 Public Edition

if the person helping is not a doctor, dentist or forensic nurse examiner, the person to undergo the procedure must be:

(a) given an explanation of the procedure; and

(b) offered the opportunity to express a preference about the gender of the helper, and given a reasonable opportunity to express their gender preference. This gender preference must be accommodated, unless:

- there are reasonable grounds to believe the preference is for an improper purpose;
- there is significant risk of loss of evidence if the procedure is delayed; or
- it is not reasonably practicable to accommodate the preference,

see s. 16.10.1: 'General requirements concerning search of persons' of this Manual for clarification on improper purpose and reasonably practicable; and

(iv) in performing the forensic procedure, it is lawful for the forensic nurse examiner, and the person helping, to use reasonably necessary force. See s. 517: 'Help with, and use of force for, performing forensic procedure' of the PPRA.

Dentist's powers

Under s. 510: 'Dentist's powers' of the PPRA, if an officer asks a dentist under s. 502 of the Act, the dentist may perform a forensic procedure only to the extent necessary to:

(i) examine a person's mouth; or

(ii) take a sample of a person's saliva; or

(iii) take a dental impression of a person's mouth; or

(iv) examine a bite mark on a person,

that may provide evidence of the commission of the offence to which the forensic procedure consent or forensic procedure order relates.

In performing a forensic procedure, the dentist may:

(i) use any equipment necessary for the purpose; and

(ii) ask another person to give reasonably necessary help, if reasonably practicable the person helping must be:

(a) a doctor, dentist or forensic nurse examiner; or

(b) the same gender as the person undergoing the procedure.

If the person helping is not a doctor, dentist or forensic nurse examiner, the person to undergo the procedure must be:

(a) given an explanation of the procedure; and

(b) offered the opportunity to express a preference about the gender of the helper, and given a reasonable opportunity to express their gender preference. This gender preference must be accommodated, unless:

- there are reasonable grounds to believe the preference is for an improper purpose;
- there is significant risk of loss of evidence if the procedure is delayed; or
- it is not reasonably practicable to accommodate the preference,

see s. 16.10.1: 'General requirements concerning search of persons' of this Manual for clarification on improper purpose and reasonably practicable; and

(iii) In performing the forensic procedure, it is lawful for the dentist and the person helping to use reasonably necessary force. See s. 517: 'Help with, and use of force for, performing forensic procedure' of the PPRA.

The officer responsible for having a forensic procedure performed on a relevant person is to:

(i) before a doctor, dentist or forensic nurse examiner performs the forensic procedure, tell the relevant person:

(a) if the procedure is authorised under a forensic procedure order, the forensic procedure may be performed without the person's consent because a forensic procedure order authorises its performance;

(b) that the person has the right to have two independent persons of their choice present whilst the forensic procedure is being performed;

(c) that, for exercising the right, to have two independent persons present, they may:

- telephone or speak to a friend or relative to inform that person of their whereabouts and ask the person to be present while the procedure is being performed; and

OPM Issue 113 Public Edition

- telephone or speak to a lawyer and arrange, or attempt to arrange, for the lawyer to be present while the procedure is being performed;

(ii) delay the performing the forensic procedure for a reasonable time to allow the relevant person to telephone or speak to a friend or relative or a lawyer. What is a reasonable time will depend on the particular circumstances, including, for example, the relevant person's age and the nature of the proposed forensic procedure;

(iii) if the relevant person arranges for an independent person to be present, delay performing the procedure for a reasonable time to allow the independent person to arrive. Unless special circumstances exist, a delay of more than two hours may be unreasonable. What is a reasonable time will depend on the particular circumstances, including, for example:

(a) how far the independent person has to travel to the place where the forensic procedure is to be performed; and

(b) when the independent person indicated they would arrive at the place;

(iv) if the independent person arrives, and the relevant person asks to speak with the independent person:

(a) as soon as practicable, provide reasonable facilities to enable the relevant person to speak to the independent person;

(b) if the relevant person is a child and it is reasonably practicable to do so, allow the relevant person to speak to the independent person in circumstances in which the conversation cannot be overheard; and

(c) in any case, if the independent person is a lawyer and it is reasonably practicable to do so, allow the relevant person to speak to the lawyer in circumstances in which the conversation cannot be overheard;

(v) if the independent person arrives, and the relevant person asks that the independent person be present while the forensic procedure is being performed, allow the independent person to be present and give advice to the relevant person during the performance of the procedure, unless the officer considers the independent person is unreasonably interfering with the performance of a forensic procedure, in which case the independent person may be excluded from being present while the forensic procedure is being performed. However before excluding the independent person the officer is to:

(a) warn the person not to unreasonably interfere with the performance of the procedure; and

(b) tell the person they may be excluded from being present if they continue to unreasonably interfere with the performance of the procedure; and

(c) give the person one opportunity to stop unreasonable interference; and

(vi) if an independent person is excluded from being present while a forensic procedure is being performed on a relevant person:

(a) advise the relevant person they may telephone or speak with another independent person, to ask the person to be present while the procedure is being performed; and

(b) if the relevant person arranges for another independent person to be present, delay the performance of the forensic procedure for a reasonable time to allow the other independent person to be present while the procedure is being performed; and

(c) if the relevant person is a child or a person with impaired capacity and has not arranged for another independent person to be present while the forensic procedure is being performed, arrange for someone else to be present while the procedure is being performed.

The requirements of Chapter 17, Part 7 of the PPRA and the policy in the above paragraphs numbered (i) to (vi) does not require a police officer to allow a relevant person to telephone or speak to an independent person, or allow an independent person to be present while a forensic procedure is being performed by a doctor or dentist if the police officer:

(i) reasonably suspects the independent person is an accomplice or accessory of the relevant person; or

(ii) considers that to do so is likely to result in:

(a) an accomplice or accessory of the relevant person taking steps to avoid apprehension; or

(b) evidence being concealed, fabricated or destroyed; or,

(c) a witness being intimidated.

The officer responsible for having a forensic procedure performed on a relevant person is to:

(i) ensure that a doctor, dentist or forensic nurse examiner is asked to perform a forensic procedure on a relevant person only if the performance of the procedure is authorised under a:

(a) forensic procedure consent; or

OPM Issue 113 Public Edition

(b) forensic procedure order. In cases where the forensic procedure is to be performed under a forensic procedure order, the officer responsible is to give the doctor or dentist a copy of the order;

(ii) ensure that the provisions of this policy in relation to the performance of forensic procedures are followed as appropriate (see subsection: 'Conducting a forensic procedure with consent or under a forensic procedure order' of this section);

(iii) if the forensic procedure performed under Chapter 17 of the PPRA is an intimate forensic procedure, ensure the doctor, dentist or forensic nurse examiner who takes a sample or other thing from the relevant person, gives that person, or someone nominated by that person, a part of the sample or thing or an equivalent sample or thing for the person's own purposes in accordance with s. 511: 'Sample and results of analysis to be given to person' of the PPRA, unless:

(a) it is not practicable to give a part of the sample or thing or an equivalent sample or thing to the other person; or

Example

The size of the sample taken is too small to effectively provide the person with an equivalent sample.

(b) in the case of a sample, an equivalent sample for the purpose may be taken from the other person's body at any time; or

Example

A sample of blood taken for DNA analysis.

(c) the doctor or forensic nurse examiner considers giving that person the required sample or thing or an equivalent sample or thing may be inappropriate because, for example, the part or equivalent sample or thing may be used to, or could, transmit a communicable disease. In such a case ensure that the doctor or forensic nurse examiner taking the sample or thing:

- sends, at the person's expense, the part or equivalent sample or thing to a doctor or forensic nurse examiner nominated by the person or by the person's lawyer for safe custody; or
- in appropriate cases, destroys the part or equivalent sample or thing intended to be given to the person, if the person or the relevant person's lawyer does not nominate a doctor or forensic nurse examiner;

(iv) where a person on whom a forensic procedure was performed, is given a part of the sample or thing or an equivalent sample or thing for the relevant person's own purposes in accordance with the previous paragraph, and the person is to remain in custody in possession of the sample or thing, officers who have custody of the person are to ensure that the sample or thing is:

(a) kept in a location to avoid contamination or damage;

(b) not placed in or near any container (such as a refrigerator) which is used to store food or anything which is used in the preparation or consumption of food; and

(c) to be included as property of the prisoner, in cases where the prisoner is taken to a watch-house or transferred to another place, unless the prisoner makes arrangements with another person for the collection of the sample or thing;

(v) as soon as reasonably practicable after a police officer is given the results of an analysis conducted using a sample or other thing taken as mentioned in s. 511(1) of the PPRA, that police officer must give a copy of the results to the person to whom the results relate, or someone nominated by the person. Such a copy may be given in accordance with ss. 39: 'Service of documents' and 39A: 'Meaning of service by post etc.' of the *Acts Interpretation Act*. A copy of the notice given in accordance with this paragraph, is to be endorsed by the officer giving it as to time, date and mode of giving and is to be retained for the investigation file.

Corresponding forensic procedure orders

Forensic procedure orders that have been issued under corresponding legislation from other states of Australia may be registered in Queensland (see s. 524: 'Registration of orders' of the PPRA). Once registered in Queensland, the forensic procedure order from another state becomes a 'corresponding forensic procedure order' (see s. 525: 'Effect of registration' of the PPRA).

A corresponding forensic procedure order may be enforced as if it had been issued in Queensland. Evidence/samples taken as a result of a corresponding forensic procedure order are to be delivered to the appropriate unit of Forensic Services Group, Brisbane, as outlined in subsection: 'Conducting a forensic procedure with consent or under a forensic procedure order' of this section. The delivery is to be done in a way continuity of possession is maintained.

A decision as to whether the evidence/samples taken as a result of a procedure authorised by a corresponding forensic procedure order should be analysed in Queensland, or sent to the issuing state, will be made in accordance with interstate protocols. The decision will be made by:

OPM Issue 113 Public Edition

(i) in the case of person samples requiring DNA analysis, the OIC, DNA Management Section;

(ii) in the case of person samples that do not require DNA analysis (e.g. dental impressions), the Inspector, Scientific Section, FSG;

(iii) in the case of fingerprints, the OIC, Fingerprint Bureau.

Similarly, a forensic procedure order issued in Queensland may be registered and enforced in another state of Australia as if it were an order issued by that other state (see s. 523: 'Arrangements with the Commonwealth and other States' of the PPRA). In cases where officers intend to have a forensic procedure order registered in another state, advice is to be sought from the OIC, DNA Management Section on the requirements of the relevant Ministerial arrangement.

Performance of forensic procedure on person located interstate/overseas

With the exception of Chapter 17, Part 9: 'Corresponding forensic procedure orders' of the PPRA are to be applied only when the relevant person is in Queensland.

In cases where the relevant person is outside Queensland, Chapter 17, Part 9 of the PPRA applies. Officers should contact the OIC, DNA Management Section, FSG to ensure that the necessary Ministerial arrangements and Service level agreements are in place with the jurisdiction in which they require the forensic procedure order to be executed. Officers are required to obtain a forensic procedure order for the required forensic procedure in relation to the relevant person in accordance with the Queensland legislation and contact the OIC, DNA Management Section, to arrange for the Queensland forensic procedure order to be registered in the other relevant jurisdiction.

The OIC, DNA Management Section, is to contact/liaise with the appropriate person in the relevant jurisdiction to register the forensic procedure order in that jurisdiction. Following registration, the Queensland forensic procedure order becomes a corresponding forensic procedure order under the law of the other jurisdiction which can then be used to perform the required forensic procedure.

For all forensic procedure orders that are to be registered in another jurisdiction, where the other jurisdiction is an international law enforcement agency, these are to be authorised and organised through Interpol prior to any assistance being given by the Service. Where a request has not been authorised by Interpol, the request is to be assessed in terms of 'Potential death penalty situations' prior to any forensic procedure order being registered in another jurisdiction (see s. 7.3.1: 'International inquiries through Interpol' and subheading 'Potential death penalty situations' of the MSM).

The OIC, DNA Management Section is to ensure arrangements necessary are made to prove continuity of evidence has been maintained for any forensic material/evidence that is required to be returned to Queensland. The costs of such arrangements are to be met by the region or command to which the investigating officer is attached.

OPM Issue 113 Public Edition

2.24 Non-medical examinations

Chapter 17, Part 6: 'Non-medical examinations' of the PPRA applies if a police officer is satisfied performing a non-medical examination on a person may provide evidence of the commission of an indictable offence.

For definitions relevant to the performance of non-medical examinations see SMD.

A non-medical examination, by definition, is a 'non-intimate forensic procedure, other than taking a DNA sample or palm prints, fingerprints, handwriting, voiceprints or footprints'. Non-intimate forensic procedures may be performed either with forensic procedure consent or with a forensic procedure order or where otherwise authorised by the PPRA (see s. 2.23: 'Forensic procedures' of this chapter). A non-medical examination can only be performed in accordance with the provisions of Chapter 17, Part 6: 'Non-medical examinations' ss. 495 to 500 of the PPRA.

Officers who intend to have a non-medical examination performed on a relevant person are to:

(i) in cases where proceedings for an indictable offence against an adult have been started or continued by arrest, or started by notice to appear or complaint and summons:

(a) detain the person for a reasonable time, of not more than one hour, to obtain the approval of an authorised police officer to perform a non-medical examination on the person; and

(b) with the approval of an authorised police officer, detain the person for the time reasonably necessary to perform the examination on the person (see s. 498 of the PPRA);

(ii) in cases where proceeding for an indictable offence against an adult have been started or continued by arrest and it is intended to release the person under s. 377(2)(b): 'Additional case when arrest of adult may be discontinued' of the PPRA (arrest discontinued and notice to appear or summons served) and it is decided that it is not necessary to immediately perform a non-medical examination on the person, with the approval of an authorised police officer, by written notice (**non-medical examination notice**) given to the person, require the person to report to a police officer at a stated police station or police establishment, at or within the time prescribed by s. 500: 'Requirements for non-medical examination notice' of the PPRA, to enable an authorised examiner to perform a non-medical examination on the person (see s. 499 of the PPRA);

(iii) where the provisions of ss. 498 or 499 of the PPRA do not apply and the non-medical examination procedure does not involve the touching of the relevant person by anyone other than the relevant person, consider asking

the relevant person to perform the procedure on himself or herself, without the necessity to obtain forensic procedure consent, a forensic procedure order or approval of an authorised police officer. (see s. 448(3): 'What pt 2 provides' of the PPRA);

(iv) where the provision of ss. 498 or 499 of the PPRA do not apply, and the performance of the non-medical examination procedure requires another person to touch the relevant person, consider the possibility of obtaining forensic procedure consent. (see s. 2.23.1: 'Forensic procedure consent' of this chapter);

(v) in cases where proceedings for an indictable offence have not been commenced against a relevant person, or forensic procedure consent is not obtained or not likely to be obtained, or has been obtained and is later withdrawn, consider making an application for a forensic procedure order. (see s. 2.23.2: 'Forensic procedure orders' of this chapter).

The Commissioner has delegated the Commissioner's authority under s. 497 of the PPRA to authorise a police officer to perform non-medical examinations (authorised examiner) to the Assistant Commissioner, Security, Counter-Terrorism and Forensic Services Command (see Delegation D 24.39).

The Superintendent, Forensic Services Group is required to submit the names of appropriate officers with the necessary experience or expertise to be able to perform non-medical examinations or who have satisfactorily completed a course of training approved by the Commissioner to be authorised as authorised examiners by the Assistant Commissioner, Security, Counter-Terrorism and Forensic Services Command.

Only authorised examiners are to perform non-medical examinations.

2.24.1 Non-medical examinations (approval and performance)

POLICY

A police officer who:

(i) starts or continues a proceeding for an indictable offence against an adult by arrest or, starts a proceeding for an indictable offence against an adult by notice to appear or complaint and summons; or

(ii) starts or continues a proceeding for an indictable offence against an adult by arrest and intends to release the person under s. 377(2)(b): 'Additional case when arrest of adult may be discontinued' of the PPRA); and

is satisfied performing a non-medical examination on the person may provide evidence of the commission of an indictable offence, and intends to have a non-medical examination performed on the person, is to:

(i) in cases where the officer decides it is not necessary to immediately perform a non-medical examination on the person, obtain approval from an authorised police officer and issue a non-medical examination notice; or

(ii) where the provisions of paragraph (i) do not apply, detain the person for a reasonable time, of not more than one hour, to obtain the approval of an authorised police officer to perform a non-medical examination on the person (see s. 498(2): 'Examination if proceeding started against adult by arrest, notice to appear or complaint and summons' of the PPRA).

OPM Issue 113 Public Edition

2.24.2 Obtaining non-medical examination approval from an authorised police officer

Officers seeking approval for the performance a non-medical examination or the approval to issue a non-medical examination notice are to fully and accurately complete a QP 0750: 'Application For An Approval Of Authorised Police Officer/Senior Officer' (available in QPRIME but only in relation to a DNA sample, otherwise use QPS Forms Select) and contact an appropriate authorised police officer, submit to that officer, the QP 0750 for consideration of the information therein and approval for the procedure or issuance of a non-medical examination notice.

An authorised police officer, who is asked to give approval to detain a person for the time reasonably necessary to perform a non-medical examination on the person, and/or take the person to a place with appropriate facilities for performing the examination or, to give approval for the issue of a non-medical examination notice, is to:

(i) be satisfied that performing the examination may provide evidence of the commission of an indictable offence prior to approving the detention and/or taking of the person for performing the examination or giving approval for the issue of a non-medical examination notice;

(ii) in the case where the request relates to the issue of a non-medical examination notice, not approve the issue of the notice unless the non-medical examination cannot be performed before the person is released;

(iii) supply details of the authorised police officer's name, rank and station/establishment to the requesting police officer;

(iv) inform the requesting officer whether the request to detain and/or take the person for performing a non-medical examination or the issue of a non-medical examination notice is approved;

(v) record the circumstances of the request and approval in their official police notebook.

Wherever practicable, the authorised police officer giving approval is not to also be the authorised examiner who performs the non-medical examination.

Where an authorised police officer's approval has been obtained the requesting officer is to:

(i) record the circumstances of the request and approval in their official police notebook;

(ii) detain the person for the time reasonably necessary for an authorised examiner to perform the examination on the person and if necessary, take the person to a place with appropriate facilities for performing the examination;

(iii) ensure that an authorised examiner performs the approved non-medical examination;

(iv) in cases where the approval relates to the issue of a non-medical examination notice refer to the procedures contained in s. 2.24.3: 'Non-medical examination notice' and s. 2.27: 'Attendance required by court orders, directions to attend and reporting notices for the performance of a forensic procedure' of this chapter; and

(v) ensure a copy of the signed QP 0750 is saved as an external report in the relevant QPRIME occurrence.

2.24.3 Non-medical examination notice

This policy applies if a police officer:

(i) starts, or continues, a proceeding for an indictable offence against an adult by arrest and intends to release the person under s. 377(2)(b): 'Additional case when arrest of adult may be discontinued' of the PPRA; or

(ii) decides to start, or continues, a proceeding for an indictable offence against an adult by notice to appear or complaint and summons,

and decides it is not necessary to immediately perform a non-medical examination on the person.

If the previous paragraph applies, a police officer may, with the approval of an authorised police officer and by written notice (**'non-medical examination notice'**) given to the person, require the person to report to a police officer at a stated police station or police establishment to enable an authorised examiner to perform a non-medical examination on the person.

Officers intending to issue and give a person a QP 0747: 'Non-medical examination notice' (available from Supply Services) are to:

(i) ensure the stated police station or police establishment is one at which the appropriate facilities and equipment are available for the authorised examiner to perform the non-medical examination;

(ii) check and ensure an authorised examiner will be available to perform the non-medical examination at the stated date, time and place;

(iii) nominate a time and date on the notice which is convenient to the authorised examiner, who is to perform the non-medical examination, and wherever possible, to the person concerned;

(iv) serve the person with the pink copy of the notice;

(v) verbally warn the person concerned it is an offence to contravene the requirement to report to a police officer as stated on the notice, and ensure the person understands this warning;

(vi) verbally advise the person concerned that in addition to a possible prosecution for an offence of failing to comply with the requirement of the notice, if the person fails to comply with the non-medical examination notice, a court order may be obtained to have the non-medical examination performed (see s. 514: 'Order for person who fails to comply with reporting notice' of the PPRA);

(vii) advise the person concerned that when attending the stated police station or police establishment, personal identification, preferably photograph identification, is to be produced;

(viii) prior to the nominated time and date, provide the blue and green copies of the QP 0747: 'Non-Medical Examination Notice' to the OIC of the station stated in the notice together with a copy of the completed QP 0750: 'Application For An Approval Of An Authorised Police Officer/Senior Officer' (available in QPRIME but only in relation to a DNA sample, otherwise use QPS Forms Select);

(ix) attach the white original copy of the QP 0747 to the station or establishment copy of the Court Brief (QP9); and

(x) modify the QPRIME occurrence, in accordance with s. 1.11.3: 'Amendments/updates of Policelink entered occurrences (supplementary reports)' of this Manual, to record details of the person, the non-medical examination required to be performed, the date and time the person is required to attend at the station or establishment, details of the authorised police officer who gave approval to issue the notice and any other relevant information.

Where problems arise relating to the above conditions, the officer intending to serve the QP 0747 should not serve the notice concerned and is to detain the person and obtain a further approval of an authorised police officer for the purpose of performing the non-medical examination (see s. 2.24.2: 'Obtaining non-medical examination approval from an authorised police officer' of this chapter).

OPM Issue 113 Public Edition

For the policy relating to the attendance or non-attendance of the person named in a QP 0747, and the provision relating to a later direction, see s. 2.27: 'Attendance required by court orders, directions to attend and reporting notices for the performance of a forensic procedure' of this chapter.

Obtaining approval of authorised police officer by phone, fax, radio etc.

ORDER

The provisions of ss. 800: 'Obtaining warrants, orders and authorities, etc., by telephone or similar facility', 801: 'Steps after issue of prescribed authority' and 802: 'Presumption about exercise of powers under prescribed authority' of the PPRA apply in relation to approvals for non-medical examinations.

Officers obtaining approvals for non-medical examinations by using these provisions are to strictly comply with the requirements contained therein.

2.25 DNA

A database of offenders' DNA profiles is maintained for the purpose of identifying DNA collected from crime scenes. It is critical that active offenders are included in the database to identify their involvement in an offence. A Permanent DNA profile (PDNA) flag on a QPRIME person record indicates the database includes a permanent DNA record for the person.

DNA samples are collected for intelligence and evidence purposes. Intelligence samples are taken for the sole purpose of including the person's DNA profile on the DNA database for future reference (i.e. the DNA sample is not intended to be used as evidence in the case which authorised the DNA sample to be obtained). An evidence sample must be collected if the information is to be used as evidence, regardless of whether the person is already on the database. Evidence samples can be used for both purposes.

An officer can collect and analyse DNA under certain circumstances for investigative purposes, including obtaining DNA from persons, compare it, and store their profile on a database for reference purposes (see Chapter 17, Part 5: 'DNA procedures' of the PPRA).

An officer can apply to a magistrate for a forensic procedure order to obtain a DNA sample from a person suspected of committing an indictable offence where such a sample may provide evidence of the commission of an indictable offence (see Chapter 17, Part 3: 'Forensic procedure orders' of the PPRA).

When no legislative power or order exists an officer can only obtain DNA samples from persons provided the person consents to taking of the sample. A person has the ability to limit how the sample is used (see Chapter 17, Part 2: 'Obtaining consent for forensic procedure' of the PPRA).

DNA evidence should not be relied upon in isolation

DNA evidence should not be relied upon in isolation during an investigation. The DNA evidence is only circumstantial and may provide a link from a person to samples collected at a crime scene, from another person, or from an exhibit. The DNA evidence may provide a link between crime scenes or other exhibits. Officers using DNA evidence in an investigation are to investigate the reasons why a person's DNA is present at a crime scene.

DNA can be transferred, and this potential occurrence should be considered when evaluating the strength of DNA evidence.

There may be instances where DNA evidence is the only evidence available and it will be necessary for a decision to be made as to its use.

Register is to be maintained of DNA samplers

The OIC, DNA Management Section is to ensure a register is maintained of officers authorised to take DNA samples.

The Commissioner authorises officers who have completed the required training to take DNA samples (see s. 476: 'Commissioner may authorise police officer to take DNA samples' of the PPRA and Delegation D 24.26).

2.25.1 Deleted

2.25.2 Obtaining DNA from suspects/offenders/accused persons

Samples can be collected when a proceeding is commenced by arrest, notice to appear, complaint and summons, court order or consent.

Obtaining DNA samples when proceedings started against an adult

Officers can obtain a sample of DNA from offenders (see s. 481 'Taking DNA sample if proceeding started or continued against an adult by arrest, notice to appear or complaint and summons etc.' of the PPRA).

OPM Issue 113 Public Edition

ORDER

When an officer starts or continues a proceeding against an adult for an indictable offence by arrest, notice to appear or complaint and summons, the officer is to obtain DNA unless:

(i) PDNA record already exists in relation to the relevant person; and

(ii) the DNA sample will not be required for evidence in relation to the current indictable offence.

Unless exceptional circumstances exist, officers are to detain the person (see s. 481(2) of the PPRA) for the time reasonably necessary to take a DNA sample from the person (see s. 2.25.8 'Sampling offenders/suspects by court order or other authority under the PPRA' of this chapter).

If it is not possible to collect DNA at the time of commencing proceedings the person may be issued a QP 0723: 'DNA sample notice' in accordance with ss. 482 'DNA sample notice' and 483 'Requirements for DNA sample notice' of the PPRA if:

(i) the person is not being taken to a watch-house, and

(ii) the issuing of a DNA sample notice has been approved by an officer of the rank of Senior Sergeant or above.

Further information on DNA sample notices see s. 2.25.4 'Issuing of DNA sample notices' of this chapter.

Obtaining DNA if the offender fails to comply with a DNA sample notice

The power to obtain DNA expires when an offender fails to comply with a QP 0723: 'DNA sample notice'. In these instances, the issuing officer is to make application to a magistrate to obtain DNA as outlined in s. 2.27.3: 'Non-compliance with a reporting notice' of this chapter.

Further information on DNA sample notices (see s. 2.25.4: 'Issuing of DNA sample notices' of this chapter).

Obtaining DNA samples for intelligence purposes from adults before the court when no sample was taken, or no DNA sample notice was issued at the time of commencing proceedings

If an officer fails to collect a sample or issue a QP 0723 at the time of commencing proceedings, a sample of DNA for intelligence purposes can be obtained if a court is satisfied it is reasonably necessary to take a DNA sample from the person see ss. 484: 'Taking DNA sample from adult before court' of the PPRA, or s. 485: 'Taking DNA sample after finding of guilt' of the PPRA. If a court finds an adult guilty of an indictable offence, including an indictable offence that is dealt with summarily, the court may make:

(i) an order that an officer may detain the person to enable a DNA sampler to take a DNA sample from the person for DNA analysis; or

(ii) an order:

(a) the person report to a police officer at a stated police station or establishment within seven days, or on a stated day at stated hours within seven days, to enable a DNA sampler to take a DNA sample from the person for DNA analysis; and

(b) authorising an officer to detain the person to enable a DNA sampler to take a DNA sample from the person for DNA analysis if the person does not comply with paragraph (a) (see s. 2.25.5: 'Court order under s. 484 or s. 485 of PPRA' of this chapter).

The request for such an order to be made involves a verbal submission by the prosecutor at a time that the offender is before the court.

If the DNA sample is required for in case evidence purposes, the officer is to make an application for a forensic procedure order under s. 458: 'Application for forensic procedure order' of the PPRA (see s. 2.23.2: 'Forensic procedure orders' of this chapter).

Additional information for collecting DNA by a court order see s. 2.25.5: 'Court order under s. 484 or s. 485 of the PPRA' of this chapter.

Obtaining DNA samples for evidence purposes from persons suspected of committing an indictable offence

When an officer is satisfied that obtaining a person's DNA may provide evidence of the commission of an indictable offence, the officer is to make an application for a forensic procedure order under s. 458: 'Application for forensic procedure order' of the PPRA (see s. 2.23.2: 'Forensic procedure orders' of this chapter).

Obtaining DNA samples by consent

A DNA sample may be obtained by consent see s. 2.23.1: 'Forensic procedure consent' of this chapter.

2.25.3 Obtaining DNA from reportable offenders

A DNA sampler may take a DNA sample for analysis from a reportable offender see s. 488A: 'Taking DNA sample from reportable offender for Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004' of the PPRA and as required under s. 40A: 'Allowing DNA sample to be taken' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* (CP(OROPO)A).

OPM Issue 113 Public Edition

ORDER

Officers are to ensure a DNA sample is obtained for all reportable offenders, except where the DNA sample or results of a DNA analysis are already held under the PPRA.

Reportable offenders to comply with DNA sample notice

If a DNA sample or results of a DNA analysis of a DNA sample is not currently kept under the PPRA a reportable offender is to comply with a QP 0991: 'CPOR—DNA sample notice' given to the reportable offender (see s. 40A of the CP(OROPO)A) to:

(i) attend a stated police station at a stated time and date; and

(ii) allow a DNA sampler to take a DNA sample for analysis.

A reportable offender must comply with reporting obligations as required under s. 40A of the CP(OROPO)A unless the offender has a reasonable excuse (see s. 50: 'Failure to comply with reporting obligations' of the CP(OROPO)A and s. 7.14.15: 'DNA sample' of this Manual).

Officers are to require a reportable offender to provide a DNA sample

ORDER

Where a DNA sample or results of a DNA analysis is not held under the PPRA, officers are to require the reportable offender to provide a DNA sample in accordance with s. 40A of the CP(OROPO)A.

The Detective Senior Sergeant, Registry Operations, Child Protection Offender Registry is responsible for identifying reportable offenders who are to provide a DNA sample in accordance with s. 40A of the CP(OROPO)A.

Case manager responsible for managing a reportable offender

The case investigator managing a reportable offender is to:

(i) check the QPRIME person record of the reportable offender to identify if a DNA sample is to be taken in accordance with s. 40A of the CP(OROPO)A;

(ii) where a DNA sample is to be taken, ensure it is taken in accordance with s. 2.25.8: 'Sampling offenders/suspects by court order or other authority under the PPRA' of this chapter; and

(iii) obtain an intelligence DNA sample from the reportable offender either personally, or by using a qualified DNA sampler.

OPM Issue 113 Public Edition

2.25.4 Issuing of DNA sample notices

Where an officer:

(i) commences, or continues, a proceeding for an indictable offence against an adult by arrest and intends to release the person under s. 377(2)(b): 'Additional case when arrest of adult may be discontinued' of the PPRA; or

(ii) commences, or continues, a proceeding for an indictable offence against an adult by notice to appear or complaint and summons and decides it is not necessary to immediately take a DNA sample from the person, see s. 2.25.2: 'Obtaining DNA from suspects/offenders/accused persons' of this chapter, and

(iii) it is not possible or practical to detain a person to take DNA.

The officer may consider the use of a QP 0723: 'DNA sample notice' (available in QPRIME or in booklet form) requiring the person to report to a stated police station or establishment to enable a DNA sampler to take a DNA sample from the person.

Prior to issuing a QP 0723: 'DNA sample notice', the officer is to obtain approval from a Senior Sergeant, or above, and record the details of the approving officer within the remarks field on the front page of the custody report in QPRIME.

Prior to granting approval, the Senior Sergeant, or above, is to consider the circumstances and only give approval when it is not possible or practical to detain a person to take DNA. A QP 0723: 'DNA sample notice' is not to be used as a matter of convenience; it should only be used as a last resort.

Where an officer intends to obtain a DNA sample from a reportable offender in accordance with s. 40A: 'Allowing DNA sample to be taken' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act*, the officer is to give a QP 0991: 'CPOR—DNA sample notice' to the person. The reportable offender is to report to a stated police station or police establishment to enable a DNA sampler to take a DNA sample from the person (see s. 7.14.15: 'DNA sample' of this Manual).

Officers intending to give a person a QP 0723 or QP 0991 are to:

(i) ensure the stated police station or police establishment is one at which the appropriate facilities and equipment are available for the DNA sampler to take the DNA sample;

(ii) check and ensure that a DNA sampler will be available to take the DNA sample at the stated time, date and place;

(iii) nominate a time, date and place on the notice which is convenient to the DNA sampler, who is to take the DNA sample, and wherever possible to the person concerned;

(iv) give the person, for:

(a) indictable offences, the pink copy of the QP 0723 booklet notice or a copy of the QPRIME generated notice; or

(b) reportable offenders, a computer generated QP 0991;

(v) verbally warn the person concerned that it is an offence to contravene the requirement to report to a police officer as stated on the notice and ensure the person understands this warning;

(vi) when issuing a QP 0723 for an indictable offence, verbally advise the person concerned that in addition to a possible prosecution for an offence of failing to comply with the requirement of the notice, if the person fails to comply with the DNA sample notice, a court order may be obtained to have the DNA sample taken (see s. 514: 'Order for person who fails to comply with reporting notice' of the PPRA);

(vii) advise the person concerned that when attending the stated police station or police establishment, personal identification, preferably photograph identification, is to be produced; and

(viii) prior to the nominated time and date, use the QPRIME tasking functionality to notify the nominated police station or police establishment that a person is to attend for the taking of the DNA sample.

Where the above conditions cannot be satisfied, the officer intending to give the QP 0723 is to detain the person and obtain the DNA sample.

If a QP 0723 is given, an Identifying Particulars Notice (QP 0700) must also be given so that DNA and identifying particulars are taken at the same time.

The attendance or non-attendance of the person named in a DNA sample notice, and the provision relating to later direction see s. 2.27: 'Attendance required by court orders, directions to attend and reporting notices for the performance of a forensic procedure' of this Manual.

OPM Issue 113 Public Edition

2.25.5 Court order under s. 484 or s. 485 of the PPRA

This provides an avenue to obtain DNA from an offender or accused person if police failed to initiate the collection of DNA when commencing proceedings for an indictable offence. It requires a verbal submission by a prosecutor. It is the responsibility of the investigating officer to contact the relevant prosecutor to make it clear that a verbal application to obtain DNA is required.

If the court is satisfied it is reasonably necessary to take a DNA sample for DNA analysis from a person under s. 484: 'Taking DNA sample from adult before court' or s. 485: 'Taking DNA sample after finding of guilt' of the PPRA, the prosecutor should:

(i) inquire when and where a DNA sampler will be available to take the DNA sample;

(ii) make submissions to the court on whether, considering the person's antecedents/criminal history and the availability of a DNA sampler, it would be more appropriate to order either the:

(a) detention of the defendant to enable a DNA sampler to take a DNA sample for DNA analysis; or

(b) defendant to report to a police officer at a stated police station or police establishment within 7 days, to enable a DNA sampler to take a DNA sample for DNA analysis; and

(iii) ensure a copy of any order made by the court is provided to either:

(a) the officer detaining the person; or

(b) the OIC of the police station or establishment where the person is to report;

to enable a DNA sample to be taken for DNA analysis as appropriate. The officer taking the DNA sample is also to initiate a QPS IDP/DNA Attendance Notice task workflow within the occurrence.

Where a court has ordered the detention of a person to enable a DNA sampler to take a DNA sample for DNA analysis, OICs of stations and establishments are to ensure a DNA sample is taken upon the request of the court.

Where a court has ordered an adult before that court, attend a nominated police station or establishment for a DNA sample, the OIC of the station or establishment is to ensure that the sample is taken and the appropriate entry made in QPRIME that the sample was taken by issue of a court order. If a QPRIME IDP/DNA Attendance Notice task workflow has not been started, then this is to be initiated and completed.

An officer, taking a DNA sample from an adult ordered to attend a nominated police station or establishment by a court so that a DNA sample can be taken from that person, is to require that person to state their full name and address and provide evidence by producing personal identification pursuant to s. 40: 'Person may be required to state name and

address' of the PPRA, and is to ensure, as far as is practicable, that the person named in the order is the person attending. The copy of the court order is to be scanned and saved in QPRIME.

Where a person contravenes an order made under s. 484: 'Taking DNA sample from adult before court' or s. 485: 'Taking DNA sample after finding of guilt' of the PPRA, the OIC of the nominated police station or establishment is to ensure the matter is assigned to an appropriate officer for further investigation. Where appropriate the officer should commence proceedings against the person under s. 484(3) or s. 485(3) of the PPRA (see s. 2.27.3: 'Non-compliance with a reporting notice' of this chapter).

2.25.6 Obtaining samples for DNA analysis from a victim/complainant/witness

Obtaining forensic procedure consent and forensic procedure orders generally do not apply (see Chapter 17: 'Forensic procedures' of the PPRA) to:

(i) a victim of crime;

(ii) a complainant; or

(iii) a witness to whom s. 448: 'What pt 2 provides' of the PPRA does not apply.

Where a victim/complainant or relevant witness consents to the taking of a sample for DNA analysis, officers are to:

(i) explain the procedure that will be performed to obtain a sample (i.e. mouth swab, hair sample, blood sample or medical examination);

(ii) advise the person they may limit the use of their sample in a particular investigation;

(iii) provide the person with a QP 0535A: 'Statement of Explanation for the Taking of a Sample for DNA Analysis from a Victim/Complainant/Witness' (available in QPRIME);

(iv) ensure three copies of the QP 0535B: 'Signed Consent for the Taking of a Sample for DNA Analysis from a Victim/Complainant/Witness' (available in QPRIME) are signed by:

(a) where the person is an adult and is not a person with impaired capacity, by the adult;

(b) where the person is a child at least 14 years, by the child and a support person;

(c) where the person is a child under 14 years, by the parent/guardian of the child and, if appropriate, by the child

(d) where the person is a person with impaired capacity, by the person and a parent/guardian/support person.

For the following distribution:

(i) a copy of consent form to the victim/complainant/witness;

(ii) a copy of the signed consent form to the DNA Management Section with the DNA sample; and

(iii) scan and save a copy in QPRIME.

Sexual assault victims undergoing examination by a medical practitioner may have a DNA sample collected by the medical practitioner as part of that examination. The victim will be asked to provide informed consent by the medical practitioner which limits use of the sample to the investigation of matter that they are being examined for. The consent form is retained with the relevant medical record. Under such circumstances, there is no requirement for a police officer to provide the victim with a QP 0535A: 'Statement of Explanation for the Taking of a Sample for DNA Analysis from a Victim/Complainant/Witness' form or complete a QP 0535B 'Signed Consent for the Taking of a Sample for DNA Analysis from a Victim/Complainant/Witness' form. The sample will be sent for testing as part of the Forensic Medical Examination Kit (Formerly known as SAIK).

2.25.7 Obtaining DNA sample from child

If an officer:

(i) commences or continues a proceeding for an indictable offence against a child by arrest, notice to appear, or complaint and summons; and

(ii) considers it is reasonably necessary to take a DNA sample from the child for DNA analysis;

the officer may apply to the Childrens Court for an order authorising a DNA sampler to take a DNA sample from the child for DNA analysis (see s. 488: 'Taking DNA sample from child' of the PPRA).

An officer intending to make an application to the Childrens Court for an order authorising a DNA sampler to take a DNA sample from a child for DNA analysis is to:

(i) contact the clerk of the Childrens Court and request a date and time when the application is to be made;

(ii) complete a QP 0742: 'Notice of Application for an Order Authorising a DNA Sample from a Child for DNA Analysis' (available in QPRIME);

OPM Issue 113 Public Edition

(iii) give notice of application as soon as practicable and prior to the application being made at the Childrens Court by way of a QP 0742 to:

(a) the child; and

(b) a parent of the child, unless a parent cannot be found after reasonable inquiry; and

(c) the Chief Executive (Department of Youth Justice and Victim Support) or a person, nominated by that chief executive for the purpose, who holds an office within the department for which that chief has responsibility;

(iv) fully and accurately complete a QP 0741: 'Application for an Order Authorising a DNA Sample from a Child for DNA Analysis';

(v) attach an endorsed service copy of the QP 0742: 'Notice of Application for an Order Authorising a DNA Sample from a Child for DNA Analysis' to the application;

(vi) register the application with the clerk of the Childrens Court;

(vii) advise the appropriate prosecutor of the application and provide the prosecutor with a copy of all documents relating to the application; and

(viii) attend the Childrens Court at the time and date the court determines the application.

A Childrens Court, if satisfied of the provisions of s. 488(4) of the PPRA, may issue a QP 0743: 'Order to Take a DNA Sample from a Child' or if the child is in custody, a QP 0744: 'Order to take a DNA from a child (in custody)'.

Where a QP 0743 or QP 0744 has been issued by the Childrens Court, the officer who made the application is to initiate a QPRIME IDP/DNA Attendance Notice task workflow to advise the nominated station or establishment that the child is to attend for the taking of the DNA sample or a child is in custody (at an establishment) and DNA is to be taken.

Where a court has ordered a child to attend a nominated station or establishment for a DNA sample to be taken or a child is in custody (at an establishment) and a DNA sample is to be taken, the OIC of the nominated establishment is to ensure that the sample is taken, and an appropriate entry made in QPRIME. If a QPRIME IDP/DNA Attendance Notice task workflow has not been started, then this is to be initiated and completed.

If the Childrens Court has ordered that a child is to report to an officer at a stated station or an establishment to enable a DNA sampler to take a DNA sample from the child for DNA analysis etc., the applicant officer is to also comply with the provisions of s. 2.27: 'Attendance required by court orders, directions to attend and reporting notices for the performance of a forensic procedure' of this chapter.

If the Childrens Court has issued an order to take a DNA sample from a child who is in custody (at a youth detention centre), the applicant officer is to ensure that the order is transmitted to the OIC, DNA Management Section to ensure that a DNA sample is taken from the child in accordance with the order. See also s. 2.25.16: 'Obtaining DNA from prisoners' of this chapter.

OPM Issue 113 Public Edition

2.25.8 Sampling offenders/suspects by court order or other authority under the PPRA

In accordance with the relevant authority to take a DNA sample from a person, where appropriate, an investigating officer who intends to have a DNA sample taken from a person or, an officer who is a DNA sampler responsible for the taking a DNA sample from a person, is to:

(i) detain the person for the time reasonably necessary to take a DNA sample from the person and, if necessary, take the person to a police establishment, a hospital, or another place the DNA sampler considers is appropriate in the circumstances for the purpose unless the procedure is to be performed in accordance with a forensic procedure consent;

(ii) in cases where the person is not known to the police officer, request the person to produce personal identification in accordance with s. 40: 'Person may be required to state name and address' of the PPRA, and ensure as far as practicable the correctness of the person's identity;

(iii) ensure the sampling is conducted in a place and under circumstances that will avoid the possibility of contamination of the sample;

(iv) comply with the provisions of s. 16.8: 'QPRIME custody, search and property reports' of this Manual;

(v) ensure that the relevant provisions of s. 2.25.9: 'Sampling by consent' of this chapter are complied with;

(vi) if the sample is being collected under s. 481: 'Taking DNA sample if proceeding started or continued against an adult by arrest, notice to appear or complaint and summons etc.' of the PPRA, ensure the relevant person's fingerprints and photographs are taken, at the same time. If it is not practical to collect fingerprints at the same time, an identifying particulars notice is to be issued (see s. 2.26.3: 'Identifying particulars notice' of this chapter). Where fingerprints are collected simultaneously the bar code sticker from the relevant DNA mouth swab sampling kit is affixed to each QP 0013: 'Fingerprint Form';

(vii) in cases where the DNA sampler is a doctor or nurse:

(a) be in attendance at the place where the DNA sample is to be taken;

(b) ensure that a DNA Sampling Kit is available and is used for obtaining the DNA sample;

(c) ensure that the doctor or nurse follow the applicable 'Steps for taking a DNA sample' contained in the relevant QP 0442A/B: 'DNA Sampling Checklist' (available in QPRIME);

(d) ask the doctor, or nurse, to perform the procedure in accordance with the applicable steps for taking the sample and ensure that the 'Steps for taking a DNA sample' are followed;

(e) ensure a DNA entry in QPRIME is completed. Should QPRIME be not available, a hard copy QP 0442: 'DNA Particulars Form' is included in the Sampling Kit and this form is to be completed and included with the DNA sample collected;

(f) ensure that QP 0442A/B: 'DNA Sampling Checklist' is retained by the doctor or nurse for future reference; and

(g) collect the DNA sample from the DNA sampler and forward the sample with the appropriate completed forms to the DNA Management Section; and

(viii) ensure that the biometrics details for the DNA sample taken are entered in QPRIME.

Where a person is attending or has attended to have a forensic procedure conducted is not the person named in the order/notice, and the person is still present, the officer responsible for conducting the forensic procedure is to investigate with a view to commencing a prosecution under s. 790: 'Offence to assault or obstruct a police officer' of the PPRA and any other relevant offences and report the QPRIME occurrence through Policelink (see s. 1.11.1: 'Policelink entered occurrences' of this Manual). The person who was issued the order/notice should be investigated with a view to commencing a prosecution under s. 791: 'Offence to contravene a direction or requirement of police officer' of the PPRA.

In cases where the person attended to have a forensic procedure conducted is later found not to be the person named in the order/notice, the officer who originally applied for the order is to investigate with a view to commencing a prosecution against s. 790 of the PPRA and any other relevant offences and report the QPRIME occurrence through Policelink (see s. 1.11.1 of this Manual). The person who was issued the order/notice should be investigated with a view to commencing prosecution under s. 791 of the PPRA.

Additionally, a copy of the order is to be filed with the station copy of the occurrence report or Court Brief (QP9) submitted in relation to the offence against s. 790 of the PPRA. The original order/notice is to be returned to the investigating officer for inclusion in the brief of evidence.

Mouth swab samples

When conducting DNA mouth swab sampling with a court order or other authority under the PPRA and the DNA sampler is a doctor or nurse, the officer who intends to have a DNA sample taken from the person or a DNA sampler who is a police officer, is to follow the steps and words on form QP 0442A to require and then direct the person during the sampling process.

If a person is given a requirement or direction under PPRA and no other penalty is expressly provided for a contravention of the direction or requirement s. 791: 'Offence to contravene a direction or requirement of police officer' of the PPRA applies. A person must not contravene a requirement or direction given by a police officer, including a requirement or direction contained in a notice given by a police officer under the PPRA, unless the person has a reasonable excuse (see s. 791(2) of the PPRA).

If a person fails to comply with a requirement or direction to use a mouth swab, the officer is to warn the person under s. 633: 'Safeguards for oral directions or requirements—police officers' of the PPRA, that:

(i) it is an offence to fail to comply with the requirement/direction, unless the person has a reasonable excuse;

(ii) the person may be arrested for the offence.

Following the warning, the officer is to give the person a reasonable opportunity to comply with the requirement/direction.

It is lawful for the qualified person who may perform a forensic procedure on a person, and the person helping the qualified person, to use reasonably necessary force for performing the procedure (see s. 517: 'Help with, and use of force for, performing forensic procedure' of the PPRA). **However, no force is to be used to conduct DNA mouth swab sampling.** In such cases, a DNA hair sample is to be obtained.

If a person persists and fails to comply with a requirement/direction, in contravention of s. 791 of the PPRA:

(i) where the DNA sampler is a Doctor or Nurse, the officer who made the requirement or issued the relevant reporting notice, or where that officer is not available, an officer appointed by the OIC of the station where the person attends in accordance with the reporting notice; or

(ii) if the DNA sampler is a police officer, the DNA sampler or an officer appointed by the OIC of the station where the person attends in accordance with the reporting notice; or

(iii) in either case if the requiring officer is present, the requiring officer, is to investigate the matter and in appropriate cases, prosecute the person for the offence.

OPM Issue 113 Public Edition

Collecting a hair sample

When obtaining a DNA hair sample, and the DNA sampler is a doctor or nurse, the officer who intends to have a DNA sample taken from the person with a court order or other authority under the PPRA, or a DNA sampler who is a police officer, is to follow the steps and words on form QP 0442B to require and then direct the person during the sampling process.

The DNA sampler may then take a DNA sample from the person by collecting hair, including roots of the hair from the person.

2.25.9 Sampling by consent

Collecting a mouth swab sample

When obtaining a DNA sample by mouth swab including when the sample is collected by a doctor or nurse, the officer who intends to have a DNA sample taken from the person with consent, or a DNA sampler who is a police officer, is to follow the steps and words on form QP 0442A to require and then direct the person during the sampling process.

If the person has provided forensic procedure consent but fails to comply with the request to use the mouth swab, the forensic procedure consent is to be considered withdrawn and the investigating officer is to consider alternative means of obtaining the required sample (e.g. Forensic Procedure Order, etc.).

Collecting a hair sample

When obtaining a DNA hair sample, including when the sample is collected by a doctor or nurse, the officer who intends to have a DNA sample taken from the person with consent, or a DNA sampler who is a police officer, is to follow the steps and words on form QP 0442B to require and then direct the person during the sampling process.

If the person has provided forensic procedure consent but fails to comply with the hair sample request or requirement, the forensic procedure consent is to be considered withdrawn and the investigating officer is to consider alternative means of obtaining the required sample (e.g. Forensic Procedure Order, etc.)

2.25.10 Deleted

2.25.11 Intelligence led DNA screening

'Intelligence led DNA screening' is the taking of DNA person samples for the purpose of implication or elimination of those persons from involvement in the commission of an indictable offence(s). Persons may elect to limit or not limit the use of their DNA sample.

When a DNA sample has been collected from a crime scene or from an item linked to a crime scene from which a DNA profile may be obtained or, a DNA sample is likely to be obtained from a crime scene that has not yet been located, and an offender has not been identified, officers may consider using intelligence led DNA screening. In determining the necessity for, and scope of, intelligence led DNA screening the following is to be considered:

(i) the number of persons, including the victim, considered necessary to be included in the screening;

(ii) the likelihood of the persons concerned participating in the screening; and

(iii) costs which may be incurred in the process. These costs are to be met by the region/command seeking the authorisation. This includes the costs of kits and the collection, transit and analysis of the DNA sample.

The following information is to be provided by the investigating officer through the normal chain of command to the OIC, DNA Management Section:

(i) QPRIME occurrence number;

(ii) type of offence;

(iii) victim's name;

(iv) location of crime scene;

(v) information about the DNA sample collected from the crime scene or from the item linked to the crime scene;

(vi) the Operation name (if applicable);

(vii) the list of suspects/victims/others from whom DNA samples are intended to be taken; and

(viii) the contact details of the investigating officer.

The investigating officer is to liaise with the DNA Management Section in relation to the management and administration of the intelligence led DNA screening.

OPM Issue 113 Public Edition

2.25.12 Transit of DNA samples

The ability to analyse and report DNA links is directly related to the delivery of the exhibits and DNA samples. Failure to transport DNA samples expeditiously will delay the analysis and therefore negatively impact the provision of DNA evidence to the courts and the provision of forensic intelligence to investigators.

Officers are to ensure that DNA samples are transported to DNA Management Section, Forensic Services Group, Security, Counter-Terrorism and Forensic Services Command at the earliest possible opportunity and within 5 business days.

A DNA sample collected as an intelligence sample is to be forwarded through internal mail, in the envelope provided with the DNA sample kit, to the DNA Management Section.

A DNA sample collected as an evidence sample is to be transported to the DNA Management Section in a manner that ensures continuity of evidence, either by Registered Post or hand delivery.

Evidence Samples delivered by Registered Post are to be delivered to DNA Management Section.

2.25.13 DNA profile link notification

Forensic Science Queensland (FSQ) (located at 39 Kessels Road, Coopers Plains) will provide all matches from the comparison of DNA profiles to the DNA Management Section.

The OIC, DNA Management Section is responsible for the management of information obtained from the comparison of DNA profiles from persons and crime scene samples. The roles and responsibilities of the DNA Management Section are on the Service Intranet.

When a DNA profile link occurs, the OIC, DNA Management Section, is to ensure that:

(i) the quality process has been followed at the DNA Management Section;

(ii) the status of court proceedings is established;

(iii) in cases where an evidentiary certificate is required by a court, an evidentiary certificate is issued and forwarded to the investigating officer; and

(iv) relevant people, crime scenes and occurrences are linked to the DNA profile results.

2.25.14 Evidentiary certificate challenged by defence

A certificate signed by the Commissioner (**'evidentiary certificate'**) and stating any of the matters outlined under s. 536: 'Evidentiary provision' of the PPRA subsections (1)(a) to (1)(g) is evidence of what it states.

Members of the DNA Management Section are delegated the authority to issue evidentiary certificates in relation to DNA evidence only. For matters not related to DNA, the Inspector, Scientific Section, Forensic Services Group will be delegated the authority to issue evidentiary certificates.

Investigating officers should continually liaise with a prosecutor in a criminal proceeding and whenever it is intended to rely on an evidentiary certificate, at least twenty business days before the day the hearing of the criminal proceeding starts, give a copy of the certificate to the defendant or the defendant's lawyer. (See s. 39: 'Service of documents' and s. 39A: 'Meaning of service by post etc.' of the *Acts Interpretation Act* for the way in which the certificate may be given.) The investigating officer is to ensure that a copy of the certificate is endorsed as to service and attached to the brief of evidence.

When a defendant intends to challenge a matter stated in an evidentiary certificate, the defendant must give the entity responsible for prosecuting the criminal proceeding notice, at least fifteen business days before the hearing day, in the approved form.

Members receiving a copy of a notice of intent to challenge an evidentiary certificate are to note that date and time of receipt and notify the investigating officer.

The investigating officer, upon being notified of the service of a notice of intent to challenge an evidentiary certificate by the defendant, is to:

(i) notify and provide the relevant prosecutor with a copy of the Form;

(ii) notify and provide the OIC, DNA Management Section with a copy of the Form;

(iii) liaise with the relevant prosecutor and where required ensure that the OIC, DNA Management Section and/or other relevant witnesses are requested to provide a statement and are notified to attend and give evidence in the criminal proceedings. In appropriate cases, issue and serve a summons to witness.

ORDER

When advised of the intent to challenge the evidentiary certificate, the OIC, DNA Management Section is to ensure that the original forensic procedure consent form held by the DNA Management Section is returned to the investigating officer to allow for its production in court.

OPM Issue 113 Public Edition

2.25.15 When DNA samples and results are to be destroyed

A DNA sample taken from a person suspected of having committed an indictable offence and the results of any DNA analysis of the sample, are to be destroyed within a reasonably practicable time after the end of one year from the occurrences as outlined in s. 490: 'When DNA sample taken from suspected person and results must be destroyed' of the PPRA. Exceptions as to when a DNA sample and results are not destroyed are contained in the s. 490 of the PPRA.

When:

(i) the provisions of s. 490 of the PPRA apply; and

(ii) a DNA sample and/or the results of the relevant DNA analysis require destruction,

investigating officers are to ensure the OIC, DNA Management Section is appropriately notified.

When the decision to place a person on the reportable offender on the register has been revoked under s. 74: 'Review about entry on register' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* (CP(OROPO)A):

(i) any DNA sample taken under the CP(OROPO)A must be destroyed; and

(ii) the Detective Senior Sergeant, Registry Operations, Child Protection Offender Registry, is to notify the OIC, DNA Management Section.

Members requesting destruction of DNA samples or the results of DNA analysis, held at the Forensic Science Queensland (FSQ) are to notify the OIC, DNA Management Section via tasking in QPRIME.

The OIC, DNA Management Section is to ensure:

(i) the provisions of:

(a) s. 490 of the PPRA; or

(b) s. 74 of the CP(OROPO)A,

are complied with; and

(ii) the QPRIME property record of the sample is updated to reflect the retention or destruction of the exhibit.

2.25.16 Obtaining DNA from prisoners

Officers intending to have DNA samples taken from a prisoner in a corrective services facility or a detention centre are to comply with the provisions of this chapter, and where:

(i) the prisoner is required to be taken out of the corrective services facility or detention centre; comply with the provisions s. 2.5.6: 'Removal of prisoners from corrective services facilities' of this chapter; or

(ii) a DNA sample is required to be taken from a prisoner at a corrective services facility, or detention centre, the investigating officer is to liaise with the manager of the relevant facility or detention centre for that purpose.

2.25.17 Sampling of items for trace DNA

Increases in the sensitivity of analytical techniques have made it possible in some instances for DNA profiles to be obtained from trace quantities of material left by an offender as a result of forceful or prolonged contact with an item.

This material is referred to as trace DNA. The success rate for such analyses is very low.

Consequently, sampling for trace DNA analysis should only be performed under the following conditions:

(i) the investigation relates to an indictable offence;

(ii) the offender has not been identified by other means;

(iii) the item to be examined is not suitable for fingerprint examination;

(iv) location of DNA from the suspect or victim on the item to be examined will be of significant probative value to the investigation;

(v) the item to be examined has not been located by police in the possession of the person whose DNA profile is of interest, or in a vehicle or place frequented by that person;

(vi) if the item to be examined is large, the area touched can be specified for targeted sampling;

(vii) the item to be examined is not visibly dirty or rusty;

(viii) the item to be examined has not been exposed to heat, rain or sunlight for an extended period;

(ix) significant contact is likely to have been made with the item to be examined, in terms of both duration and force of contact;

(x) the item has been protected from contamination; and

OPM Issue 113 Public Edition

(xi) the item to be examined has not been exposed to routine contact with numerous people (e.g. door knob, money, etc.).

2.25.18 Collection of trace DNA exhibits

Trace DNA is invisible and may be readily contaminated or transferred. It is possible for a person's DNA to be transferred to an item that they have never touched. This section and ss. 2.25.19: 'Collection and preservation of potential forensic evidence when a scenes of crime officer is unavailable' and 2.25.20: 'Items of clothing worn by a complainant' of this chapter must be complied with in order to prevent contamination.

A forensic officer may make an assessment that an item is unsuitable for trace DNA sampling based on the conditions outlined in s. 2.25.17: 'Sampling of items for Trace DNA' of this chapter or failure of investigating police to follow the appropriate collection instructions.

In relation to serious offences against the person such as homicides and offences against children, decisions regarding the sampling of items for trace DNA will be made by the regional forensic coordinator in consultation with the regional crime coordinator or senior investigating officer.

2.25.19 Collection and preservation of potential forensic evidence when a scenes of crime officer is unavailable

Items within a crime scene which may be suitable for forensic examination, including DNA sampling, are to be preserved in situ (where found and untouched). A scenes of crime officer (SOCO) is to be contacted to assess their suitability for forensic examination. Any potential trace DNA evidence should be assessed based on the conditions outlined in s. 2.25.17: 'Sampling of items for Trace DNA' of this chapter.

If there is a need for immediate forensic collection without a SOCO present due to:

(i) the scene being in a remote location; or

(ii) adverse weather or other delays which creates a risk of evidence being destroyed,

a non-forensic officer may collect items under the instruction of a SOCO. In these instances, the non-forensic officer is to document in their official police notebook or diary, the reason why a SOCO was not available and outline that the collection was completed by the non-forensic officer.

ORDER

Where a non-forensic officer is instructed by a SOCO to collect items at a crime scene, the officer is to do so with an Evidence Collection Kit, using instructions provided on Form PFS94: 'Evidence Collection Kit' form. Should an Evidence Collection Kit be unavailable, the officer may collect the item in the following way:

(i) ensure the item is not handled unnecessarily;

(ii) wear an appropriate face mask;

(iii) ensure no talking, coughing or other potential contamination occurs over or near the item;

(iv) apply a clean pair of nitrile gloves for each item handled, ensuring gloves are replaced when handling a new item;

(v) photograph the item in situ, taking wide, medium and close up photographs;

(vi) ensure no other material e.g. pens, QLite, pockets etc is touched during the collection process;

(viii) ensure each packaged item is:

(a) sealed with evidence tape (do not staple);

(b) signed with the officer's signature on the seals;

(c) recorded with the officer's registered number on the seals;

(d) dated on the seals;

(e) appropriately labelled e.g. using the QPRIME number (if known) and item type;

(f) photographed prior to transport; and

(g) lodged at a property point as soon as possible pursuant to Chapter 4: 'Property' of this Manual.

Unpackaged items requiring forensic examination are not to be transported in a police vehicle.

Ensure preservation and continuity of exhibits is maintained throughout the entire process (see s. 2.4.6: 'Preservation of incident scenes' of this chapter).

Non-forensic officers lodging items for forensic examination are to assign a task to the relevant SOCO ORG Unit outlining the following details in the task:

(i) where the item was located within the scene;

OPM Issue 113 Public Edition

(ii) the circumstances surrounding its location to help identify the most suitable areas for examination e.g. offender grabbed victim's left sleeve; and

(iii) any other information that may assist the examination.

2.25.20 Items of clothing worn by a complainant

Trace DNA may be present on clothing being worn by a complainant as a result of forceful or prolonged contact with an offender. This material is highly susceptible to loss or contamination. It is therefore essential that the clothing be sampled or shielded from such loss or contamination as soon as possible.

ORDER

A forensic officer is to be called to perform trace DNA sampling of clothing worn by a complainant as soon as it becomes apparent that such sampling may be necessary. The forensic officer will assess the suitability of the clothing for sampling based on the conditions outlined in s. 2.25.17: 'Sampling of items for Trace DNA' of this chapter.

If a forensic officer is unable to attend within a time frame which is reasonable having regard to the particular circumstances of the case, the clothing is to be collected using a Clothing Evidence Collection Kit. The clothing is to be collected in accordance with instructions contained in the kit and delivered to a forensic officer. A Clothing Evidence Collection Kit is available from your relevant Scenes of Crime Office.

2.25.21 Requesting interstate law enforcement agency for a DNA person/DNA crime scene profile or to perform a DNA comparison

Ministerial arrangements and service level agreements are currently in place in relation to the Service's use of and access to DNA person/DNA crime scene profiles held by law enforcement agencies in other states of Australia. These arrangements and agreements also dictate how a request may be made for the release of a DNA profile held by the other state, or for a comparison of a DNA person sample or DNA crime scene sample to be made against the other state's DNA database.

Interstate law enforcement agencies will only process DNA profile/DNA comparison requests from the Service that have been authorised by the Inspector, DNA Management Section.

The Service will only process DNA profile/DNA comparison requests from the DNA unit of the requesting interstate/international law enforcement agency.

Where assistance is required in relation to:

(i) obtaining a DNA sample interstate or internationally;

(ii) interstate or international DNA comparison/analysis; or

(iii) requesting DNA profile details from interstate or international law enforcement agencies,

members are to forward a QPRIME task to the DNA Management Section providing sufficient details regarding the specific request. On receipt of the QPRIME task, the OIC, DNA Management Section is to negotiate the exchange of information with the relevant law enforcement agency in accordance with established agreements.

Members who receive a request from a member of an interstate/international law enforcement agency for DNA samples to be obtained or compared are to refer that person to the DNA unit within their relevant jurisdiction to make the request on their behalf to the OIC, DNA Management Section. This includes requests for samples to be obtained from relatives of missing persons or kin possibly related to unknown deceased bodies.

All DNA profile/DNA comparison or analysis requests received from international law enforcement agencies are to be authorised and organised through Interpol prior to any assistance being given by the Service. Where a request has not been authorised by Interpol, the request is to be assessed in terms of 'Potential death penalty situations' prior to any DNA profile/DNA comparison requests being disseminated. See s. 7.3.1: 'International inquiries through Interpol' and subheading 'Potential death penalty situations' of the Management Support Manual.

2.25.22 Familial DNA search requests

Familial searching is an investigative tool designed to provide information that may assist in solving serious crime under certain circumstances in the absence of a direct DNA profile match. The crime scene profile is used to search the National Criminal Investigation DNA Database (NCIDD) for profiles potentially belonging to a biological relative of the crime scene profile donor, as opposed to seeking a direct match.

There are significant time, resource and cost commitments involved in pursuing potential leads generated by familial searches, and a successful outcome cannot be guaranteed.

Additional testing to upgrade profiles, which narrow a potential candidate list, is available at a cost per profile. This cost is the responsibility of the requesting region.

Familial DNA searching is limited to the investigation of life imprisonment offences where:

(i) traditional DNA analysis has yielded a:

OPM Issue 113 Public Edition

(a) DNA single source profile; or,

(b) mixed profile has generated a major single source component; and,

(ii) the traditional direct matching search of the national DNA database did not locate an exact match profile.

A National Search requires support from the relevant detective superintendent and approval from the Assistant Commissioner, Security, Counter-Terrorism and Forensic Services Command. Approval is obtained via email to the DNA Management Section that includes:

(i) details of the detective superintendent supporting the request;

(ii) a summary of the investigation; and

(iii) information about the probative value of the profile to be searched including its relevance and how it assists the investigation.

The OIC, DNA Management Section, will ensure all criteria are met and process the request. If approved, the DNA Management Section will liaise with Forensic Science Queensland to assess the suitability of the profile for searching and provide the results with interpretation guidance, including limitations and legal/social considerations, to the investigator.

Where profile upgrade is required to narrow or interpret the search results, the DNA Management Section will co-ordinate the process and inter-jurisdictional liaison. The cost of all profile upgrades will be met by the requesting region or command.

2.26 Identifying particulars

Officers are allowed to take or photograph all or any of a person's identifying particulars for an identifying particulars offence (see Chapter 17, Part 4: 'Identifying particulars' of the PPRA):

(i) if the person, including a child, is in custody, the charge of which has not been decided (see s. 467(1): 'Taking identifying particulars of person in custody' of the PPRA);

(ii) if the person, including a child, is to be released after arrest by detaining the person (see s. 467(2) of the PPRA);

(iii) if a police officer decides to start a proceeding against an adult, for an identifying particulars offence by notice to appear or complaint and summons by detaining the person (see s. 468: 'Taking identifying particulars—proceeding started by notice to appear or complaint and summons' of the PPRA);

(iv) if a police officer decides to start, or continues, a proceeding against an adult, by notice to appear or complaint and summons and decides it is not necessary to immediately take the identifying particulars, by identifying particulars notice (a reporting notice) (see ss. 469: 'Application of div 2' and 470: 'Identifying particulars notice may be given' of the PPRA and s. 2.27: 'Attendance required by court orders, directions to attend and reporting notices for the performance of a forensic procedure' of this chapter);

(v) where the provisions of ss. 467, 468, 469 or 470 of the PPRA do not apply and the taking of the identifying particulars does not involve the touching of the relevant person by anyone other than the relevant person (e.g. mug shot), consider asking the relevant person to submit to having the identifying particulars taken from them, without the necessity to obtain forensic procedure consent or a forensic procedure order (see s. 448(3): 'What pt 2 provides' of the PPRA);

(vi) in cases where proceeding for an identifying particulars offence have not been started or continued, or the relevant person is not in custody for an identifying particulars offence, and the taking of the identifying particulars requires another person to touch the relevant person, consider the possibility of obtaining forensic procedure consent (see s. 2.23.1: 'Forensic procedure consent' of this chapter); or

(vii) by court order (see Division 3: 'Taking identifying particulars under court order' (ss. 471–473) of the PPRA and s. 2.23.2: 'Forensic procedure orders' of this chapter).

Further, pursuant to s. 467(3) of the PPRA, if the offence involves the conduct of a number of persons acting alone or together, an officer may photograph the person at the scene of the arrest before taking or photographing all or any of the person's identifying particulars.

Subject to the exemptions contained in s. 474: 'Destruction of identifying particulars' of the PPRA, the legislative provisions also provide for the destruction of identifying particulars where a person is found not guilty of the identifying particulars offence or is not further proceeded against for the offence.

The taking of identifying particulars from youths under the YJA (see s. 5.11: 'Taking children's identifying particulars' of this Manual).

2.26.1 Relationship to other procedures

A non-intimate forensic procedure includes taking identifying particulars.

OPM Issue 113 Public Edition

A non-intimate forensic procedure is a forensic procedure, therefore, the provisions dealing with forensic procedures apply (see s. 2.23: 'Forensic Procedures' of this chapter).

Officers should note that a photograph of a person's identifying features (e.g. photographs of scars or tattoos or photographs of the person) falls within the definitions of identifying particulars (see Schedule 6: 'Dictionary' of the PPRA) and a non-medical examination. Therefore, the provisions dealing with non-medical examinations may also apply in appropriate circumstances (see s. 2.24: 'Non-medical examinations' of this chapter).

2.26.2 When to take identifying particulars

Identifying particulars are to be taken on each occasion where the authority exists to take such particulars (see ss. 467: 'Taking identifying particulars of person in custody' and 468: 'Taking identifying particulars—proceeding started by notice to appear or complaint and summons' of the PPRA).

Where a DNA sample is obtained from an adult against whom a proceeding for an indictable offence has been commenced by arrest, notice to appear or complaint and summons (see s. 481: 'Taking DNA sample if proceeding started or continued against an adult by arrest, notice to appear or complaint and summons etc.' of the PPRA), the investigating officer is to ensure the person's fingerprints are to be taken at the time (placing DNA barcode onto the QP 0013 Fingerprint Form) and if not practical, DNA can be taken and an Identifying Particulars Notice (IDPN) issued for other identifying particular (see Schedule 6: 'Dictionary' of the PPRA) to be taken in accordance with the IDPN.

Where the person is arrested and is in custody at a watch-house, the watch-house manager is to ensure relevant identifying particulars are taken. If the arrest is discontinued under the provisions of s. 377: 'Additional case when arrest of adult may be discontinued' of the PPRA the arresting officer is to ensure relevant identifying particulars are taken.

Where proceedings are started by notice to appear or complaint and summons, in the first instance the officer starting the proceedings is to consider the need to immediately take identifying particulars and is to:

(i) detain the person for the time reasonably necessary to take or photograph the required identifying particulars; or

(ii) if not necessary to immediately take the identifying particulars serve a QP 0700: 'Identifying Particulars Notice' (available in QPRIME or in booklet) when serving the notice to appear or complaint and summons.

Wherever practicable the officer starting the proceedings is to detain and take or photograph the required identifying particulars, before or when serving the notice to appear or complaint and summons.

Taking of identifying particulars

Identifying particulars, except voiceprints, are to be taken by:

(i) watch-house staff where a person is in custody:

(a) in relation to an offence; or

(b) waiting for bail to be granted; or

(ii) the officer:

(a) who has commenced proceeding as against the person; or

(b) directed to do so by the OIC of the station or establishment,

where a person is:

(a) served with a notice to appear or complaint and summons and detained for the purpose of taking identifying particulars; or

(b) served with a QP 0700: 'Identifying Particulars Notice'.

OICs of regions and commands are to ensure appropriate facilities and equipment is available at police stations or establishments for the purpose of taking identifying particulars.

For taking identifying particulars of youths see s. 5.11: 'Taking children's identifying particulars' of this Manual.

2.26.3 Identifying particulars notice

This policy applies if an officer decides to start, or continues, a proceeding against an adult, for an identifying particulars offence (see Schedule 6: 'Dictionary' of the PPRA) by notice to appear or complaint and summons and cannot take the identifying particulars before the person is released (i.e. an identifying particulars notice is to only be used as a last resort).

An officer may, if the previous paragraph applies, by written notice (**'identifying particulars notice'**) given to the person, require the person to report to an officer at a stated police station or police establishment within seven days after the issue of the notice to enable an officer to take or photograph all or any of the person's identifying particulars and to stay at the police station or police establishment for the time reasonably necessary to enable the identifying particulars to be taken or photographed.

OPM Issue 113 Public Edition

Officers intending to issue and give a person a QP 0700: 'Identifying Particulars Notice' are to:

(i) ensure the stated police station or police establishment is one at which the appropriate facilities and equipment are available to take or photograph the required identifying particulars;

(ii) check and ensure that an officer will be available to take those particulars;

(iii) nominate a time, date and place on the notice which is convenient to the officer(s) taking the person's identifying particulars and wherever possible to the person concerned;

(iv) serve the person with the pink copy of the booklet notice or a copy of the QPRIME generated notice;

(v) verbally warn the person concerned that it is an offence to contravene the requirement to report to an officer as stated on the notice and ensure the person understands this warning;

(vi) verbally advise the person concerned that in addition to a possible prosecution for an offence of failing to comply with the requirement, that if the person fails to comply with the identifying particulars notice, a court order may be obtained to have the identifying particulars taken or photographed;

(vii) advise the person concerned that when attending the stated police station or police establishment, personal identification, preferably photograph identification, is to be produced; and

(viii) prior to the nominated time and date, use the QPRIME tasking functionality to notify the nominated police establishment that a person is to attend for the taking of identifying particulars.

Where problems arise relating to the above conditions, the officer intending to serve the QP 0700: 'Identifying Particulars Notice' should not serve the notice concerned and instead detain the person and take the required identifying particulars pursuant to s. 467: 'Taking identifying particulars of person in custody' or s. 468: 'Taking identifying particulars—proceeding started by notice to appear or complaint and summons' of the PPRA.

For the policy relating to the attendance or non-attendance of the person named in an identifying particulars notice, and the provision relating to later direction see s. 2.27: 'Attendance required by court orders, directions to attend and reporting notices for the performance of a forensic procedure' of this chapter.

2.26.4 Photographs

The photographing of a person's genital or anal area or buttocks is an intimate forensic procedure and officers are to comply with s. 2.23: 'Forensic Procedures' of this chapter.

The photographing of a person's identifying features (including all scars or tattoos or photographs of the person) falls within the definitions of identifying particulars and a non-medical examination (see s. 2.24: 'Non-medical examinations' of this chapter). This includes where identifying features are located on a person's breasts.

Photographing breasts

Officers seeking to photograph a person's breast/chest area is to ask the person if they consent to the specific area being photographed. Any consent by the person should be specific, voluntary and given by a person who has the necessary capacity to consent.

If the person does not consent to the photographing of their breast/chest area, the officer is to obtain a forensic procedure order. The officer should not rely on an identifying particulars process to authorise the photographing of a person's breast/chest area (see s. 519A: 'Gender safeguard for photographing breasts' of the PPRA).

Officers are reminded of their responsibilities under the *Human Rights Act* to consider the human rights of persons prior to taking action. Section 1.2: 'Human rights and policing' of this Manual provides additional information about officers' obligations under the *Human Rights Act*.

Forensic procedure for photographing breasts (non-intimate or order)

The photographing of a person's breast/chest area is a non-intimate forensic procedure which may require the removal of clothing. It should only be undertaken by the following qualified persons under a non-intimate forensic procedure order:

(i) medical practitioner;

(ii) forensic nurse examiner; or

(iii) a police officer performing functions as a scientific officer or scenes of crime officer who has been appointed by the Commissioner as an authorised examiner under s. 497: 'Commissioner may authorise police officer to perform non-medical examinations' of the PPRA.

Where reasonably practicable, the authorised examiner taking the photograph is to be the same gender as the person being photographed. However, the authorised examiner may authorise another person to take the photograph where reasonably necessary:

(i) to ensure that the person taking the photograph and the person being photographed are of the same gender;

(ii) to accommodate a preference expressed by the person; or

OPM Issue 113 Public Edition

(iii) to address a concern related to gender in a way that minimises embarrassment and offence.

Prior to the taking of the photograph, the authorised examiner is to:

(i) provide an explanation of the photographing process; and

(ii) offer the person being photographed the opportunity to express a preference about the gender of the person taking the photograph.

A gender preference expressed by the person should be accommodated unless:

(i) there are reasonable grounds to believe the preference is expressed for an improper purpose; or

(ii) it is not reasonably practicable to accommodate the preference.

Offender photographs

When a person attends a stated police station or police establishment as a result of a QP 0700: 'Identifying Particulars Notice' (available in booklet or in QPRIME), an offender identification type photograph is to be taken.

Officers taking photographs are to comply with any instructions accompanying the offender identification camera.

Officers are to ensure cameras are:

(i) not exposed unnecessarily to excessive heat;

(ii) properly maintained and the lens is protected from dust and grit; and

(iii) handled carefully to minimise the risk of damage.

An officer taking offender identification photographs are to:

(i) create an Ident/Fingerprint Report in the relevant QPRIME occurrence and print the Photo Name Board;

(ii) with a digital camera:

(a) take two photographs of the prisoner with the prisoner facing the camera, one with the Photo Name Board and one without;

(b) take a photograph of the prisoner from their left profile and their right profile; and

(c) take relevant (i.e. face, arms or legs (up to the thigh)) photographs of any other identifying particulars including scars and tattoos taking into consideration the dignity and respect of the person;

(iii) ensure:

(a) no height scales, signs or other material appear on the background wall behind or beside the prisoner; and

(b) the image of the prisoner is aligned within the viewing screen mask on the back of the digital still camera in portrait format (i.e. similar format to passport photographs), which may require the camera to be zoomed in so the head and shoulders of the prisoner fits into the format mask on the camera's viewing screen;

(iv) align and import the photographs into the Ident/Fingerprint Report;

(v) import all images and descriptions of scars or tattoos in the description field of the Ident/Fingerprint Report;

(vi) once the identification photographs have been successfully placed in QPRIME, ensure the photograph is deleted from the camera, computer desktop or image rotator;

(vii) ensure any station/establishment register for the recording of identification photographs taken is completed; and

(viii) destroy the Photo Name Board.

Where emergency circumstances dictate photographs being taken with an 'offender photograph' camera before the attendance of a forensic officer, the OIC of the station or shift supervisor or district duty officer is to consider:

(i) the camera is designed for recording identification photographs;

(ii) a loss of evidence may result due to the limitations of the equipment; and;

(iii) a forensic officer is to be advised to attend when available (see s. 2.5.5: 'Use of digital devices' of this chapter).

2.26.5 Fingerprinting

There are two methods of fingerprint capture:

(i) wet print method; and

(ii) LiveScan method.

In selected locations throughout the state, the Service has LiveScan digital fingerprint technology.

OPM Issue 113 Public Edition

LiveScan will capture finger and palm images in electronic format and transmit the images for a National Automated Fingerprint Identification System (NAFIS) search and print-out at the Fingerprint Bureau. This process will provide results from two different fingerprint searches, namely an identity search and a search against previously unsolved crime scene fingerprints.

Fingerprinting (generally)

Officers required to fingerprint persons are to comply with the procedures in QPRIME. Officers taking fingerprints are to:

(i) ensure that details entered in QPRIME in the Ident/Fingerprint Report are accurate including the name of the officer taking the prints and the name of the establishment where they are taken;

(ii) compare the description including scars, tattoos and other details of the subject person against the relevant record in QPRIME and supply the information against the person details in QPRIME where any discrepancy is found or is not recorded on the system;

(iii) ensure that the equipment is clean;

(iv) ensure that the person's hands and fingers are washed and dried thoroughly; and

(v) follow the appropriate procedures for the fingerprinting method being used.

Wet print method

In addition to the steps set out in 'Fingerprinting (generally)' of this section, officers taking fingerprints using the wet print method are to:

(i) use Form QP 0013: 'Fingerprint Form' (available in QPRIME). Use only original forms. Do not use photocopies. Ensure details entered in the forms are accurate;

(ii) prepare three sets of fingerprint forms (and any additional copies according to local instructions, see s. 1.5.3: 'Regional, district and station/establishment instructions' of this Manual);

(iii) record the nature and date of any injury or amputation to the subject person on the fingerprint form (handwritten in the relevant space) and on the QPRIME entry;

(iv) use Durester Printake pre-inked strips for fingerprint impressions;

(v) roll fingers from nail edge to nail edge onto the fingerprint form;

(vi) avoid undue pressure on the fingerprint forms or the fingers;

(vii) ensure that the prints recorded are in the correct order marked on the fingerprint form;

(viii) have the person write in their own handwriting their full signature, e.g. Ashley Dale Smith, particulars of their address and date of birth;

(ix) ensure any endorsements in relation to the fingerprints (such as when prints are taken pursuant to a court order) are recorded on the fingerprint form in the empty space provided and on the QPRIME entry;

(x) ensure that the fingerprint forms are not pinned or stapled together;

(xi) submit the completed fingerprint forms to the OIC of the station or establishment or another senior officer for certification of quality prior to releasing the person being fingerprinted; and

(xii) if the person has an identifying particulars notice modify the relevant Ident/Fingerprint Report within QPRIME to record time, date, station or establishment and officer who took the fingerprints.

The OIC of the station or establishment where fingerprints are being taken, or other senior officer to whom fingerprints are submitted, is to ensure that:

(i) the quality of the fingerprints is acceptable prior to the person leaving or being released (further fingerprints are to be taken if the prints on the fingerprint forms are not acceptable);

(ii) each copy of the QP 0013: 'Fingerprint Form' is initialled; and

(iii) three copies of the QP 0013 of each person fingerprinted are forward to the OIC, Fingerprint Bureau, Brisbane, daily.

LiveScan method

LiveScan will capture finger and palm images in electronic format and transmit the images for a NAFIS search and print-out at the Fingerprint Bureau. A QPRIME generated QP 0013B: 'Fingerprint Record Form' will be printed locally when LiveScan is used and these are to be destroyed to avoid duplication

Results of the tenprint search (person's identification) should be available on the LiveScan device dossier list within 2 to 3 minutes of transmission. The capture of a subject's 'writer's palms' print (the area of the palm in contact with a surface during the act of writing) is an additional capture requirement with LiveScan and is not required for wet print capture.

OPM Issue 113 Public Edition

Only officers who have completed training and have been assessed as competent are to operate LiveScan equipment. Password access will be granted upon successful completion of training.

All LiveScan sites are to maintain a supply of wet print method supplies and be able to revert to the wet print method in the event of LiveScan downtime.

OICs are to develop local instructions to action the results of fingerprint comparison and identification where necessary, see s. 1.5.3: 'Regional, district and station/establishment instructions' of this Manual.

Any LiveScan associated problems are to be reported to the LiveScan Coordinator via the Fingerprint Bureau's LiveScan Help Desk (0600 hours to 2200 hours daily).

While all repairs and maintenance will be organised by the LiveScan Coordinator, any costs for damage caused to the device will be the responsibility of the relevant region.

In addition to the steps set out in 'Fingerprinting (generally)' of this section, officers taking fingerprints using the LiveScan method should:

(i) generate a Form QP 0013B: 'Fingerprint Record Form' using QPRIME. If a DNA sample is to be taken in conjunction with the fingerprints, ensure the DNA sticker is affixed to the QP 0013B;

(ii) capture the fingerprint and palm print images in accordance with the guidelines provided in the training package; and

(iii) advise their supervisor of the results of the tenprint search.

ORDER

OICs of LiveScan sites are to ensure:

(i) all maintenance procedures are conducted at the times indicated;

(ii) any consumables used to facilitate the LiveScan process have been approved for use;

(iii) the roof area over the LiveScan device does not leak water;

(iv) unauthorised repairs to the device are not undertaken;

(v) any anomalies detected by the tenprint search regarding the person's identity are fully investigated; and

(vi) the development of local instructions to ensure a full investigation of;

(a) identity search inconsistencies; and

(b) latent print identifications,

see s. 1.5.3: 'Regional, district and station/establishment instructions' of this Manual.

All LiveScan operators are to ensure:

(i) the device is used in a manner that will minimise the likelihood of damage;

(ii) the LiveScan results returned from NAFIS are checked and acknowledged on the LiveScan device and the appropriate action is taken where inconsistencies in offender's identity are detected; and

(iii) the device is used in accordance with training guidelines issued by the LiveScan Coordinator.

For procedures relevant to the fingerprinting of security providers licence applicants, see ss. 2.26.8: 'Taking fingerprints for occupational licensing' of this chapter and 13.4.6: 'Security Providers' of this Manual.

OPM Issue 113 Public Edition

2.26.6 Voice recordings

Forensic Speaker Recognition (FSR) involves the comparison of voice recordings to determine whether they originate from the same individual. The Electronic Recording Section (ERS) does not conduct FSR; however, ERS can provide advice regarding appropriately qualified external consultants, including linguists and phonetician, who have performed this work in a legal context. Where officers require a voice recording from a person for forensic comparison purposes (being a voiceprint within the meaning of Schedule 6: 'Dictionary' of the PPRA), they are to contact the OIC, Electronic Recording Section, Forensic Services Group and obtain that officer's advice prior to taking any action in relation to the voice recording.

2.26.7 Destruction of identifying particulars

ORDER

If a person is found not guilty of an identifying particulars offence or is not further proceeded against, identifying particulars, including a photograph of the identifying particulars are to be destroyed, pursuant to s. 474: 'Destruction of identifying particulars' of the PPRA, within a reasonable time and in the presence of a justice unless:

(i) the person has been proceeded against on a charge of another identifying particulars offence, the charge of which, has not been decided. (In such cases, if the person is found not guilty of the other identifying particulars

offence, or the charge of that other offence is not proceeded with, the identifying particulars must be destroyed within a reasonable time after the relevant event happens. This continues to apply, until all other identifying particulars offences are dealt with or not proceeded with);

(ii) the person has previously been found guilty of another identifying particulars offence, whether before or after the commencement of s. 474 of the PPRA;

(iii) the identifying particulars are required for the investigation of another identifying particulars offence the person is reasonably suspected of having committed; or

(iv) the person is not proceeded against for the identifying particulars offence because he or she has been found incapable of standing trial because of mental illness.

Where applicable, police prosecutors are to ensure that in any proceeding where they appear and a person:

(i) is found not guilty; or

(ii) is not further proceeded against;

arresting officers or their OIC is notified as soon as practicable to arrange for destruction of any identifying particulars, unless the provisions of s. 474(2)(a), (b), (c) or (d) of the PPRA apply.

If an arresting officer is no longer stationed at the police station or establishment when the prosecution was commenced or will be absent from duty for a prolonged period of time, the OIC is to make arrangements to have the identifying particulars destroyed.

Officers arranging for the destruction of identifying particulars are to forward a QPRIME 'QPS IDP/DNA Destruction Request' task to the OIC, Fingerprint Bureau.

Such task workflows are to contain details of the:

(i) name and rank of the arresting officer;

(ii) name and date of birth of the person from whom the particulars were taken;

(iii) date the particulars were taken;

(iv) station, establishment or watch-house where the particulars were taken;

(v) charge in relation to which the particulars were taken;

(vi) reason for destruction of the particulars; and

(vii) known details of any copies of identifying particulars held at any other police stations or establishments regarding that person.

The OIC, Fingerprint Bureau is to ensure identifying particulars in the unit are destroyed pursuant to s. 474: 'Destruction of identifying particulars' of the PPRA as well as advise other police stations or establishments where identifying particulars are known to be held, of the required action. Upon destruction, advice is to be provided to the officer who commenced the destruction proceedings.

OPM Issue 113 Public Edition

2.26.8 Taking fingerprints for occupational licensing

A number of occupation based licensing schemes include the requirement for licence applicants to consent to having their finger and palm prints taken by police prior to being issued a licence.

An applicant is to consent to having their fingerprints and palm prints taken by police prior to being granted an operators or tattooist licence (see s. 35E: 'Fingerprinting and palm printing of applicants' of the *Tattoo Industry Act* (TIA)). Information obtained from the prints may be used to perform additional police functions e.g. finalisation of an outstanding offence (see s. 35E(6)(b) of the TIA).

Each relevant person submitting an:

(i) application for a licence; or

(ii) application for the renewal of an unrestricted licence,

(see s. 27: 'Fingerprints to be taken' of the *Security Providers Act* (SPA))

should allow their fingerprints to be taken for the application to be considered, unless their fingerprints are already held for that specific purpose (see ss. 10(8): 'Application' and 20(7): 'Renewal of unrestricted licence' of the SPA).

When a person attends a police station or establishment to comply with ss. 35E of the TIA or 27 of the SPA, an officer or a suitably qualified station client service officer is to take the fingerprints and palm prints of the person in accordance with this section.

Members fingerprinting applicants for licences under the TIA or SPA are to ensure that:

(i) the identity of applicants are checked and verified:

(ii) the persons fingerprints are taken:

(a) where a Livescan device is available (other than in a watch-house), fingerprints and palm prints of applicants may be taken on the device; or

(b) otherwise, officers are to take 'wet print' fingerprints, which are to be forwarded to 'Security Provider Processing, Fingerprint Bureau, Police Headquarters, 200 Roma Street, Brisbane, Qld 4000'; and

(iii) no fee is to be charged for taking the fingerprints of applicants,

(see s. 2.26.5: 'Fingerprinting' of this chapter).

ORDER

Under no circumstances are the fingerprints of applicants to be taken at a watch-house.

2.27 Attendance required by court orders, directions to attend and reporting notices for the performance of a forensic procedure

For the purpose of this policy:

Reporting notice

means an identifying particulars notice, DNA sample notice and a non-medical examination notice.

This section addresses the responsibilities of various officers prior to a person attending, when a person attends the stated place, police station or police establishment or when the person fails to attend and other related matters.

2.27.1 Persons attending a place, police station or police establishment in accordance with an order, requirement or direction (original direction)

POLICY

On receipt of a copy of an order, requirement or direction or a 'QPS IDP/DNA Attendance Notice' task workflow in QPRIME requiring or directing a person to attend at a police station or police establishment, the officer in charge of the nominated station or establishment is to ensure that appropriate staff and facilities are available to conduct the required forensic procedures at the stated time and date.

Where the stated place is a place other than a police station or police establishment, the officer who issues the document requiring or directing the person to attend the place or the investigating officer where no documents are issued by police, is to ensure appropriate staff and facilities are available to conduct the required forensic procedures at the stated time and date.

Where a person attends a place, police station or police establishment to have a forensic procedure performed on the person, in accordance with an order, requirement or direction (original direction):

(i) the officer in charge of the nominated station or establishment; or

(ii) where the stated place is a place other than a police station or police establishment, the officer who issues the document requiring or directing the person to attend the place or;

(iii) where no documents are issued on the person by police; the investigating officer;

is to ensure that an appropriately qualified person undertakes the relevant procedure in accordance with the original direction.

Where a person attends at a stated place as required by an original direction to have a forensic procedure performed on the person, the officer to whom the person reports is to:

(i) in cases where the person is not known to the police officer, request the person to produce personal identification in accordance with s. 40: 'Person may be required to state name and address' of the PPRA, and ensure as far as practicable that the person named in the original direction is the person attending;

(ii) in cases where the person is attending to have a DNA sample taken for intelligence purposes only, check QPRIME to establish whether a permanent DNA profile exists for the person. If a permanent DNA profile for the person exists, an intelligence DNA sample is not required. Where a DNA sample is not taken under these circumstances, the officer deciding not to take the DNA sample is to endorse the copy of the notice, and/or update the 'Ident/Fingerprint Report' in QPRIME, with the reasons why the procedure was not performed;

(iii) in cases where the person is attending to have a DNA sample taken, complete and send a QP 0442: 'DNA Sample Particulars Form' (available in QPRIME) to the DNA Management Section with the DNA sample kit;

(iv) perform, or arrange for a qualified person to perform, the relevant procedure required by the original direction;

(v) endorse a copy of the original direction with the relevant time, date and qualified person who conducted the forensic procedure and update the relevant 'Ident/Fingerprint' report in QPRIME;

OPM Issue 113 Public Edition

(vi) attach the endorsed copy of the original direction to the copy of the original direction, where possible and file them at the police station or establishment to which the officer is attached; and

(vii) in cases where the police officer considers it is not reasonably practicable to perform the forensic procedure because:

(a) a qualified person who may have performed the procedure is not available to perform the procedure; or

(b) equipment required to perform the procedure is not available at the place; or

(c) for another reason it is impracticable to perform the procedure;

a police officer may direct the person (later direction) to attend that place, station, or establishment or another place, station or establishment for the performance of the relevant procedure at a stated reasonable time at a stated reasonable day (see s. 2.27.2: 'Later direction' of this chapter).

2.27.2 Later direction

POLICY

Officers intending to give a later direction to a person are to:

(i) obtain the approval of their supervisor;

(ii) issue a new Reporting notice (available in QPRIME or in booklet) or QP 0752: 'Direction by a police officer to attend a stated place (later direction)' for the person to attend that place, station, or establishment or another place, station or establishment for the performance of the relevant procedure at a stated reasonable time at a stated reasonable day. (For the issuance of the appropriate notices or direction see s. 2.24: 'Non-medical examination notice', s. 2.25.5: 'DNA sample notice' or s. 2.26.3: 'Identifying particulars notice' or subsection 'Issuing and enforcing forensic procedure orders' in s. 2.23.2: 'Forensic procedure orders' of this chapter);

(iii) endorse the new reporting notice with the words 'later direction' at the top of the notice if the notice is in booklet form, otherwise note the words 'later direction' in the remarks field of the QPRIME generated notice;

(iv) when giving the copy of the appropriate later direction to the person concerned, in addition to the written warning contained therein and the verbal warning associated with that document, verbally advise the person that a later direction has effect as an extension of the original direction;

(v) finalise the 'QPS IDP/DNA Attendance Notice' task workflow for the original direction to record that the sample was not taken and that a later direction has been issued;

(vi) initiate the 'QPS IDP/DNA Attendance Notice' task workflow for the later direction and include details of the supervisor who gave approval for the issue of the later direction; and

(vii) distribute the copies of the later direction if in as if it were an original direction.

Supervising officers who are requested to approve the issue of a later direction are to consider the public interest, possible inconveniences caused, and any previous later directions given to the person concerned for the same forensic procedure, and are to satisfy themselves it is not reasonably practicable to perform the forensic procedure because:

(i) a qualified person who may have performed the procedure is not available to perform the procedure;

(ii) equipment required to perform the procedure is not available at the place; or

(iii) for another reason it is impracticable to perform the procedure.

There is no authority to issue a later direction to a reportable offender who is required to provide a DNA sample in accordance with s. 40A: 'Allowing DNA sample to be taken' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* (see s. 2.25.2: 'When DNA samples may be taken' of this chapter).

2.27.3 Non-compliance with a reporting notice

When the due date of the IDP/DNA Attendance Notice has expired the OIC of the assigned organisational unit is to review outstanding IDP/DNA Attendance Notice tasks and is to advise the issuing organisational unit of the compliance or non-compliance.

The issuing organisational unit OIC will receive a notification of the outcome via an 'FYI task' for attendance compliance or 'For your attention task' for attendance non-compliance and will re-assign the task to advise the issuing officer. A task is received regardless of whether the IDP/DNA Attendance Notice has been complied with or not.

Failure to comply with IDP notice

Where a person has failed to comply with an identifying particulars notice (IDP), the originating officer or any other officer is to;

(i) arrest the person and obtain, the identifying particulars, (for identifying particulars see s. 467: 'Taking identifying particulars of person in custody' of the PPRA);

OPM Issue 113 Public Edition

(ii) investigate the offence of failing to comply with the IDP reporting notice and establish whether a prosecution is to be commenced against that person for an offence under s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA, and where appropriate commence a prosecution against the person in accordance with the provisions of Chapter 3: 'Prosecution process' of this Manual; and

(iii) generate a Policelink entered occurrence for an offence under s. 791 of the PPRA.

Failure to comply with DNA sample notice

ORDER

In instances where an offender fails to comply with a QP 0723: 'DNA sample notice', the officer who issued the notice is to make application to a Magistrate using a Form 077 'Application for Order to Detain to Perform a Forensic Procedure (Fail to Comply with Reporting Notice)' and QP 0749 'Order to Detain to Perform a Forensic Procedure' authorising the officer to detain the person to collect a DNA sample.

If an order is issued the issuing officer or any other officer is to:

(i) detain the person and obtain the DNA,

(ii) investigate the offence of failing to comply with the reporting notice and establish whether a prosecution is to be commenced against that person for an offence under s. 791 of the PPRA, and where appropriate commence a prosecution against the person in accordance with the provisions of Chapter 3: 'Prosecution process' of this Manual; and

(iii) generate a Policelink entered occurrence for an offence under s. 791 of the PPRA.

Further information on the use of DNA sample notices in s. 2.25.4: 'Issuing of DNA sample notice' of this chapter.

Failure to comply with a direction to attend a stated place notice

In cases where a person has failed to comply with a direction to attend a stated place notice, see subsection: 'Failure to comply with a direction contained in a QP 0751 or QP 0752 in s. 2.23.2: 'Forensic procedure orders' of this chapter.

2.28 Requesting information from transport industry bodies

2.28.1 Obtaining security recordings from taxi companies

Definitions

For the purposes of this section:

Download officer

means a person, including a member of the Service, authorised by the Department of Transport and Main Roads (DTMR) to conduct downloads.

Serious incidents

includes all incidents other than less serious incidents, involving a physical assault causing injury, sexual assault, murder or robbery. The term includes offences defined as 'serious indictable offences' and 'serious violent offences' in Schedule 6: 'Dictionary' of the PPRA.

Security recordings in taxis

The taxi security camera program is administered by the DTMR. Taxi security camera systems may provide evidence relating to offences or incidents occurring in or around taxis.

Downloading security recordings

A security recording is only to be downloaded from a taxi security camera system for an authorised purpose (see s. 215: 'Use of security recordings from approved security camera system' of the Transport Operations (Passenger Transport) Regulation (TO(PT)R)).

A request for a security recording download should be made immediately after an incident has occurred to ensure data is not overwritten. Recordings are not routinely downloaded and stored for later reference.

By agreement between the Service, DTMR and the Queensland taxi industry, the responsibilities for downloading security recordings from a taxi security camera system will be shared between the Service and taxi companies.

OIC of districts are to ensure instructions are established to identify the appropriate downloading option, download officer and procedures to have the download conducted. The detective inspector (crime group) in each district is the nominated liaison officer for transport security camera inquiries.

In cases of less serious incidents, a download officer at the taxi company will generally perform the downloading of a security recording and deliver the recording to investigating police in an evidence envelope.

OPM Issue 113 Public Edition

In cases where a taxi is declared a crime scene, the downloading is to be conducted by a trained member of the Service. Where a trained member of the Service is unavailable the download may be conducted by an approved download officer under the supervision of a member of the Service having due regard to the seriousness and circumstances of the incident.

In cases of serious incidents, it is the responsibility of the investigating officer to determine the appropriate download option or download officer having regard to the following:

(i) the nature of the offence;

(ii) whether a forensic examination of the taxi will be required for evidence other than the security recording;

(iii) the necessity and potential value of any security recording;

(iv) the availability of an appropriately trained member of the Service to conduct a download;

(v) any time constraints, e.g. the time remaining before the taxi security camera system begins to overwrite potentially useful data;

(vi) any cost uninvolved taxi operators may incur in assisting the Service, e.g. security recording required of an incident occurring near a taxi but not involving the taxi; and

(vii) district resource and priority considerations outlined in the relevant district instructions.

Responsibilities of members conducting security recording downloading

Members of the Service authorised to download or attempt to download a security recording, are to complete a QP 0948: 'Taxi Security Camera Image Download Record' after conducting the download (see s. 216: 'Requirement to keep record of download of security recording' of the TO(PT)R.

In the event of a failed download, the words 'DOWNLOAD FAILED' are to be placed into the 'Description of image recording(s) download' field on the QP 0948. The driver or owner of the taxi is to be advised the security camera may not be functioning correctly.

The QP 0948 is to be faxed or emailed to DTMR (see SMCD) within one working day after downloading the security recording.

The download officer is to scan a copy of the QP 0948 and attach it to the relevant occurrence. The investigating officer is to keep the original copy of the QP 0948 for court presentation.

Serious incidents

An officer investigating a serious incident is to take possession of any security recording downloaded from the taxi security camera system as soon as practicable.

Where a security recording is downloaded by a member of the Service, the recording is to be copied to a disk (encrypted [security purposes] and unencrypted on separate disks) and delivered to the investigating officer. Where it is considered necessary to view mapping data associated with the recording, officers are to, before sending the encrypted disk to the Evidence Management (Electronic Media) Facility, Wacol (EM(EM)F), make arrangements with the officer in charge of the relevant scenes of crime office or the Forensic Imaging Section to have an additional copy of the encrypted disk made and for the data to be viewed with the appropriate software.

Where a security recording is downloaded the investigating officer should ensure:

(i) an entry is made on the relevant QPRIME Interview Report in respect of the disks;

(ii) the relevant QPRIME occurrence number is marked on both disks;

(iii) the disk of the encrypted recording is forwarded to the EM(EM)F as soon as practicable; and

(iv) the disk of the unencrypted recording is held at the relevant property point where working copies can be made as required.

Officers are to ensure personal particulars of the download officer are recorded and a statement or certificate consistent with the requirements of s. 95: 'Admissibility of statements in documents or things produced by processes or devices' of the *Evidence Act* (EA) is obtained from the download officer as soon as practicable (see also s. 3.8.17: 'Computer records (Evidence Act)' of this Manual).

Less serious incidents

Members receiving a complaint of a less serious incident are to:

(i) determine whether it is necessary to download a security recording from the taxi's security camera system;

(ii) if it is considered necessary to download a security recording, determine the appropriate downloading option;

(iii) advise the relevant taxi company; and

(iv) arrange for the delivery of the downloaded security recording to the requesting officer in the approved evidence envelope, having due consideration to continuity of possession ensuring the number of persons

OPM Issue 113 Public Edition

handling the evidence envelope is minimised. It is likely each person handling the evidence envelope will be required to provide a statement if a prosecution is later commenced.

In cases where the driver of the relevant taxi is the alleged offender in a complaint, the download should be conducted by a trained member of the Service or where a member of the Service is unavailable, by a taxi company download officer under the supervision of a police officer.

Responsibilities of members receiving evidence envelopes

An evidence envelope will generally contain:

(i) a taxi company incident report;

(ii) a certificate under s. 95 of the EA; and

(iii) two disks containing the original encrypted recording (for security purposes) and unencrypted recording respectively.

The evidence envelope will also show the details of the download officer and the persons who have handled the evidence envelope.

Members are to ensure a Field Property Receipt is issued for the evidence envelope. If the evidence envelope is sealed it may be receipted as a sealed envelope and should not be opened, except by the investigating officer. If the evidence envelope is received already opened, the contents of the envelope are to be itemised and receipted. The evidence envelope is to be held at an appropriate property point.

If the member receiving the evidence envelope is not the reporting or investigating officer for the relevant matter, the member is to:

(i) establish whether the incident to which the security recording relates has previously been reported to police; and

(ii) if the matter has been reported to police:

(a) ensure the relevant QPRIME occurrence is updated to indicate the location of the evidence envelope, whether the envelope was sealed or unsealed upon receipt and the relevant property register number; and

(b) ensure the reporting or investigating officer is advised the evidence envelope has been received and its current location; or

(iii) if the matter has not been previously reported to police, ensure a QPRIME occurrence is made in respect of the incident, indicate the location of the evidence envelope, whether the envelope was sealed or unsealed upon receipt and the relevant property stores management tag number are to be included in the relevant occurrence within QPRIME.

Investigating officers are to ensure:

(i) an entry is made on the relevant QPRIME Interview Report in respect of the disks;

(ii) the relevant occurrence number is marked permanently on both disks;

(iii) the disk of the encrypted security recording is forwarded to the EM(EM)F as soon as practicable in accordance with the local procedures for forwarding original interview tapes;

(iv) the disk of the unencrypted security recording is held at the relevant property point and working copies are made as required; and

(v) if the evidence envelope was received unsealed, the matter is referred by written report through their officer in charge to The Manager, Taxi and Limousine Regulation Unit, DTMR for investigation. Officers are also to consider whether the evidence contained in the unsealed envelope may still be relied on for prosecution purposes. In some cases, it may be possible to obtain further copies of the disks from the download officer as the encrypted security recording is to be kept not less than 60 days but not more than 90 days after downloading.

Retention and disposal of recordings from taxi security camera systems

Taxi security camera recordings are to be retained and disposed of in accordance with the requirements contained within the QPS Records Retention and Disposal Schedule. Security recordings from taxi security camera systems are to be used only for official purposes.

Security recordings from taxi security cameras are not to be released to the media or to members of the public except in accordance with Service policy or as required by law (see also s. 5.6.12: 'Information released by police seeking public assistance in the investigation of incidents and crimes' of the MSM).

After the conclusion of an investigation and any subsequent prosecution (including the relevant appeal period) associated with security recordings, investigating officers are to ensure the disk of unencrypted and working copies of security recordings are disposed of in accordance with Chapter 4: 'Property' of this Manual.

OPM Issue 113 Public Edition

The disposal method for security recordings, including printed, electronic and disk copies, is by destruction. Security recordings are not to be returned to the taxi operator or taxi company.

The EM(EM)F will deal with the long-term retention and disposal requirements through retention of the encrypted security recordings and disposal of the disk at the appropriate time.

Use of recordings from taxi security camera systems to support prosecutions

Officers intending to use security recordings obtained from a taxi security camera system are to ensure:

(i) all security recordings or still images are compatible with Service or Court replay equipment;

(ii) still images are available where no electronic court replay facilities exist; and

(iii) evidence to prove the continuity and integrity of the security recording is obtained. Statements of the taxi driver, or some other witness to the incident or a statement and/or certificate from the person who downloaded the security recording and persons who handled any evidence envelope may be required. For security recordings obtained by a download officer, statements and certificates consistent with s. 95 of the *Evidence Act* are required. Security recordings downloaded by a member of the Service, only require a statement.

Where expert evidence is required regarding security recordings obtained from a taxi security camera system, advice is to be sought from the OIC, Forensic Imaging Section, Security, Counter-Terrorism and Forensic Services Command.

2.28.2 Obtaining video recordings from the Department of Transport and Main Roads

The Department of Transport and Main Roads (DTMR) maintains a number of video surveillance systems (VSS) which are located:

(i) on the Brisbane Busway Network. Images from the VSS are transmitted to and recorded at the Busway Operations Centre;

(ii) in various locations on motorways and arterial roads which are recorded at the Traffic Management Centres located in Brisbane, Maroochydore, Nerang, Cairns, Toowoomba, Townsville and Warwick; and

(iii) throughout the state in various:

(a) Customer Service Centres;

(b) Maritime Safety Queensland offices;

(c) Queensland Government Agent Program (QGAP) offices; and

(d) Port Authorities.

Images from the VSS are generally recorded on site.

During the course of an investigation officers may seek to view or obtain video recordings captured by VSS. Video recordings from VSS are retained by the DTMR agencies for varying periods depending on the particular agency and recording medium used (i.e. analogue or digital equipment).

To view or obtain video recordings from DTMR VSS, officers are to:

(i) provide a written request on DTMR form F 4961: 'Request for Information' (available on Forms Select). This is for all areas within DTMR and TransLink (see (i) to (iii) above); and

(ii) submit it for approval of a senior officer (rank of sergeant or above).

On receiving a video recording from a DTMR VSS, officers are to:

(i) supply the person providing the video recording with a copy of a QPB 32A: 'Field Property Receipt' (see s. 4.2: 'Receiving property' of this Manual); and

(ii) comply with the relevant procedures relating to the handling, viewing and copying of video recordings as outlined in the previous subsection titled 'Obtaining video recordings in general'.

Officers who seek to release a video recording from a DTMR VSS to the media to assist in the identification of suspects, are to comply with s. 5.6.12: 'Information released by police seeking public assistance in the investigation of incidents and crimes' of the MSM.

At the conclusion of proceedings or when no longer required as evidence, officers are to return video recordings to the relevant DTMR agency (see s. 4.6.1: 'General requirements of disposal' of this Manual).

2.28.3 Railway related offences

Queensland Rail (QR) has a system of CCTV cameras operating across the Rail network. Officers may seek the assistance of QR in obtaining video recordings of incidents to assist in an investigation of offences which have occurred on passenger trains, at QR stations or in QR commuter car parks.

Officers are to note QR CCTV video recordings:

OPM Issue 113 Public Edition

(i) on board passenger trains are held for a minimum of 14 days and are then automatically overwritten;

(ii) of stations and car parks are held for a minimum of 31 days before being overwritten.

QR policy prevents cameras from being positioned to provide imagery of areas adjacent to QR property.

To request CCTV images or video recordings from QR, investigating officers are to complete the QP 0656: 'Request for QR Rail Network CCTV Images'. When submitted, a copy of the form is automatically emailed to the nominated investigating officer for reference and the request emailed to State Intelligence Railway Squad (SIRS). SIRS will make arrangements to have the CCTV video recording processed by the QR CCTV Analysis Unit.

Before forwarding a request to QR CCTV Analysis Unit the officer is to have Evidence.com access.

The QR Analysis unit processes all requests on a priority basis and will provide CCTV footage to Evidence.com.

A certificate under s. 95: 'Admissibility of statements in documents or things produced by processes or devices' of the *Evidence Act* will be included by the QR CCTV specialist. Officers are to comply with s. 5.6: 'Release of information' of the MSM. If a duplicate of the CCTV footage is required, local procedures should be adopted to produce a copy and a running statement completed (see s. 4.2.7: 'Continuity of possession' of this Manual). Once the CCTV footage is provided, the raw data for the imagery will be retained by QR for a period of 30 days.

The QR CCTV Analysis Unit is located on level 3, Makerston House, Makerston Street, Brisbane and maintains remote viewing capability for a large number of railway stations and is available for access by officers during business hours. In urgent circumstances, or situations where there is limited information as to the nature or timeframe of the incident, investigating officers should, where possible, attend and view the imagery in person. To attend and view imagery, officers should contact the QR CCTV Analysis Unit (see SMCD). For urgent after hours call outs, authorisation will be required by QR management, and can be requested by calling the QR Security Shift Supervisor (see SMCD).

During an investigation, officers may seek to release QR CCTV footage to the media to assist with the identification of suspects. Release of graphic or violent CCTV footage to the media may present a perception railway transport is unsafe. Depending on the seriousness and the circumstances of the matter being investigated, officers are to carefully consider the necessity of releasing of such images where it may be more appropriate to release still photographs of a suspect.

Where a still photograph or CCTV footage is to be released to the media, officers are to do so through Media and Public Affairs who will then liaise with the Manager for Corporate Relations, QR.

2.28.4 Uber information requests

Uber collates information about each ride-booking service and is facilitated by an 'app' used worldwide.

Information obtained through the process outlined in this section may only be used for investigation or intelligence purposes. If the information is required for evidentiary purposes in court, officers are to comply with s. 7.4.5 of the MSM relating to mutual assistance requests.

Uber can provide:

(i) rider's name, pick up and drop off address, email, phone number and credit card details;

(ii) driver's name, licence details, address, phone number, photo, vehicle registration and description; and

(iii) GPS route data and driver location.

There is currently no redundancy timeframe for the storage of this information.

Requests for information for investigations are to be sent via the Uber Law Enforcement Response Portal at lert.uber.com.

If a passenger is a potential witness, officers can request Uber contact the passenger and request officers' details be supplied to allow communication.

Further information and guidelines for law enforcement agencies can be found at Uber Guidelines for Law Enforcement via the Uber Law Enforcement Response Portal.

Emergency Uber information requests

These requests are to be sent through the portal, and clearly identified with the word 'emergency' in the title/header and text body with an explanation why the information is required immediately and how it will assist the investigation.

Uber will consider emergency requests for:

(i) Missing persons;

(ii) Crimes against a minor;

(iii) Human trafficking;

(iv) Terrorism;

(v) Sexual assaults (within 48 hours); and

OPM Issue 113 Public Edition

(vi) Prevention or occurrence of death or serious injury.

2.28.5 Brisbane City Council (Transport for Brisbane) bus CCTV footage

The Brisbane City Council (Transport for Brisbane) has a large proportion of their bus fleet fitted with both internal and external closed circuit television (CCTV) cameras. Footage from the cameras is available to officers investigating a variety of incidents which may have occurred either upon a bus or within their close proximity. The footage available from side and front mounted exterior cameras is inferior in quality to those produced from the interior cameras, mainly due to the light available at the time of recording.

ORDER

Any request to the Brisbane City Council (BCC) for bus CCTV footage by an officer is to be made via email (onbuscctv@brisbane.qld.gov.au) using a Brisbane Transport Request for Release of On Bus CCTV Footage form (BT 10449 on Forms Select). Subject of the email is to be 'QPS CCTV Footage Request'.

Officers investigating an incident occurring on or near a bus within the greater Brisbane area, which is operated by the BCC may apply within 14 days of the date of the incident for CCTV footage. To expedite the application officers are to nominate the actual bus route or number.

Refer to the below flow chart 'QPS on Bus CCTV Footage Request'.

The following key points relate:

(i) if a request for footage is received within 14 days of the incident, there is a high likelihood of retrieving footage;

(ii) if the request is made after 14 days but up to 20 days after the incident occurred, Transport for Brisbane will contact the requesting officer to confirm the footage availability, with footage older than 20 days not being retrievable;

(iii) all requests on the approved form will be responded to by Transport for Brisbane;

(iv) footage must be collected by the requesting officer from the depot where it was downloaded as soon as possible after being made available;

(v) Brisbane Transport does not analyse any footage for the requesting officer; and

(vi) the requesting officer (or representative) will sign an approved BCC receipt at the time of receiving the footage.

Brisbane Transport will advise which depot the footage can be retrieved from.

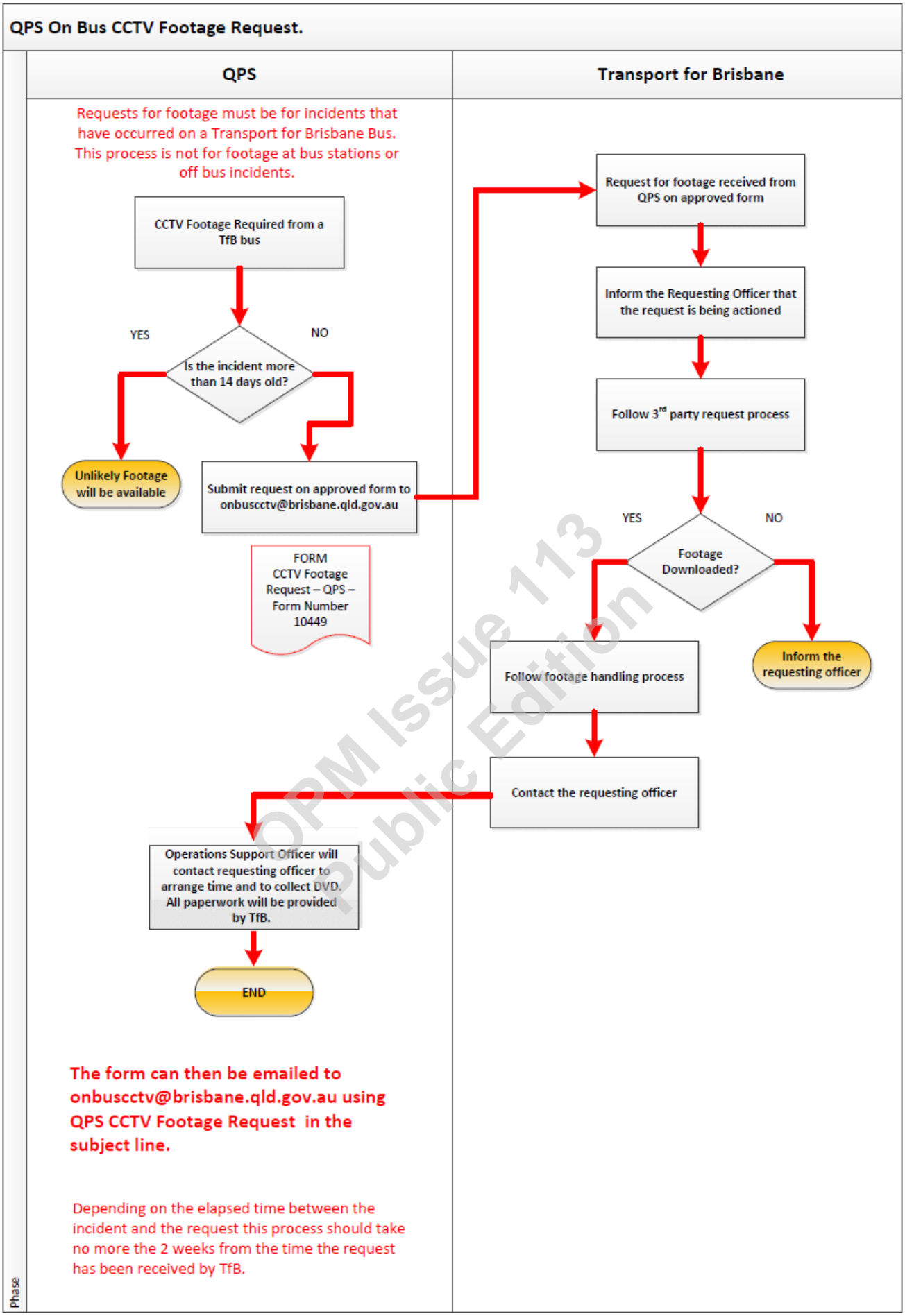
Bus routes

For a list of Transport for Brisbane bus routes refer to the following:

https://translink.com.au/plan-your-journey/maps

https://jp.translink.com.au/plan-your-journey/timetables

OPM Issue 113 Public Edition



OPM Issue 113 Public Edition

2.29 Public transport exclusion orders and civil banning orders

The *Transport Operations (Passenger Transport) Act* (TO(PT)A) enables courts to make orders to exclude or limit certain offenders, who are convicted of certain offences, from the use of the public transport network or public transport infrastructure.

An officer may seek:

(i) an exclusion order as part of the sentencing process when a person is convicted of an 'exclusion order offence' under the TO(PT)A (see s. 2.29.1: 'Exclusion orders' of this chapter); or

(ii) a civil banning order if an adult person has:

(a) committed a relevant 'act of violence' within 12 months before the date of the application; or

(b) been issued with 10 or more infringement notices for 'relevant offences' within any 12 month period in the 2 years before the date of the application,

within 12 months before the date of the application (see s. 2.29.2: 'Civil banning orders' of this chapter).

Prior to issuing an order, the court must be satisfied that, unless an order is made, the person would pose an unacceptable risk to the:

(i) good order or management of the public transport network; or

(ii) safety and welfare of persons using the public transport network.

Definitions

Definitions of terms used in this section are contained in Schedule 3: 'Dictionary' of the TO(PT)A and include:

(i) general route services;

(ii) public transport network; and

(iii) public transport infrastructure;

For the purposes of this section:

Act of violence

includes an attempted or threatened act of violence (see s. 129ZH of the TO(PT)A).

Authorised person

means the chief executive or an officer (see s. 129ZH: 'Definitions for pt 4C' of the TO(PT)A).

Civil banning order

means an order which restricts or prohibits a person from using the public transport network for a set period of time (see s. 129ZJ(1): 'What is a civil banning order' of the TO(PT)A).

Exclusion order offence

means a relevant offence or a transport indictable offence (see s. 129ZA(1): 'Court may make exclusion order' of the TO(PT)A).

Prosecuting authority

means:

(i) if the prosecutor who appeared before the court when the exclusion order was made was an officer—the Commissioner, or someone authorised to accept the application on the Commissioner's behalf; or

(ii) if the prosecutor who appeared before the court when the exclusion order was made was a Crown prosecutor—the DPP, or someone authorised to accept the application on the director's behalf (see s. 129ZD(8): 'Amendment or revocation of exclusion order generally' of the TO(PT)A).

Relevant offence

means an offence against a relevant provision as defined under s. 143AHA(3): 'Power to require person to leave public transport infrastructure if person committing particular offences' of the TO(PT)A (see Schedule 3 of the TO(PT)A). The following are relevant offences:

Transport Operations (Passenger Transport) Act:

s. 143AE: 'Interfere with public transport infrastructure service, vehicle or equipment'.

Transport Operations (Passenger Transport) Regulation:

s. 218C: 'Fare evasion';

OPM Issue 113 Public Edition

s. 252: 'Creating disturbance or nuisance'.

Transport Infrastructure Act:

s. 255: 'Interfering with railway';

s. 257: 'Trespassing on railway';

s. 329: 'Trespass on busway or busway transport infrastructure';

s. 377: 'Trespass on light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site';

Rail Safety National Law (Queensland):

s. 227: 'Not to interfere with train, tram etc'.

Transport indictable offence

means an indictable offence, including an indictable offence dealt with summarily, committed on or in public transport infrastructure (see s. 129Y: 'Definition for pt 4B' of the TO(PT)A).

2.29.1 Exclusion orders

Section 129ZA: 'Court may make exclusion order' of the *Transport Operations (Passenger Transport) Act* (TO(PT)A provides for making an exclusion order when the court is convicting a person of an **'exclusion order offence'**.

Where a **'relevant offence'** has been committed, prior to an exclusion order being sought, the offender must have been convicted (whether a conviction is recorded or not) of:

(i) one exclusion order offence during the preceding 12 months; or

(ii) 2 exclusion order offences during the previous 18 months.

Where a transport indictable offence has been committed, an exclusion order can be sought as part of the sentencing on conviction (whether or not a conviction is recorded). An exclusion order may be sought to:

(i) prohibit the offender from using the public transport network; or

(ii) restrict the general route services, public transport infrastructure, days or periods of days the offender may use the public transport network (see s. 129Z: 'What is an exclusion order' of the TO(PT)A).

Prior to making an exclusion order the court must:

(i) be satisfied that, unless the order is made, the offender would pose an unacceptable risk to the:

(a) good order or management of the public transport network; or

(b) safety and welfare of persons using the public transport network; and

(ii) consider the effect an exclusion order will have on the offender or their family (see s. 129ZB: 'Matters court must consider in deciding to make exclusion order' of the TO(PT)A).

Where proceedings have been commenced against a person for an exclusion order offence, the investigating officer is to ensure the provisions of the subsection titled 'Seeking an exclusion order' of this section are followed.

Seeking an exclusion order

Where an investigating officer has commenced proceedings against a person for an exclusion order offence, the officer is to request the prosecutor to make a submission for the issue of an exclusion order upon conviction.

When an exclusion order is to be sought, investigating officers are to:

(i) complete a QP 0894: 'Instructions to prosecutors for an exclusion order submission' containing all information the prosecutor requires including:

(a) information to support the allegation the person is an unacceptable risk to the good order or management of the network or the safety and welfare of persons using the network;

(b) whether the person is to be prohibited from the public transport network; or restricted in their use of the network, including details of allowed services, times and dates; and

(c) comments in relation to any hardship claims the person may make to prevent an order being made;

(ii) ensure a note to the prosecutor is included in the 'facts' section of the Court Brief (QP9) or full brief of evidence under a separate heading titled 'Exclusion order application';

(iii) attach a copy of the completed QP 0894 to the Court Brief (QP9) or full brief of evidence;

(iv) save an electronic copy of the completed QP 0894 in the QPRIME occurrence relating to the submission; and

OPM Issue 113 Public Edition

(v) where an exclusion order is being sought because the person committed a relevant offence, a Form QP 0041A: 'Notice of Intention to Allege Previous Convictions' is to be completed with a copy being:

(a) given to the defendant; and

(b) endorsed as to service and attached to the Court Brief (QP9) or full brief of evidence.

The officer commencing a proceeding for a relevant offence is to check the person's offender history to identify any exclusion order convictions (whether a conviction is recorded or not) within the preceding 12 or 18 months. Exclusion order offences will not be immediately evident by simply checking the person's offender history, the Court Brief (QP9) facts of every conviction need to be checked to identify an exclusion order offence.

Recording an exclusion order

Where an exclusion order is made, amended or revoked by a court, s. 129ZE: 'Order to be given to interested persons' of the TO(PT)A requires the proper officer to reduce the order to writing in the approved form and send it to a number of parties including the Commissioner. The Commissioner has authorised the OIC, Railway Squad to accept these orders on the Commissioner's behalf.

Upon receipt of an order, the OIC, Railway Squad is to ensure:

(i) a banning order flag is generated or updated against the offender's person record in the relevant QPRIME occurrence;

(ii) a copy of the exclusion order is scanned into the relevant occurrence;

(iii) the documents are forwarded to the OIC of the station the person resides for service as required; and

(iv) a copy of the order is filed at the Railway Squad office.

Service of an exclusion order

When an exclusion order is served on the person, the serving officer is to:

(i) explain the:

(a) contents of the documents to the respondent in language likely to be understood by the person having regard to the respondent's age, cultural, educational and social background;

(b) purpose, terms and effect of the order;

(c) consequences of contravening the order; and

(d) order may be varied or revoked on application by the person under s. 129ZF: 'Amendment of exclusion order that restricts access for changes in personal circumstances' of the TO(PT)A; and

(ii) update the relevant 'Banning order' window and 'Banning order' flag to record service of the order on the person.

OPM Issue 113 Public Edition

2.29.2 Civil banning orders

A civil banning order may be issued by a Magistrate under s. 129ZO: 'Making a civil banning order' of the *Transport Operations (Passenger Transport) Act* (TO(PT)A) following an application by the Chief Executive of the Department of Transport and Main Roads (DTMR) or an officer against an adult for a period of up to 12 months as a result of conduct occurring on the public transport network.

A court may make a civil banning order if it is satisfied on the balance of probabilities that:

(i) within 12 months before the date of the application for a civil banning order a respondent committed a relevant act of violence (see the subsection titled 'Definitions' of s. 2.29: 'Public transport exclusion orders and civil banning orders' of this chapter); or

(ii) within any 12 month period occurring in the 2 years before the date of the application for a civil banning order has been served 10 or more infringement notices for a relevant offence or relevant offences and the infringement notices have been 'dealt with' (see s. 129ZO(7) of the TO(PT)A) under the *State Penalties Enforcement Act*, Part 3; and

(iii) unless the order was made the respondent would pose an unacceptable risk to:

(a) the good order or management of the public transport network; or

(b) the safety and welfare of persons using the public transport network.

The relevant act of violence or relevant offence (for which an infringement notice was issued) to support a civil banning order application must have been committed after 31 August 2011.

Seeking a civil banning order

Application for a civil banning order is made in compliance with the Uniform Civil Procedure Rules (UCPR) and must include an affidavit of the evidence to be relied upon by the applicant officer. After the application is filed with a court it must be served on the respondent within 10 business days of the filing.

An application can be made for an interim civil banning order under s. 129ZP: 'Interim civil banning order' of the TO(PT)A to be in force until the:

(i) civil banning order is decided by a court; or

(ii) interim banning order expires or is revoked.

An interim civil banning order is sought using the same application procedure as a civil banning order and must be served on the respondent within 5 business days of being filed with the court.

The police officer seeking a civil banning order is to create a record in QPRIME (see the subsection 'Banning order fields' of the QPRIME User Guide). In accordance with the UCPR (see s. 13.36: 'Starting a civil proceeding' of this Manual) the applicant officer is to complete:

(i) a Form 5: 'Originating application';

(ii) an affidavit of the applicant officer and any other witnesses in support of the application including evidence intended to be relied upon at the hearing of the application (Form 46: 'Affidavit'); and

(iii) a draft court order on a Form 59: 'Order—(Blank)' is to be completed including the condition(s) sought.

The completed application is to be filed at the court for service. Prior to the service of the application, a scanned copy of the registered documents is to be uploaded into the relevant QPRIME record.

In accordance with s. 129ZO: 'Making a civil banning order' of the TO(PT)A the court must have regard to all the circumstances of the case including:

(i) whether the respondent is, or has been, subject to another civil banning order;

(ii) whether the respondent is subject to a condition under s. 11: 'Conditions on release on bail' of the *Bail Act* restricting use of the public transport network;

(iii) whether the respondent or any other person was charged with an offence arising out of:

(a) the relevant act of violence; or

(b) relevant offence, where 10 or more infringement notices have dealt with for a relevant offence or relevant offences (see s. 129ZO(7) of the TO(PT)A for the definition of 'dealt with'),

and the result of any proceeding in relation to the charge;

(iv) whether the respondent is the subject of an exclusion order;

(v) the respondent's criminal history; and

(vi) whether the making of an order is likely to cause undue hardship to the respondent or the respondent's family (see s. 129ZO(2)(g) to (i) of the TO(PT)A).

ORDER

Any application for a civil banning order is to include sufficient information, in addition to the requirements of s. 129ZL(1): 'Application for a civil banning order' of the TO(PT)A, to:

(i) negative any probable claims of the respondent outlined in to points (i)–(vi); and

(ii) show on the balance of probabilities that the respondent would pose an unacceptable risk to:

(a) the good order or management of the public transport network; or

(b) the safety and welfare of persons using the public transport network,

if an order was not issued.

Recording a civil banning order

Civil banning order applications, interim civil banning order and civil banning orders under the TO(PT)A are to be recorded in QPRIME and a 'For your information' task is to be forwarded to the OIC, Railway Squad [ORG until 0865].

If the documents will not be served by the officer creating the QPRIME record:

(i) create a 'Documents for service' flag against the respondent's entity in QPRIME; and

(ii) forward the documents to the OIC of the station the respondent resides for service.

OPM Issue 113 Public Edition

Recording court outcomes

The OIC, Railway Squad is authorised to accept court orders on behalf of the Service.

Where a civil banning order is made, amended or revoked by a court, the OIC, Railway Squad is to ensure:

(i) the banning order window in the relevant QPRIME occurrence is updated to record the civil banning order or amended civil banning order;

(ii) a banning order flag is generated or updated against the respondent's person record in QPRIME;

(iii) the documents are forwarded to the OIC of the station the person resides for service as required and a 'Documents for service' flag is created against the person's QPRIME entity; and

(iv) a copy of the order is filed at the Railway Squad office.

(a) filed at the Railway Squad office; and

(b) forwarded to:

- Fines and Investigation Supervisor, Queensland Rail; and
- Manager (Revenue Protection), TransLink Division, DTMR,

for their information and filing (see SMCD).

Service and explanation of a civil banning order

A civil banning order or interim civil banning order is in force from the time it is served on and explained to the respondent until it expires or is otherwise revoked.

The Chief Executive of the DTMR is authorised to apply for a civil banning order. Officers may be requested to serve applications and civil banning orders on behalf of the DTMR.

When a civil banning order application, interim civil banning order or civil banning order is served on the respondent, the serving officer must:

(i) explain:

(a) the contents of the documents to the respondent in language or in any way likely to be understood by the respondent having regard to the respondent's age, cultural, educational and social background;

(b) the purpose, term and effect of the order;

(c) the consequences of contravening the order; and

(d) that finalised orders may be varied or revoked on application:

- by an authorised officer at any time; or
- by the respondent after the order has been in force for 3 months;

(e) that the respondent may file a response to an application or interim civil banning order The respondent must file the response within

- 28 business days in the case of an application for a civil banning order; or
- fifteen business days in the case of an interim civil banning order,
- after the filing of the application and must include an affidavit the respondent intends to rely on at the hearing of the application; and

(f) that an application may be heard and determined in the absence of the respondent;

(ii) whenever possible, where the officer is serving for a civil banning order application or an interim banning order, provide the respondent with a copy of a fact sheet outlining the respondent's responsibility to provide information in accordance with s. 129ZO(2)(g) to (h) of the *Transport Operations (Passenger Transport) Act* (see Appendix 2.14: 'Civil banning order fact sheet' of this chapter); and

(iii) update the relevant QPRIME occurrence 'Banning order' window and 'Banning order' flag to record service of the order on the person.

2.29.3 Action before commencing a proceeding against a person for contravening an exclusion order, interim civil banning order or civil banning order

Sections 129ZG(2): 'Offence to contravene exclusion order' or 129ZZ(2): 'Contravention of civil banning order or interim civil banning order' of the *Transport Operations (Passenger Transport) Act* (TO(PT)A) provides, without limiting what may constitute a reasonable excuse, what circumstances constitute a reasonable excuse for a person to contravene an:

(i) exclusion order;

OPM Issue 113 Public Edition

(ii) interim civil banning order; or

(iii) civil banning order.

A person may have a reasonable excuse to contravene an order if:

(i) at the time of the contravention, the person was not aware, and was reasonably not aware, that an order had been made;

(ii) the person contravened the order because of an emergency; or

(iii) the person has applied for an:

(a) exclusion variation order under s. 129ZF: 'Amendment of exclusion order that restricts access for changes in personal circumstances' of the TO(PT)A; or

(b) order to vary the civil banning order under s. 129ZQ: 'Varying or revoking civil banning order or changes in circumstances' of TO(PT)A; and

- the court has not decided the application; and
- the contravention of the relevant order reasonably relates to the changed circumstances to which the application is made.

Inquiries should be conducted with a view of negativing these and other defences before commencing proceedings for a contravention of an order.

2.29.4 Police application to amend or revoke an exclusion order or civil banning order

Section 129ZD: 'Amendment or revocation of exclusion order generally' and s. 129ZQ: 'Varying or revoking civil banning order for changes in circumstances' of the *Transport Operations (Passenger Transport) Act* provides that a prosecutor may apply in the approved form to amend or revoke an exclusion order or civil banning order.

Where an officer becomes aware of information which provides sufficient reason for a prosecutor to apply for the revocation or amendment of an exclusion or civil banning order, the officer should submit a report to their OIC seeking consideration of the new information. This is to be accompanied with an affidavit supporting the application under the relative section.

The OIC is to submit the report with a recommendation to a commissioned officer for consideration. The commissioned officer should consult with the OIC, Railway Squad, the OIC of the relevant police prosecution corps or the ODPP when determining whether to approve the making of the application.

Where the commissioned officer approves the application for amendment or revocation and the exclusion or civil banning order was originally made in a magistrate's court, the commissioned officer is to return the report to the applicant officer.

The applicant officer is to ensure:

(i) an application to amend or revoke:

(a) an exclusion order is completed using Form F 4776: 'Exclusion Order Amend/Revoke/Vary Application' and a draft court order is prepared using Form F 4775: 'Exclusion Order Amendment/Revocation Order'; or

(b) a civil banning order is completed using Form F 4927: 'Civil Banning Order—Variation/Revocation Application'; and

- where a variation of the civil banning order is sought, a draft court order is prepared using Form F 4925: 'Civil Banning Variation Order'; or
- where the revocation of the civil banning order is sought, a draft court order is prepared using Form F 4924: 'Civil Banning Revocation Order',

(ii) the QPRIME occurrence relating to the exclusion order or civil banning order is updated;

(iii) a copy of the completed application is scanned or otherwise electronically recorded in the QPRIME occurrence;

(iv) the application is lodged with the relevant magistrates court;

(v) a copy of the application is provided to the Manager, (Revenue Protection) TransLink Division, Department of Transport and Main Roads (see SMCD);

(vi) a copy of the application is provided to the OIC, Railway Squad; and

(vii) the file and copy of the application is forwarded to the OIC of the relevant police prosecution corps.

The applicant officer is to ensure copies of the application are given to the relevant parties at least;

(i) 21 business days in the case of exclusion orders; or

OPM Issue 113 Public Edition

(ii) 15 business days in the case of civil banning orders,

before the day on which the application is to be heard.

2.29.5 Action when a person who is subject of an exclusion order or civil banning order applies for the order to be amended or revoked

A person who is the subject of an exclusion order or civil banning order, when applying to the court for an amendment to or revocation of the order, must provide a copy of the application to the prosecuting authority and the Chief Executive of the Department of Transport and Main Roads (DTMR) at least;

(i) 21 business days in the case of exclusion orders; or

(ii) 14 business days in the case of civil banning orders

prior to the day on which the application is to be heard.

Police prosecutors receiving notification of a person's intent to apply for an amendment to or revocation of an exclusion order, are to:

(i) locate the relevant QPRIME occurrence and update the:

(a) banning order flag; and

(b) banning order window contained in the occurrence,

with details of the application;

(ii) notify their OIC of the application;

(iii) send a for your information task to the OIC, Railway Squad [ORG Unit 0865]; and

(iv) notify the Manager, (Revenue Protection), TransLink Division, DTMR (see SMCD) by way of a letter on Service letterhead to ensure excluded persons list is updated.

The OIC of the relevant police prosecution corps is to consider whether the Service should be heard in the application and if the OIC considers that the Service should be heard, the OIC is to allocate a police prosecutor to represent the Service at the hearing of the application.

Investigating officers responsible for the original matter are to provide all assistance necessary to prosecutors involved in hearings of applications for amendment or revocation where requested.

OPM Issue 113 Public Edition

2.30 TransLink senior network officers

The *Transport Operations (Passenger Transport) Act* (TO(PT)A) establishes authorised persons who have various powers under the Act. Section 111(3): 'Appointment of authorised persons generally' of the TO(PT)A creates an additional group of authorised persons known as transit officers, who have additional powers under Chapter 11, Part 4A: 'Functions and powers of transit officer for protecting safety of persons or property' of the Act.

The Chief Executive of the Department of Transport and Main Roads has restricted the powers under Part 4A of the TO(PT)A to a class of transit officers, known as TransLink senior network officers (SNO) (see s. 2.30.2: 'Powers of TransLink senior network officers to detain persons' of this chapter).

TransLink SNO are authorised persons under the TO(PT)A and, as such, have the powers which are ordinarily available to an authorised person. TransLink SNO also have limited additional powers to detain persons, use handcuffs, search persons and to take and retain articles from detained persons that may cause harm to the person or someone else.

When a TransLink SNO detains a person, police officers will be required to provide assistance to the TransLink SNO to ensure the detained person is appropriately dealt with.

This section outlines the roles and responsibilities of officers in dealing with instances where a TransLink SNO has detained a person.

2.30.1 Definitions

The majority of the definitions of terms used throughout this section and the *Transport Operations (Passenger Transport) Act* (TO(PT)A) are contained in Schedule 3: 'Dictionary' of the TO(PT)A.

Other definitions can be found within Part 4A: 'Functions and powers of transit officer for protecting safety of persons or property' of the TO(PT)A.

2.30.2 Powers of TransLink senior network officers to detain persons

The *Transport Operations (Passenger Transport) Act* (TO(PT)A) allows an authorised person (i.e. a TransLink SNO) with the power to detain a person, under the provisions of:

(i) s. 129A: 'Power to detain person who has committed a detainable offence';

(ii) s. 129B: 'Power to detain person to prevent continuation of detainable offence'; and

(iii) s. 129C: 'Power to detain person to prevent contravention of exclusion order'.

These powers of detention are in addition to the TransLink SNO's right to make a citizen's arrest under the CC.

A detainable offence means an offence:

(i) involving assault occasioning bodily harm of a person; or

(ii) involving assault of a person for the purpose of stealing something from the person; or

(iii) against the Chapter 32: 'Rape and sexual assaults' of the CC; or

(iv) involving wilful damage of property.

(See Schedule 3: 'Dictionary' of the TO(PT)A)

Officers should note that a TransLink SNO may use handcuffs to detain a person, in accordance with s. 129D: 'Handcuffs may be used for detaining person' of the TO(PT)A. TransLink SNO also have a limited exemption from s. 67: 'Possessing and acquiring restricted items' of the *Weapons Act* (see s. 129D(2) of the TO(PT)A).

2.30.3 TransLink senior network officer to contact police after detaining a person

Section 129E: 'Period of detention' of the *Transport Operations (Passenger Transport) Act* (TO(PT)A) provides that a TransLink SNO who detains a person under Part 4A: 'Functions and powers of transit officer for protecting safety of persons or property' of the TO(PT)A must immediately contact an officer (**'contacted officer'**) to advise of the detention of a person.

TransLink SNO will contact the Duty Officer, Brisbane Police Communications Centre. The Duty Officer is the contacted officer for the purpose of s. 129E: 'Period of detention' of the *Transport Operations (Passenger Transport) Act*.

In addition to complying with the requirements of s. 1.6.1: 'Recording initial demand' and s. 14.24: 'Priority codes' of this Manual, the contacted officer is to advise the TransLink SNO to either:

(i) keep the person detained at the place where the detention started until an officer arrives to deal with the person; or

(ii) release the person.

Where the detained person is an adult and resources permit, preference is to be given to the option of telling the TransLink SNO to keep the detained person at the place the detention started until a police officer arrives to deal with the person. However, if the detained person is a juvenile, continued detention by the TransLink SNO is only to be used as last resort (see s. 129K of the TO(PT)A).

The option of telling the TransLink SNO to release a detained adult person should be used as a last resort. Before telling the TransLink SNO to release a detained adult person, the contacted officer is to consider the circumstances of the matter such as:

(i) the seriousness of the alleged offence;

(ii) whether the detained adult person's identity has been confirmed;

(iii) potential for loss of evidence should the detained adult person be released. It should be noted that TransLink SNOs are only able to search for, take and retain articles that may cause harm to the person or someone else (see s. 129T: 'Power to take and retain particular articles' of the TO(PT)A). Additionally, while a person is being detained by a TransLink SNO under Part 4A of the TO(PT)A, the TransLink SNO is prohibited from questioning a detained person about the person's involvement in the detainable offence in relation to which the person is detained (see s. 129J: 'Restrictions on questioning detained person' of the TO(PT)A);

(iv) whether a TransLink SNO has taken possession of items, such as knives, dangerous drugs, etc., which require a specific authority to possess those items (note, s. 129T: 'Power to take and retain particular articles' of the TO(PT)A provides that a TransLink SNO may only take and retain an article that may cause harm to the person or someone else while the person is being detained under this Part 4A). In such cases, the TransLink SNO is not to be told to release the person;

(v) the ability of the TransLink SNO to take enforcement action in relation to the alleged offence (e.g. for minor wilful damage of public transport infrastructure, the TransLink SNO may be able to issue a infringement notice to the detained person if the person is an adult);

(vi) safety risks associated with releasing the detained person (e.g. whether it is more appropriate for the detained person who is under the influence of liquor or drugs to be taken to a place of safety by police or the likelihood that the TransLink SNO may be assaulted if the detained person is released from restraint);

OPM Issue 113 Public Edition

(vii) safety risks associated with keeping the detained person in custody (e.g. TransLink SNO and the detained person are in the company of the detained person's friends who are becoming agitated/increasingly aggressive towards the SNO);

(viii) whether there will be a lengthy delay before police can respond to the incident and take custody of the person;

(ix) the lawfulness of the detention (e.g. the TransLink SNO may advise that they have detained a person for a matter for which they do not have power to detain a person. Unless the TransLink SNO has a power to effect a 'citizen's arrest', the TransLink SNO should be advised to release the person. However, if the TransLink SNO has affected a 'citizen's arrest' refer to s. 2.30.8: 'Action where TransLink SNO has detained a person for an offence outside of the scope of Part 4A of the Transport Operations (Passenger Transport) Act' of this chapter); and

(x) if the detained person is a juvenile, continued detention of the juvenile by the TransLink SNO is only used as a last resort (see s. 129K of the TO(PT)A).

Where the contacted police officer advises a TransLink SNO to release a detained person, the contacted officer is to ensure a computer message with job details is forwarded to the relevant station or unit for follow up unless the TransLink SNO will be taking enforcement action for the relevant offence (e.g. issuing a penalty infringement notice for the offence of wilful damage of transport infrastructure).

2.30.4 Action prior to and subsequent to accepting custody of detained person from a TransLink senior network officer

Officers who are tasked to respond to an incident involving a TransLink senior network officer (SNO) who has detained a person under Part 4A: 'Functions and powers of transit officer for protecting safety of persons or property' of the *Transport Operations (Passenger Transport) Act* (TO(PT)A) are to, in addition to complying with the requirements of s. 2.4: 'Incident Management' of this Manual and its relevant subsections:

(i) before taking custody of the person, ask the TransLink SNO to provide the original copy of the completed detention report (see s. 129G: 'Written report to be given to police officer' of the TO(PT)A); and

(ii) inspect the detention report to ensure that it has been completed and signed by the TransLink SNO.

Upon taking custody of the person, the investigating officer is to comply with the relevant parts of Chapter 16: 'Custody' of this Manual. (Particular attention should be paid to ss. 16.4: 'Responsibilities of officers', 16.6: 'Discontinuing arrest', 16.13: 'Health of prisoners', and where appropriate, 16.18: 'Children' of this Manual).

Where appropriate, first response officers are to also comply with the provisions of s. 1.11.2: 'Recording an offence on QPRIME' of this Manual.

The investigating officer is to ensure that the words SNO detention are recorded in the summary field of the QPRIME occurrence.

Officers should note that when a TransLink SNO detains a person for a serious crime such as robbery or rape, other TransLink SNO may have commenced procedures for preserving the crime scene by taking action such as stopping a train or bus at the next designated station (Note, TransLink SNO do not have a legislated power to stop a vehicle, train or ferry however they may take other action open to members of the public such as pressing the emergency stop button), cordoning off a train carriage or bus which is the scene of the crime, and protecting other evidence by making a request to QR Control to ensure any CCTV footage of the area is identified and kept. While TransLink SNOs do not have the power to demand the name and address of witnesses to an incident, TransLink SNOs may have also started to document the incident and take contact details of victims and witnesses to the incident.

It should be noted that the majority of TransLink SNO will have limited experience in undertaking criminal investigation and, as such, the investigating officer is ultimately responsible for ensuring admissible evidence is preserved and collected.

Where a TransLink SNO has handcuffed a detained person, upon taking custody of the detaining person, the investigating police should endeavour to remove the TransLink SNO's handcuffs from the detained person and return them to the TransLink SNO. Officers should note that Service handcuffs may be used on the detained person where appropriate before the TransLink SNO's handcuffs are removed (see s. 14.19.1: 'Use of handcuffs' of this Manual and s. 365: 'Arrest without warrant' of the PPRA).

Where an investigating officer requires a statement from a TransLink SNO in relation to an indictable offence, the TransLink SNO's statement should be taken from the TransLink SNO by an officer in accordance with s. 2.13: 'Statements' of this Manual and its relevant subsections.

2.30.5 Actions where injuries sustained by the detained person

Members, who become aware that a TransLink SNO has been involved in an incident in which a person who is detained under Part 4A: 'Functions and powers of transit officer for protecting safety of persons or property' of the *Transport Operations (Passenger Transport) Act* by the TransLink SNO suffers a physical injury, are to:

(i) note the details of the injury;

OPM Issue 113 Public Edition

(ii) comply with s. 16.13.1: 'Assessment of prisoners' of this Manual;

(iii) notify the District Duty Officer or Regional Duty Officer;

(iv) notify the Manager (Revenue Protection) (see SMCD); and

(v) in the case of an incident on the QR Passenger Transport Network, notify the QR Mayne Controller (see SMCD).

2.30.6 Complaints made against TransLink senior network officer by detained person

In some instances, a detained person may complain to a police officer about a TransLink senior network officer (SNO) involved in their detention.

A person with a complaint against a TransLink SNO for inappropriate conduct (i.e. no allegation of a criminal offence) should be referred to Manager (Revenue Protection) Translink Division (see SMCD) for the matter to be investigated in accordance with the internal complaint management/investigation process applicable to the TransLink SNO.

Where a person alleges that a TransLink SNO committed a criminal offence (including an allegation of excessive use of force by the TransLink SNO against the detained person), the officer to whom the matter was reported is to notify:

(i) in areas serviced by a DDO, the DDO; or

(ii) in areas not serviced by a DDO, the Shift Supervisor.

The relevant DDO or shift supervisor is to comply with s. 1.11.2: 'Recording an offence on QPRIME' of this Manual and the relevant parts of s. 2.4: 'Incident Management' of this Manual.

Where an officer is implicated in the detainee's allegations, refer to the Complaint Resolution Guidelines available on the ESC SharePoint page.

2.30.7 TransLink senior network officer suspected under the influence of liquor or drug while on duty

Officers who suspect a TransLink senior network officer (SNO), who is on duty, of being under the influence of liquor or a drug, are to report such suspicions to Manager (Revenue Protection) (see SMCD).

Officers do not have the ability to require a TransLink SNO to submit to an alcohol or drugs test under the *Transport Operations (Passenger Transport) Act*.

However, this policy does not affect an officer's obligation to investigate other offences for which the TransLink SNO's level of intoxication may be an issue (e.g. see Chapter 7: 'Drink Driving' of the Traffic Manual).

2.30.8 Action where TransLink SNO has detained a person for an offence outside of the scope of Part 4A of the Transport Operations (Passenger Transport) Act

A TransLink senior network officers (SNO), just like any other person, may exercise a general power of 'citizen's arrest' under the provisions of ss. 479: 'Arrest without warrant' and 450A: 'Arrest without warrant' and Chapter 58: 'Arrest' of the CC.

A person who has arrested another person (citizen's arrest) has a duty to bring the arrested person before a justice to be dealt with according to law under s. 552: 'Duty of persons arresting' of the CC. However, s. 552(2) of the CC provides that delivering the arrested person into the custody of an officer is sufficient to discharge this duty.

Where a TransLink SNO has detained a person for an offence for which the TransLink SNO does not have a power of detention under the *Transport Operations (Passenger Transport) Act*, officers are to consider whether the TransLink SNO has exercised a 'citizen's arrest'. In such circumstances, officers are to ensure compliance with s. 393: 'Duty of police officer after arrest etc. of person' of the PPRA. (Note, the contacted police officer does not have the option to tell the TransLink SNO to release the detained person if TransLink SNO has lawfully detained a person for a reason other than as provided by the *Transport Operations (Passenger Transport) Act*).

2.30.9 Release of information to TransLink senior network officers

During the course of their duties, TransLink senior network officers (SNO) may request information regarding the identity of an offender from police to assist in proper identification of the person prior to issuing of an infringement notice or after detaining a person in relation to a detainable offence or breach of an exclusion order. Such requests by a TransLink SNO are to be directed in the first instance to the Railway Squad.

Members of the Railway Squad, Emergency Response and Coordination Command may release information to TransLink SNO as they currently do for Queensland Rail.

Members who are not members of the Railway Squad may release information to TransLink SNO as if they were officers of another law enforcement agency for the purpose of confirming the identity of a detained person (s. 5.6.15: 'Requests for information from other law enforcement agencies' of the MSM).

For any other type of information, see s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM.

OPM Issue 113 Public Edition

2.30.10 Death of person or serious injury of person which may result in death while being detained by TransLink senior network officer

An incident involving the death or serious injury which may result in death of a person who is being detained by a TransLink senior network officer (SNO) is to be reported immediately to the on-call officer at ESC. The on-call officer at ESC is responsible for contacting the Crime and Corruption Commissioner and the Inspector, State Coroner Assistant and facilitating any Crime and Corruption Commission requests for Service assistance.

Where it is determined by the ESC that the matter does not fall within the scope of that command's responsibility (e.g. the matter is not a death in police custody) the responsibility of conducting and finalising any criminal investigation and/or the investigation on behalf of coroner may be transferred to the region in which the incident occurred.

2.31 Policing of serious and organised crime

2.31.1 Consorting

The intent of the consorting legislation is the disruption and prevention of serious criminal activity by deterring recognised offenders from establishing, maintaining, or expanding criminal networks. Consorting should not be used for minor or nuisance offending where officers should use relevant powers and provisions under the PPRA and *Summary Offences Act*.

Consorting generally

For a person to be convicted of an offence under s. 77B: 'Habitually consorting with recognised offenders' of the CC, the person has to consort with at least 2 recognised offenders on at least 2 occasions (whether together or separately), where the second time the person was recorded consorting with each recognised offender was after they were given an official warning for the recognised offenders under s. 53BAC: 'Police powers for giving official warning for consorting' of the PPRA.

Consorting can only occur between adults (see ss. 77B(3) of the CC and 53BAB: 'Part does not apply to child' of the PPRA).

A subject person does not have to be a recognised offender themselves (i.e. does not need to have been previously convicted of a relevant offence).

Police powers for consorting

Officers have powers in relation to a person consorting with a recognised offender under the PPRA, see:

(i) s. 30: 'Prescribed circumstances for searching persons without warrant';

(ii) s. 32: 'Prescribed circumstances for searching vehicle without warrant';

(iii) s. 41: 'Prescribed circumstances for requiring name and address';

(iv) s. 41A: 'Power to require identifying particulars of person for official warning for consorting';

(v) s. 43B: 'Power to require date of birth of person for official warning for consorting';

(vi) s. 53BAC: 'Police powers for giving official warning for consorting';

(vii) s. 53BAE: 'Prevention of consorting with recognised offender'; and

(viii) s. 60: 'Stopping vehicles for prescribed purposes'.

Investigating acts of consorting

Officers should be mindful s. 77C: 'Particular acts of consorting to be disregarded' of the CC excludes some acts of consorting that are reasonable in the circumstances. Officers should be cautious when investigating persons for consorting at places that are:

(i) educational institutions;

(ii) health services;

(iii) legal services; or

(iv) custodial facilities.

When an officer suspects a person is consorting or has consorted with a recognised offender/s they should consider:

(i) observing the person for a period of time to ensure the:

(a) meeting is not a chance meeting; and

(b) person has sought out or accepted the other person's company; and

(ii) recording their observations of the meeting either electronically or in a police notebook.

OPM Issue 113 Public Edition

If the officer reasonably suspects the person is consorting or has consorted with a recognised offender/s they should consider using their police powers for consorting as described in the named section above, including:

(i) stop and question the person as to the reason for consorting to ensure they are not conducting an act that should be disregarded (see s. 77C of the CC) i.e. it is not:

(a) a close family member (which for an Aboriginal person or Torres Strait Islander can include a person regarded as a close family member);

(b) for genuinely:

- conducting a lawful business;
- engaging in lawful employment;
- engaging in lawful occupation;
- receiving education or training at an educational institution; or
- obtaining education or training at an educational institution for a dependent child;

(c) for receiving a health service;

(d) for obtaining a health service for a dependent child of the person;

(e) for obtaining legal services;

(f) for complying with a court order; or

(g) being detained in lawful custody;

(ii) conduct checks on the person to determine if the person has previously been issued an official warning for consorting with the recognised offender. If the person has:

(a) at least 2 current retrospective warnings against one recognised offender and 2 against another;

(b) at least 2 current retrospective warnings against one recognised offender and one against a recognised offender they are currently with; or

(c) one current warning each against 2 recognised offenders they are currently with,

then consider commencing a proceeding for habitually consorting with the express approval of a senior sergeant or above (see 'Commencing proceedings for habitually consorting' of this section);

(iii) consider issuing an official warning (see 'Issuing an official warning for consorting' of this section); and

(iv) record a QPRIME 'Consorting' [1710] occurrence.

Officers should not disclose to any person the details of any recognised offender's convictions unless otherwise authorised by law (see s. 3.4.16: 'Disclosure to courts of closed convictions' of this Manual).

Determining if a person is a recognised offender

A recognised offender is defined in s. 77 of the CC and includes an adult with a non-spent recorded conviction (see s. 590AD: 'Definitions for ch div 3' of the CC) for a relevant offence.

Before using an officer's powers in relation to consorting acts, they should ensure the recognised offender to whom a person has, is, or is likely to consort, meets the definition of s. 77 of the CC. However this does not stop an officer who reasonably suspects a person is consorting with a recognised offender from issuing an official warning (see the example in s. 53BAC(9) of the PPRA).

Officers should be mindful there is no power to stop, detain or demand the name of a person they only suspect of being a recognised offender, but they have the power in relation to a person they reasonably suspect of consorting with a recognised offender, whether or not those persons are reasonably suspected of being, or are, recognised offenders as well.

Possible recognised offender QPRIME flag

A recognised offender should have a 'Possible Recognised Offender' QPRIME flag, indicating they have a recorded conviction for a relevant offence. A relevant offence is an indictable offence with a maximum penalty of at least 5 years imprisonment and also includes offences specifically listed in s. 77 of the CC. Some interstate and Commonwealth offence convictions may be applicable.

Validation of the recognised offender status recorded in a Consorting Occurrence will be achieved by a workflow task to the Police Information Centre (PIC) (see 'Recording consorting events and warnings issued in QPRIME' of this section).

OPM Issue 113 Public Edition

Issuing an official warning for consorting

ORDER

Whenever an official warning for consorting, orally or in writing is issued, the officer is to complete a QPRIME 'Consorting' [1710] occurrence (see s. 61: 'Giving official warnings for consorting' of the Responsibilities Code (RC) (see Schedule 11: 'Responsibilities Code' of the PPRR)).

Two types of warnings

There are 2 types of official warnings for consorting an officer may give, a:

(i) pre-emptive warning, where a person is likely to consort with a recognised offender and there is no associated prior act of consorting recorded; and

(ii) retrospective warning, where the person has or is consorting with a recognised offender and is associated with a prior act of consorting, which has been recorded.

To give an official warning for consorting, an officer:

(i) must reasonably suspect a person:

(a) has consorted;

(b) is consorting; or

(c) is likely to consort,

with a recognised offender, or a person they reasonably suspect is a recognised offender;

(ii) must consider whether it is appropriate to give the warning having regard to the object of disrupting and preventing criminal activity by deterring recognised offenders from establishing, maintaining or expanding a criminal network (see s. 53BAC(3) of the PPRA);

(iii) may issue an official warning:

(a) in writing by completing a Form 305: 'Official Warning for Consorting'; or

(b) orally, but must within 72 hours, give confirmation of the official warning to the person:

- electronically to a nominated email or mobile phone;
- by post to the person's address; or
- by delivering it personally;

(iv) must, if practicable electronically record the giving of the warning (see s. 4: 'Field audio and video recordings' of the DERIE) by using the wording substantially in the following form:

"I am [rank, name] of [name of station/establishment].

You [state name] are officially warned that the stated person(s) [name recognised offender(s)] is/are a recognised offender, and consorting with the stated person(s) on a further occasion may lead to the commission of the offence of habitually consorting"; and

(v) consider whether it is appropriate to issue a consorting prevention direction (see 'Consorting prevention direction' of this section) and if so, officers should give a direction substantially in the following form:

"I am [rank, name] of [name of station/establishment].

I am giving you [name person(s)] a consorting prevention direction to leave this place [state place (which includes a vehicle)] as you are consorting at this place with the persons that I warned you about.

You are directed not to return to this place for (state period of no more than 24 hours that is reasonable).

If you fail to comply with this direction without a reasonable excuse, you will be committing an offence for which you may be arrested".

Recording consorting events and warnings issued in QPRIME

ORDER

A QPRIME 'Consorting' [1710] occurrence is to be completed by:

(i) all officers who issue a consorting warning; or

(ii) any officer who wishes to record an observed consorting act, where a consorting warning was not issued.

Creating a QPRIME consorting occurrence

Officers creating a QPRIME 'Consorting' [1710] occurrence are to:

(i) complete the 'Consorting' template within the Enhanced Occurrence Enquiry Log, including the details of:

OPM Issue 113 Public Edition

(a) any official warnings issued;

(b) any consorting prevention direction issued (see 'Consorting prevention direction' of this section);

(c) any breach of any consorting prevention direction issued; and

(d) the electronic recording of the warning;

(ii) where a consorting warning is issued:

(a) complete a Form QP 1222 'Statement of Reasons for Issuing of Warning for Consorting Notice' and upload it to the Reports tab of the relevant QPRIME occurrence; and

(b) upload a copy of any Form 305: 'Official Warning for Consorting' issued;

(iii) commence a 'Consorting' workflow to the PIC to confirm the status of each person suspected of being a recognised offender and clearly identify the persons suspected in the task details;

(iv) monitor the completion of the 'Consorting' workflow and on completion of the workflow and after the written consorting confirmations have been served (within 72 hours) for any person issued an oral warning:

(a) update the occurrence with an Occurrence Enquiry Log entry adding the details of any person who was suspected of being a recognised offender and is confirmed as not being a recognised offender at the time of the warning;

(b) create an association for consorting between all persons issued with a consorting warning and all confirmed recognised offenders they were warned about; and

(c) create a 'Pre-emptive Consorting Warning Flag' or 'Retrospective Consorting Warning Flag', as appropriate, for each person warned about consorting with at least one confirmed recognised offender:

- listing the names of all the confirmed recognised offenders they were issued a warning for in the remarks box of the flag; and
- set the expiry for 12 months from the date of issue for the warning; and

(v) submit the QPRIME occurrence to a supervisor for compliance checks (see 'Duties of supervisor—QPRIME compliance checks' of this section).

ORDER

A Form QP 1222 is not to be provided to a subject person or the legal representative for the subject person. Should a formal statement of reasons be requested, Crime and Intelligence Legal Services is to be contacted for assistance.

Action required when consorting warning is deemed invalid or inappropriate under the circumstances

Where a consorting warning:

(i) is deemed invalid because:

(a) the person consorted with another person who was later determined to not be a recognised offender at the time; or

(b) an oral warning was not confirmed in writing within 72 hours; or

(ii) was not considered appropriate with regard to the object of disrupting and preventing criminal activity by deterring recognised offenders from establishing, maintaining or expanding a criminal network,

officers should:

(i) as soon as practicable, take reasonable steps to advise the person the warning is not valid, including personally where possible; and

(ii) update the occurrence:

(a) with an Occurrence Enquiry Log entry; and

(b) remove the relevant 'Consorting Warning Flag', (if entered by the officer) with respect to the particular warning.

Consorting prevention direction

Section 53BAE of the PPRA authorises an officer to direct a person to leave a place for up to 24 hours where the person is reasonably suspected of consorting with a recognised offender and to whom the officer has issued an official consorting warning at the place. Officers cannot issue the direction if doing so would endanger the safety of the person or someone else.

Where an officer issues a direction, they are to ensure the details are recorded on the relevant QPRIME 'Consorting' [1710] occurrence and a 'Consorting Prevention Direction Flag' is created with the details of the direction against the person to whom the direction was given and an expiry as appropriate to the direction.

OPM Issue 113 Public Edition

Use of power to require identifying particulars of persons for official warning for consorting

ORDER

Where an officer takes or photographs a person's identifying particulars in accordance with s. 41A of the PPRA, they are to comply with s. 60: 'Taking identifying particulars for official warnings for consorting' of the RC by recording the relevant details in the QPRIME 'Consorting' [1710] occurrence.

Once the name, address and date of birth of the person has been established, the officer is to arrange for the destruction of the identifying particulars as required by s. 41A of the PPRA, by forwarding a QPRIME 'QPS IDP/DNA Destruction Request' task to the OIC, Fingerprint Bureau in accordance with s. 2.26.7: 'Destruction of identifying particulars' of this Manual.

Approval to commence proceeding for habitually consorting

ORDER

Before instituting a charge under s. 77B(1) of the CC officers should ensure they are fully aware of all the provisions of Chapter 9A: 'Consorting' of CC and have the approval of a senior sergeant or higher.

Approving a commencement of proceedings for habitually consorting

Officers approving the commencement of proceedings for habitually consorting are to ensure there is not:

(i) more than 12 months from the first consorting event to the last that completes the offence provisions unless exceptional circumstances exist;

(ii) current proceedings underway in relation to the consorting events recorded in QPRIME; and

(iii) an investigative conflict, by conducting a Cross Operations register check (see 'Search of Cross Operations Index' of s. 2.10.5: 'Central register of operations' of this Manual).

Commencing proceeding for habitually consorting

When commencing proceedings for habitually consorting officers are to:

(i) Complete a QPRIME 'Consorting—Habitually' [1711] occurrence via telephone contact with Policelink (see s. 1.11: 'QPRIME Occurrences' of this Manual);

(ii) link all the related QPRIME 'Consorting' [1710] occurrences to the offence occurrence;

(iii) update each linked occurrence with an Occurrence Enquiry Log entry in the following form:

> This act of consorting is being used to establish the offence of habitually consorting see [QP number] for details; and

(iv) expire all Consorting Warning Flags related to the consorting events used to substantiate the charge.

Obtaining certified verdict and judgment record to prove recognised offender status for full brief of evidence

Officers completing a full brief of evidence for a habitually consorting matter, will require proof of a conviction or convictions to satisfy the recognised offender status of each person the defendant has consorted with. This would include a conviction for a relevant offence and any other offences relied upon to re-enliven a spent relevant offence. Officers should apply to the court where the relevant conviction was made for a certified verdict and judgement record (VJR).

A certified VJR can be obtained by sending an email request to the registrar of the court where the offence was finalised.

The request should be in writing and contain the:

(i) defendant's name and date of birth;

(ii) charges to which the VJR relates;

(iii) requesting officer's details; and

(iv) reason the officer requires the record.

Duties of supervisor—QPRIME compliance checks

Station supervisors receiving a completed consorting occurrence are to:

(i) ensure all persons involved in the occurrence are 18 years or older;

(ii) confirm the consorting event is an event to which the consorting provisions apply;

(iii) ensure that a Form QP 1222 has been completed to an acceptable standard and uploaded to the Reports tab of the relevant QPRIME occurrence;

(iv) ensure a 'Consorting' workflow has been sent to PIC and completed;

(v) ensure the information recorded in relation to official warnings given complies with s. 61 of the RC;

OPM Issue 113 Public Edition

(vi) ensure consorting warning flags are only related to recognised offenders whose status has been confirmed by PIC;

(vii) ensure subject persons only have consorting associations with confirmed recognised offenders;

(viii) ensure information recorded in relation identifying particulars taken complies with s. 60 of the RC;

(ix) once the name, address and date of birth of the person is established, a QPRIME task is to be forwarded to the OIC, Fingerprint Bureau to have identifying particulars taken destroyed in accordance with s. 41A(3) of the PPRA;

(x) ensure a written warning notice is issued within 72 hours of a verbal warning being given in accordance with s. 53BAC(5) of the PPRA, after the recognised offender is confirmed as a recognised offender;

(xi) ensure the officer who has given the warning has considered whether it was appropriate to the object of disrupting and preventing criminal activity by deterring recognised offenders from establishing, maintaining or expanding a criminal network in accordance with s. 53BAC(3) of the PPRA;

(xii) ensure the officer who has given the warning has electronically recorded the giving of the warning in accordance with s. 53BAC(7) of the PPRA; and

(xiii) ensure records are completed accurately, incorrect and incomplete data is rectified, and inappropriate or incorrect use of consorting provisions is identified and addressed without delay; and

(xiv) complete the 'Consorting Supervisor Compliance' template within the Enhanced Occurrence Enquiry Log, including:

(a) the event has been reviewed and meets compliance;

(b) when the review was conducted; and

(c) who conducted the review.

District responsibilities

Consorting is to be implemented and managed at the district level. The way in which consorting is implemented and managed in districts may be different due to differing priorities and policing environments. Each district should implement and manage consorting activities in a way which best meets its needs and responsibilities.

District consorting coordinator

Each district should consider whether it is necessary to appoint a suitably qualified officer as a district consorting coordinator, to:

(i) develop a district consorting strategy (if required);

(ii) ensure the quality of data in QPRIME reporting for consorting by conducting random or spot audits;

(iii) ensure district compliance with consorting legislative requirements by checking:

(a) warnings;

(b) associations;

(c) all persons are 18 years or older;

(d) the association is organised crime related;

(e) the Form QP 1222 has been completed to an acceptable standard and uploaded to the Reports tab of the relevant QPRIME occurrence;

(f) if a consorting direction is issued, it is compliant;

(g) demographic data is recorded (see s. 61 of the RC);

(h) if identifying particulars were taken, they have been destroyed as required; and

(i) written warnings have been issued within 72 hours; and

(iv) consider whether the district performance review process may assist in the use and effectiveness of official consorting warnings (see s. 1.3.2: 'District performance review' of this Manual).

2.31.2 Public safety orders

Part 3: 'Public safety orders' of the *Peace and Good Behaviour Act* (PGBA) authorises:

(i) a commissioned officer to issue a public safety order for a period of no more than seven days; or

(ii) a senior police officer (see SMD) to make an application to a court for the issuing of a public safety order for a period of up to six months,

OPM Issue 113 Public Edition

to prevent a person, or a group of people from attending a specified place, event or area to prevent a serious risk to public safety or security. A public safety order prohibits person/s from:

(i) entering, attempting to enter or remaining at a stated place;

(ii) attending, attempting to attend or remaining at a stated event;

(iii) entering, attempting to enter or remaining in a stated area; and/or

(iv) doing or attempting to do a stated thing in a stated area.

Public safety orders are not intended to prevent legitimate advocacy, protest, dissent or industrial action by a person or a group of people and officers should consider the public interest in maintaining freedom for those purposes at the relevant place when considering whether to issue or apply for a public safety order.

Public safety orders issued by a commissioned officer

Section 17: 'Commissioned officer may make public safety order' of the PGBA authorises a commissioned officer to make an order when the officer is satisfied:

(i) the presence of the person/s at a premises, event or area poses a serious risk to public safety or security;

(ii) it is more appropriate to issue an order than to make application before a court; and

(iii) making an order is appropriate in the circumstances.

A commissioned officer may issue a public safety order:

(i) in writing by completing a Form 3: Public safety order', which is effective once served on the relevant person/s; or

(ii) verbally in urgent instances, which is effective when an officer tells the relevant person/s of the contents of the order (see s. 22: 'Urgent orders' of the PGBA and 'Urgent public safety orders' of this section).

Where a public safety order is in effect for more than 72 hours, the person/s affected by the order may make an appeal to a magistrates court against the order.

ORDER

Prior to making an order, the officer is to consider the factors in s. 17(3) of the PGBA with respect to the person/s affected by the order.

Written public safety orders

When a commissioned officer intends to issue a written Form 3, whenever practicable, a QPRIME occurrence should be created prior to preparing the order (see 'QPRIME recording of public safety orders' of this section).

Where there are current/previous orders against a person/s, the commissioned officer may need to obtain an authorisation order from a magistrate (see 'Authorisation orders' of this section) prior to issuing a public safety order.

A written public safety order is not in effect until it is personally served on each person it relates to.

Section 21: 'Service of order' of the PGBA requires a commissioned officer to ensure a public safety order is personally served on each relevant person. Where an order relates to a child or a person with impaired intellectual impairment, where practicable, a copy of the order is to be also served on the parent or guardian of the person.

ORDER

When an officer serves a Form 3 on a person, the officer is to:

(i) advise the commissioned officer of the service of the order; and

(ii) update the relevant QPRIME Occurrence Enquiry Log with the details of the time and date of service;

as soon as practicable and prior to terminating duty on the shift where the order was served.

Urgent public safety orders

Urgent public safety orders should only be issued in circumstances where there is insufficient time to complete and serve a written Form 3 on the relevant person/s.

Where there are current/previous orders against a person/s the commissioned officer may need to obtain an authorisation order from a magistrate (see 'Authorisation orders' of this section) prior to issuing an urgent public safety order.

Whenever practicable, the commissioned officer should ensure the officer/s telling the relevant person/s of the contents of the order are provided with the terms of the order, either in writing or supplied electronically (e.g. email, text message etc.).

Where an urgent public safety order is issued, the commissioned officer is to complete a Form 3 and ensure a copy of the order is:

OPM Issue 113 Public Edition

(i) is available for collection at the nominated police station or establishment; and

(ii) published on the QPS internet website,

on the next business day.

An urgent public safety order under s. 22 of the PGBA is in effect from the time an officer tells a relevant person:

(i) the contents of the order;

(ii) a written copy of the order may be collected at a nominated police station or establishment on the next business day; and

(iii) the order will be published on the QPS internet website on the next business day.

ORDER

When an officer tells a person about an urgent public safety order, the officer is to:

(i) whenever practicable, electronically record the communication of the contents of the order to the person/s;

(ii) tell the person/s:

(a) the contents of the order;

(b) the police station or establishment where a Form 3 may be collected on the next business day; and

(c) the order will be published on the QPS internet website on the next business day;

(iii) advise the commissioned officer of the service of the order; and

(iv) update the relevant QPRIME Occurrence Enquiry Log with the details of the time and date of service;

as soon as practicable and prior to terminating duty on the shift where the order was served.

Authorisation orders

Where a commissioned officer wishes to issue a public safety order against the same person/s:

(i) in relation to the same stated premises, event or area on more than three occasions within six months;

(ii) which takes effect immediately after the expiry of a current public safety order; or

(iii) for an additional public safety order, no longer than 72 hours, within seven days of the expiry of the previous officer issued public safety order,

the commissioned officer is to complete an affidavit, containing the grounds for the application, to a magistrate for an authorisation order (see s. 13.30: 'Starting a civil proceeding' of this Manual). Where an authorisation order is required urgently, the commissioned officer:

(i) may make application to a magistrate by telephone, providing the grounds of the application and the order conditions sought; and

(ii) is to provide the affidavit to the magistrate as soon as practicable after making application,

(see s. 19: 'Particular orders must be authorised by a court' of the PGBA).

Public safety orders made by a court

Section 25: 'Senior police officer may apply for public safety order' of the PGBA authorises a senior police officer (see SMD) to make an application to a court for the issue or extension of a public safety order to prohibit the respondent/s from:

(i) entering, attempting to enter or remaining at a stated place;

(ii) attending, attempting to attend or remaining at a stated event;

(iii) entering, attempting to enter or remaining in a stated area; and/or

(iv) doing or attempting to do a stated thing in a stated area.

A standard condition in all orders is that the respondent/s are to comply with every reasonable direction given by an officer for the purpose of the order.

Respondents named in an application may file a response, which is to be served on the applicant senior police officer at least five business days before the hearing date.

An application for a court issued public safety order should be made and served in accordance with ss. 2.31.5: 'Application for Peace and Good Behaviour Act court orders' and 2.31.6: 'Service of Peace and Good Behaviour Act applications and court orders' of this chapter.

OPM Issue 113 Public Edition

Recording public safety orders in QPRIME

Whenever practicable, a QPRIME occurrence should be created prior to issuing a public safety order and all information in relation to the grounds and service of orders recorded in the occurrence. The completed and signed Form 3 should also be saved within the occurrence. Under the PGBA, the public interest monitor (see s. 740: 'Public interest monitor' of the PPRA) is responsible for reviewing public safety orders.

ORDER

When a commissioned officer issues a public safety order, in accordance with s. 24: 'Records to be kept' of the PGBA, the officer is to ensure the following information is recorded in the relevant QPRIME occurrence:

(i) the person/s named in the order;

(ii) when and where the order was made;

(iii) the grounds for the order;

(iv) the conditions and duration of the order;

(v) how the order was issued. Where the order was issued:

(a) in writing, the service details of the order on the person/s named in the order; or

(b) verbally, the details of:

- the officers who told the person/s of the order, the conditions of the order and the police station or establishment a written copy of the order may be collected;
- whether an electronic recording was made of the giving of the order to the person/s; and
- when the order was published on the QPS internet website;

(see s. 22(2) of the PGBA),

are to be recorded;

(vi) a copy of the completed Form 3; and

(vii) whether an appeal was lodged against the order and the outcome of the appeal; any other information relevant to the issuing of the public safety order.

The QPRIME occurrence is to be created prior to the commissioned officer terminating duty on the day the order was made.

When an 'enforcement act' under s. 31(2): 'Prevention of contravention of public safety order' of the PGBA is performed (see 'Enforcement of public safety orders' of this section) the register entries are to be linked to the relevant QPRIME occurrence.

Enforcing public safety orders

A person who knowingly contravenes a public safety order, without reasonable excuse, commits an offence against s. 32: 'Contravention of public safety order' of the PGBA.

Where an officer reasonably suspects a person or group of people is contravening, about to contravene or has contravened a public safety order, the officer may:

(i) stop a person or group of people included in a public safety order from entering a public safety place (a place or event where a public safety order applies);

(ii) stop, detain and search a vehicle entering or leaving a public safety place to:

(a) search for a person included in a public safety order; or

(b) serve a copy of a public safety order on a person included in the order;

(iii) remove a person or group of people included in a public safety order from the public safety place; and/or

(iv) give any direction or take any action reasonably necessary to prevent the contravention of the public safety order,

in accordance with s. 31(2): 'Prevention of contravention of public safety order' of the PGBA.

However, prior to exercising the powers above, wherever practicable, the officer is to give any direction to the person or group of people included in a public safety order reasonably necessary to prevent the contravention or continued contravention of the order (see s. 31(3) of the PGBA). If the person/s fails to comply with the officer's direction, an offence under s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA is committed.

Officers should ensure they make sufficient notes to support their direction as:

(i) there is a defence under s. 31(6) of the PGBA for failing to comply with the direction if the officer did not a have the necessary reasonable suspicion the person has or will contravene a public safety order; and

OPM Issue 113 Public Edition

(ii) exercising a power under s. 31(2) of the PGBA is an 'enforcement act' under the PPRA and appropriate register entries are required to be made (see s. 2.1.2: 'Registers required to be kept' of this chapter) in QPRIME.

ORDER

When making an enforcement register entry in QPRIME after exercising a power under s. 31(2) of the PGBA, officers are to include the following information for each person:

(i) when the public safety order was made;

(ii) when the power was exercised;

(iii) the reason the power was exercised;

(iv) the location of the person when the power was exercised;

(v) whether the person committed an offence against ss. 790: 'Offence to assault or obstruct police officer' or 791 of the PPRA after the power was exercised; and

(vi) the apparent demographic category of the person,

(see s. 62: 'Exercises of powers related to public safety orders' of the Responsibilities Code).

2.31.3 Restricted premises orders

A senior police officer (see SMD) may apply to a magistrate's court for a restricted premises order under s. 34: 'Senior police officer may apply for restricted premises order' of the *Peace and Good Behaviour Act* (PGBA) based on a reasonable suspicion that one or more disorderly activities (see s. 33: 'Definitions for part' of the PGBA):

(i) have taken place at the premises;

(ii) are likely to take place again; and

(iii) the making of an order is appropriate:

Prescribed place taken to be a restricted premises

A prescribed place is taken to be a restricted premises for two years from 9 March 2017 (see s. 42: 'Prescribed place taken to be a restricted premises for 2 years' of the PGBA). Task Force Maxima will flag prescribed places in QPRIME on commencement of the legislation. Individual regions are responsible for applying for:

(i) new restricted premises orders (see 'Application for restricted premises order' of this section; and

(ii) an order to extend the initial period of a prescribed place (see s. 43: 'Extension of initial period' of the PGBA).

Search warrant to search a suspected restricted premises

To gather evidence to support a restricted premises order application, a senior police officer may make application to a magistrate for a search warrant under the PPRA to identify evidence of disorderly activities having occurred at the premises (see s. 2.8.3: 'Obtaining a search warrant' of this chapter).

Application for a restricted premises order

A senior police officer who reasonably suspects one or more disorderly activities have occurred at a premises is to apply to a magistrate for a restricted premises order. All applications are to be made in consultation with the Executive Director, Legal Division and Task Force Maxima. The application is to include:

(i) details sufficient to identify the premises;

(ii) details sufficient to identify the owner or occupier of the premises;

(iii) the relevant grounds on which the application is sought;

(iv) details of any previous applications for an order on the premises or persons; and

(v) an affidavit by the applicant officer.

Procedures for making order applications and service of documents procedures, see ss. 2.31.5: 'Application for Peace and Good Behaviour Act court orders' and 2.31.6: 'Service of Peace and Good Behaviour Act applications and court orders' of this chapter.

A restricted premises order does not stop a respondent from attending their principal place of residence.

Officers are to be aware that criminal intelligence is not protected during an order application and information likely to identify an informant or endanger an individual is not to be used.

Restricted premises order takes effect

A restricted premises order takes effect when the order is made:

(i) if the respondent or occupier or their legal representative is present at the hearing; or

OPM Issue 113 Public Edition

(ii) an officer serves the order on an owner or occupier of the premises by personal service or by public notice (see s. 2.31.6 of this chapter).

Variation or revocation of restricted premises order

On application (see s. 2.31.5 of this chapter) by a senior police officer, a court may make an order to revoke or vary a restricted premises order (see s. 48: 'Revocation or variation' of the PGBA).

An application to vary or revoke an order is to include:

(i) the grounds on which the variation or revocation is sought; and

(ii) any accompanying affidavit the officer is to rely on.

The application and any accompanying affidavit is to be served by an officer on the respondent.

The order for variation or revocation issued by a court is to be served by an officer on the owner or occupier as soon as practicable after the order is made by personal service, or if personal service is not practicable by public notice (see s. 2.31.6 of this chapter).

Police powers for enforcing restricted premises orders

Once a restricted premises order is in force, an officer may enter a restricted premises without warrant (see s. 49: 'Searching restricted premises without warrant' of the PGBA) from time to time as occasion requires and:

(i) search the premises for a prohibited item (see s. 33 of the PGBA) or anything that may be evidence of an offence;

(ii) seize any prohibited item or any item that may be evidence of the commission of an offence;

(iii) open anything unlocked;

(iv) search any person found at the premises for anything mentioned in (ii); and

(v) photograph anything that is evidence of disorderly activities.

In accordance with s. 53: 'Forfeiture of prohibited item' of the PGBA, any prohibited items seized during a search are forfeited to the Commissioner unless an application is made to the court by a person who has a legal or equitable interest in the thing within 21 days of the seizure. The court may order the return of the thing.

Forfeited items are to be disposed of in accordance with s. 53 of the PGBA.

Offences by owner or occupier

An owner or occupier served with a restricted premises order commits an offence if disorderly activities subsequently occur at the premises, including assault and obstruct of an officer (see ss. 54: 'Offences by owner or occupier of restricted premises' and 55: 'Disorderly activity taken to have happened if obstruction or fortification' of the PGBA).

Register of enforcement action and QPRIME reporting

ORDER

A QPRIME occurrence is to be created upon application for a restricted premises order and is to be finalised when the relevant order expires. Any application to vary, extend or revoke an order is to be completed within the relevant occurrence. Any subsequent enforcement action will generate a new QPRIME occurrence which is to be linked to the original restricted premises order occurrence.

All applications, affidavits and issued orders are to be uploaded into the relevant QPRIME occurrence.

All entry, seizure and searches at a restricted premises must be included in the register of enforcement acts in QPRIME.

2.31.4 Fortification removal orders

Definitions

For the purpose of this section:

Fortification

of premises means, any structure or device that, alone or as a system or part of a system, is designed to stop or hinder, or to provide any other form of step against, uninvited entry to the premises (see s. 56: 'Definitions for part' of the *Peace and Good Behaviour Act* (PGBA)).

Application for a fortification removal order

A senior police officer (see SMD) may apply to a court for a fortification removal order for a stated premises, where the premises:

(i) is, has been or is likely to be used in connection with criminal activity; or

(ii) is used to conceal evidence of, or to keep proceeds of, serious criminal activity; or

OPM Issue 113 Public Edition

(iii) is owned or habitually occupied or used by a criminal organisation, participants in a criminal organisation, recognised offenders, or associates of recognised offenders,

(see s. 58: 'Senior police officer may apply for fortification removal order' of the PGBA).

An application for a fortification removal order should be made and served in accordance with ss. 2.31.5: 'Application for Peace and Good Behaviour Act court orders' and 2.31.6: 'Service of Peace and Good Behaviour Act applications and court orders' of this chapter.

An owner or occupier of a premises for which a fortification removal order has been issued may file an appeal within 28 days of a decision to make a fortification order.

Court issued fortification removal order

Upon issuing an order, a court may impose the conditions the court considers necessary having regards to the grounds of the order, including a requirement a person remove or modify the fortification.

A fortification removal order takes effect:

(i) when the order is made and the respondent, their legal or other representative is present at the hearing of the application; or

(ii) an officer serves the order on an owner or occupier of the premises by personal service or by public notice (see s. 2.31.6 of this chapter).

Variation or revocation of restricted premises order

On application (see s. 2.31.5 of this chapter) by a senior police officer, a court may make an order to revoke or vary a fortification removal order (see s. 63: 'Revocation or variation' of the PGBA).

An application to vary or revoke an order is to include:

(i) the grounds on which the variation or revocation is sought; and

(ii) any accompanying affidavit the officer is to rely on.

The application and any accompanying affidavit is to be served by an officer on the respondent.

The order for variation or revocation issued by a court is to be served by an officer on the owner or occupier as soon as practicable after the order is made by personal service or if personal service is not practicable by public notice (see s. 2.31.6 of this chapter).

Enforcement action—removing and modifying fortifications

An officer may cause fortifications to be removed or modified to the extent required under the order (**'enforcement action'**) where:

(i) the fortification removal order has taken effect;

(ii) the period in which the respondent can file an appeal has ended; and

(a) no appeal has been filed; or

(b) an appeal about the order has been dismissed or withdrawn; and

(iii) the order has not been complied with.

An officer may undertake any of the enforcement action as provided in ss. 65: 'Powers for removing and modifying fortifications', 66: 'Procedure for entry to fortified premises' and 67: 'Requirements for entry to buildings on fortified premises' of the PGBA.

Removed fortification becomes the property of the State and can be disposed of in accordance with s. 71: 'Forfeiture of removed fortification' of the PGBA.

Where a person hinders the removal of fortifications in accordance with an order, an offence under s. 75: 'Hindering removal or modification of a fortification' of the PGBA is committed.

Recording fortification removal orders in QPRIME

A QPRIME occurrence should be created prior to making an application for a fortification removal order. All documents, information and actions taken (including service of applications and orders) should be uploaded into the occurrence. Enforcement of the order should be included in the original occurrence.

When an enforcement act under s. 65 of the PGBA is performed, the enforcement register entries are to be linked to the relevant QPRIME occurrence.

Stop and desist notice

A commissioned officer may give a Form 24: 'Stop and desist' to an owner or occupier of a premises requiring them to desist from installing fortification to the premises if they reasonably believe:

OPM Issue 113 Public Edition

(i) steps are being taken to install excessive fortification of the premises; and

(a) the premises are being, have been or are likely to be used in connection with a serious criminal activity or to conceal evidence of or to keep proceeds of serious criminal activity; or

(b) owned or habitually occupied or used by a criminal organisation, participants in a criminal organisation, recognised offenders or associates or recognised offenders,

(see s. 76: 'Power to give stop and desist notice' of the PGBA).

A Form 24 takes effect:

(i) when given by an officer to an owner or occupier of the premises by personal service; or

(ii) where personal service is not practicable, leaving it in a conspicuous place at the premises.

A Form 24 remains in force for 14 days after it is given to the owner or occupier. Officers are to ensure an application for a fortification removal order and accompanying affidavit are lodged within 14 days of serving a Form 24.

2.31.5 Application for Peace and Good Behaviour Act court orders

An application for a court order under:

(i) s. 25: 'Senior police officer may apply for public safety order';

(ii) s. 34: 'Senior police officer may apply for a restricted premises order'; or

(iii) s. 58: 'Senior police officer may apply for a fortification removal order',

of the *Peace and Good Behaviour Act* (PGBA) may be made by a senior police officer (see SMD) in accordance with the Uniform Civil Procedure Rules (see s. 13.30: 'Starting a civil proceeding' of this Manual).

The officer seeking a relevant order under the PGBA is to create a QPRIME occurrence and complete a:

(i) Form 5: 'Originating Application';

(ii) Form 46: 'Affidavit' of the applicant officer; and

(iii) draft court order on a Form 59: 'Order—(Blank)' including the condition/s sought.

Officers are to include sufficient information to support the application, as per the relevant sections of the PGBA. The standard of proof for order applications under the PGBA is based on the balance of probabilities (see s. 81: 'Standard of proof' of the PGBA).

Applications are to be filed at a court with a return date within 35 days of filing and then served on the respondent/s in accordance with s. 2.31.6: 'Service of Peace and Good Behaviour Act court orders' of this chapter.

The completed application should be uploaded into the relevant QPRIME occurrence.

A respondent may file a response to an application for a court order. Any response filed is to be served on the applicant officer at least five business days before the court date and include an affidavit by the respondent.

Application to extend, vary or revoke a court order

A senior police officer may make application to:

(i) vary or revoke:

(a) a public safety order (s. 30: 'Revocation or variation' of the PGBA);

(b) a restricted premises order (s. 39: 'Revocation or variation' of the PGBA); or

(c) a fortification removal order (s. 63: 'Revocation or variation' of the PGBA); or

(ii) extend:

(a) a public safety order. The application can only to be made in the final two months of the current order (s. 25(6) of the PGBA); or

(b) a prescribed restricted premises order. The application can only be made after 1 year of the initial order and prior to the final two months of the order (s. 43: 'Extension of initial period' of the PGBA),

in accordance with this section.

An application to extend, vary or revoke a public safety order or restricted premises order is made by completing:

(i) a Form 9: 'Application';

(ii) a Form 46, including the grounds and relevant information to support the application; and

(iii) a Form 59 including the conditions sought, if the order is to be varied or extended.

The completed application should be uploaded into the relevant QPRIME occurrence.

OPM Issue 113 Public Edition

After filing the complete application at a court, a copy of the Form 9 and Form 46 are to be served on the respondent/s in accordance with s. 2.31.6 of this chapter.

A respondent may file a response to an application to extend, vary or revoke a court order. Any response filed is to be served on the applicant officer at least five business days before the court date and include an affidavit by the respondent.

2.31.6 Service of Peace and Good Behaviour Act applications and court orders

For the purposes of this section, the term '**respondent'** includes the owner or occupier of premises identified in a restricted premises order or fortification removal order.

Action after filing an application

ORDER

After an application for a public safety order, restricted premises order or fortification removal order, including an application to extend, vary or revoke an order, is filed with a court, it is to be served on the respondent/s:

(i) by personal service (see 'Service by personal service' of this section), within seven business days of the filing; or

(ii) if personal service is impracticable or the respondent is a group of persons, by public notice (see 'Service by public notice' of this section) within 10 business days of the filing.

Following service of the application, officers are to update the relevant QPRIME occurrence recording service of the documents.

Action after a court issues an order

A court issued order takes effect from:

(i) the hearing of the application if the respondent or a legal or other representative is present at the hearing; or

(ii) on service of the order on the respondent by an officer.

ORDER

Court orders are to be served on the respondent/s:

(i) by personal service (see 'Service by personal service' of this section); or

(ii) if personal service is impracticable or the respondent is a group of persons, by public notice (see 'Service by public notice' of this section).

As enforcement of orders and their conditions cannot commence until after service, officers should ensure service is completed as soon as practicable.

Following service of the application, officers are to:

(i) update the relevant QPRIME occurrence recording service of the documents;

(ii) for all orders, activate the relevant QPRIME flag on the respondent/s as service is completed; and

(iii) for restricted premises orders and fortification removal orders, activate the relevant QPRIME flag on the relevant premises address.

Service by personal service

In accordance with s. 83: 'Service affidavit that must be filed' of the *Peace and Good Behaviour Act* (PGBA), following service of an application or a court order, the serving officer is to complete and file a Form 46 detailing personal service of the application or order at the issuing as soon as practicable.

A copy of the completed Form 46 should be uploaded into the relevant QPRIME occurrence.

Service by public notice

In accordance with s. 82: 'Service by public notice' of the PGBA, if personal service of an application or court order is impracticable or the respondents are a group of persons, service may be achieved by publishing a notice:

(i) in a newspaper circulating throughout Queensland (the Courier-Mail newspaper); and

(ii) on the QPS internet website,

including the information stated in s. 82(3) of the Act.

ORDER

When an application or court order is served by public notice, the officer publishing the notice is to:

(i) by the end of the next business day following publication, complete a Form 46 stating:

(a) why service was completed by public notice rather than by personal service;

OPM Issue 113 Public Edition

(b) the reasons why it was not practicable to achieve personal service; and

(c) details outlining how publication was achieved;

(ii) attach a copy of the published public notice to the affidavit; and

(iii) if a postal address is known, send a copy of the affidavit and published notice to:

(a) if the respondent is a single person, to the respondent; or

(b) if the respondent is a group of people, to a person who is believed to be an office holder of the group of respondents,

by registered mail as soon as practicable after publication of the notice,

(see s. 83(3)–(6): 'Service affidavit that must be filed' of the PGBA).

Whenever practicable, a police station or establishment where a copy of the application or order may be collected by the respondent, should be included in the public notice.

To publish an application or order in accordance with s. 82 of the PGBA:

(i) on the QPS internet website, the issuing officer is to complete the relevant 'Public notice facilitated submission' for the order type on the Web Services webpage on the Service Intranet, including a copy of the relevant application.

(ii) in the 'Public notices' section of the Courier-Mail, the issuing officer is to send an email to classifieds@thecouriermail.com.au, including the following information:

(a) the information to be included in the public notice, namely:

- the general nature of the application or order;
- the respondent/s for the application or order; and
- for an application, the police station or establishment where a copy of the application may be collected or read;

(b) the contact name and telephone number of the issuing officer. The proof of the public notice will be sent to the issuing officer for approval prior to publishing;

(c) the Service's ABN: 29 409 225 509; and

(d) an account number, if known, for paying for the notice.

Following publication of the public notice in both locations, the officer publishing the notice is to update the relevant QPRIME occurrence and upload a copy of the:

(i) completed affidavit of service by public notice; and

(ii) public notice as published in the newspaper.

When a respondent attends a police station to collect a copy of the application or court order, the relevant QPRIME occurrence should be updated detailing service of the documents.

2.31.7 Control orders

Part 9D: 'Serious and Organised Crime' of the *Penalties and Sentences Act* (PSA) allows a court to issue a mandatory or discretional control order as part of the sentencing process.

When an offender is sentenced for a prescribed offence committed with the serious organised crime circumstance of aggravation, the court will make a control order pursuant to s. 161V: 'When court must make order' of the PSA (see s. 161N: 'Definitions for part' of the PSA).

When an offender is sentenced for an indictable offence, the court may make a control order if the court considers it reasonably necessary to protect the public by preventing, restricting or disrupting the offender's involvement in serious criminal activity and any of the following circumstances exist:

(i) the offender was a participant in a criminal organisation at the time of the offence;

(ii) the court is sentencing the offender for a habitually consorting offence; or

(iii) the court is sentencing the offender for contravening a control order,

(see ss. 161W, 161X and 161Y of the PSA).

A court may impose any conditions:

(i) appropriate to protect the public by preventing, restricting or disrupting the offender's involvement in serious criminal activity; and

(ii) necessary to enforce the order.

OPM Issue 113 Public Edition

Where a discretionary control order is sought, investigating officers should request the prosecutor to make a submission for the issue of a control order (see s. 3.7.20: 'Control orders' of this Manual).

Applications to:

(i) make a discretionary control order; or

(ii) vary or revoke a control order,

are to be made in accordance with the Uniform Civil Procedure Rules (see s. 13.30: 'Starting a civil proceeding' of this Manual).

Where a discretionary control order is to be sought, investigating officers are to complete an affidavit and a draft Form 59: 'Order' detailing:

(i) the offender's involvement in serious criminal activity; and

(ii) any conditions to be sought under the order.

If the offender was a participant in a criminal organisation (see s. 161N of the PSA) at the time of the offence, the affidavit is to also detail the offender's:

(i) involvement in the affairs of a criminal organisation; and

(ii) promotion as a participant.

The offender's participation in a criminal organisation need not be related to the indictable offence for which the offender is being sentenced.

The affidavit and draft order are to be completed and provided to the prosecutor prior to the commencement of the sentencing process.

When a control order is made in a magistrate's court, the officer in charge of the police prosecution corps hearing the matter is to make suitable arrangements for:

(i) the QPRIME occurrence to be updated, including uploading the relevant order into the occurrence; and

(ii) flagging the offender in QPRIME,

on the same day the order is issued.

Amendment or revocation of control order

An officer of the rank of sergeant or above may apply to a court to vary or revoke a control order (see s. 161ZD: 'Application for amendment or revocation' of the PSA).

PROCEDURE

Where an application to amend or revoke a control order is to be made, investigating officers are to complete:

(i) a Form 9: 'Application';

(ii) an affidavit detailing:

(a) the grounds for the application; and

(b) any change in facts and circumstances since the making of the order; and

(iii) if the application is for an amended control order, a draft Form 59: 'Order'.

Enforcement of control order

Where a control order has been made in relation to a person, an officer may use reasonably necessary force to:

(i) enter premises occupied by the person, search for and seize anything the person is prohibited from possessing under the order (see s. 161ZJ: 'Initial power to search and seize particular thing' of the PSA); and

(ii) seize from the person, anything the person is prohibited from possessing under the order (see s. 161ZK: 'Things seized within the first 24 hours' of the PSA).

Where anything has been seized from the person, it is to be:

(i) retained in police custody for the period that the order remains in force; and

(ii) if the person can lawfully possess the thing, returned to the person when the order expires.

All property should be handled and managed in accordance with Chapter 4: 'Property' of this Manual.

Exercising a power under ss. 161ZJ and 161ZK of the PSA is an 'enforcement act' pursuant to the PPRA and appropriate register entries are required to be made in QPRIME (see s. 2.1.2: 'Registers required to be kept' of this chapter).

OPM Issue 113 Public Edition

Preventing breaches of control order

Section 161ZL: 'Police powers for preventing contravention of control order' of the PSA provides officers with the power to give certain directions if they reasonably suspect a breach of a control order has or is being committed or is about to be committed. If an offender is prohibited from:

(i) associating with a stated person or a class of stated people, an officer may direct the offender to leave the place where the person/s is and not return to the place for a reasonable time less than 24 hours; or

(ii) entering or being in the vicinity of a stated place or stated class of places, an officer may direct the offender to leave the place or the vicinity of the place,

to prevent a breach occurring. A direction cannot be given if it endangers the safety of the offender or another person.

If the person fails to comply with the officer's direction, an offence under s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA is committed.

Officers are to ensure they make sufficient records to support their direction as:

(i) there is a defence under s. 161ZL(5) of the PSA for failing to comply with the direction if the officer did not a have the necessary reasonable suspicion the offender has or will contravene a control order;

(ii) exercising a power under s. 161ZL of the PSA is an 'enforcement act' under the PPRA and appropriate register entries are required to be made in QPRIME (see s. 2.1.2 of this chapter).

2.31.8 Body art tattooing business closure orders

The aim of the *Tattoo Industry Act* (TIA) is to regulate the body art tattooing industry and minimise the risk of criminal activity in the tattoo industry. Definitions relating to the licensing, operation and enforcement are contained in Schedule 1: 'Dictionary' of the TIA.

Licensing

Each body art tattooing premises and person performing a body art tattoo procedure is required to hold the appropriate licence (see ss. 6: 'Body art tattooing business to be licensed' and 7: 'Body art tattooists to be licensed' of the TIA).

An application for a licence is to be made by an individual to the Office of Fair Trading, Department of Justice. An application by a corporation, partnership or trust must be made by an individual nominated by the corporation, partnership or trustees to be the premises manager.

In accordance with s. 35E: 'Fingerprinting and palm printing of applicants' of the TIA, the fingerprints and palm prints of applicants are to be taken by police, prior to being granted an operators or tattooist licence (see s. 2.26.8: 'Taking fingerprints for occupational licenses' of this chapter).

Closure of body art tattooing businesses

Sections 46: 'Interim closure of unlicensed or illegal body art tattooing businesses' and 47: 'Long term closure of body art tattooing businesses' of the TIA allows an officer to make application to the Commissioner to commence proceedings to close an unlicensed body art tattooing business.

Before applying for an interim closure order, officers are to be mindful that an interim order will only be issued if it is proceeded by a long-term closure application. Officers in regional areas seeking an interim or long-term closure order are to forward a QPRIME task to the regional crime coordinator outlining the grounds for the closure. The regional crime coordinator is to forward the information to the Inspector, Operations Coordinator, Organised Crime Investigation Unit, Crime Command for approval. If this request is approved, a QPRIME task is to be forwarded to the detective inspector in charge of that division for the issue of an interim or closure order.

Interim closure of body art tattooing businesses

An officer of the rank of detective inspector or above, may issue an interim closure order for a stated premises, if:

(i) the officer:

(a) is satisfied a body art tattooing business is being carried on at the premises without the authority of an operator's licence; or

(b) reasonably suspects serious criminal offence/s are being committed at the premises; and

(ii) evidence has been obtained to support an application for a long-term closure application,

(see s. 46(1): 'Interim closure of unlicensed or illegal body art tattooing businesses' of the TIA).

Service of an interim closure order

Whilst the issuing officer is to be a detective inspector or above, the order can be served by any officer.

Two copies of a QP 0648: 'Interim closure order' are to be partially completed and upon serving or posting the order, the service information on both copies is to be completed.

OPM Issue 113 Public Edition

The serving officer is to:

(i) serve one copy of the order on the person apparently in charge of the premises, if any; or

(ii) leave a copy of the order in a conspicuous place at the entrance to the premises (see s. 46(2)(b) 'Interim closure of unlicensed or illegal body art tattooing businesses' of the TIA),

Upon serving or posting the order, the serving officer is to:

(i) complete a QP 0649: 'Statement of document service/posting'; and

(ii) upload a copy of the QP 0648 and QP 0649 into the relevant QPRIME occurrence;

(iii) flag the premises address and/or person in QPRIME;

(iv) link premises and/or person subject to the order to the relevant QPRIME entry; and

(v) forward a task to Organised Crime Investigation Unit [ORG 0868] outlining the conditions for the order.

The responsible detective inspector, Crime Command is to remove the flag upon expiration of the interim closure order.

ORDER

Leaving a copy of the interim closure order at the entrance of the premises is to be used only in circumstances where the holder of the operator's licence cannot be located or the premises is vacant.

Where an interim closure order is left at an address, the serving officer is to photograph the order in position, where practicable, to verify the service and upload it into QPRIME.

A magistrate, upon application by a detective inspector or above, may make an order for the body art tattooing business be closed for a stated period.

Application for long-term closure

An officer of the rank of detective inspector or above making an application for long-term closure, is to ensure the magistrate is satisfied:

(i) a body art tattooing business is being carried on at the premises without an operator's licence; or

(ii) there has been, or there are likely to be, serious criminal offences committed at or in connection with the premises (see s. 47(1) of the TIA).

An application to a magistrate may be made regardless of whether an interim closure order is, or has been, made in relation to the premises (see s. 13.30: 'Starting a civil proceeding' of this Manual).

Where there is sufficient evidence to close a premises for a stated period, the detective inspector is to:

(i) complete a Form 5: 'Originating Application,' and include in the application:

(a) a request for the closure of the body art tattooing business under s. 47(1) of the TIA; and

(b) the requested period for long-term closure;

(ii) prepare a draft Form 59: 'Order' including the period of the closure and any other conditions sought for signing by a magistrate;

(iii) complete a Form 46: 'Affidavit' listing any evidence (exhibits) to support the long-term closure;

(iv) file the Form 5 in the magistrates court;

(v) upon confirmation of a hearing date in the magistrates court, serve a copy of the application on the person apparently in charge of the premises at least 3 days before the matter is heard;

(vi) forward to the police prosecutor all documentation in relation to the matter and update the relevant QPRIME occurrence with the hearing date; and

(vii) if required, attend the court at the nominated day and time to give evidence.

A long-term closure order takes effect from:

(i) the hearing of the application if the respondent or a legal or other representative is present at the hearing; or

(ii) on service of the order on the respondent by an officer.

A copy of the order and application should be uploaded into QPRIME and a flag created indicating the person or premises is subject to a long-term closure order under the TIA.

Additionally, the officer serving the long-term closure order is to notify the detective inspector of the conditions of the long-term closure order by sending a QPRIME task to the Organised Crime Investigation Unit [ORG 0868]. The detective inspector is to remove the flag upon expiration of the long-term closure order.

OPM Issue 113 Public Edition

Enforcement of interim and long-term closure orders

Activities related to body art tattooing are subject to the conditions of interim or long-term closure orders. Other activities associated with the premises e.g. the selling of merchandise or body piercing, are not subject to interim or long-term closure order conditions.

Obtaining enforcement history from the Office of Fair Trading

Officers investigating offences against the TIA who require a person's enforcement history, may make a request to Financial and Major Investigations, Office of Fair Trading (see Department of Justice in the SMCD) during business hours (9am to 5pm), by emailed written request on official Service letterhead or if urgent, by telephone.

Officers making a request are to provide:

(i) the full name of the person or business, address, and if applicable, date of birth;

(ii) the requesting officer's:

(a) full name, rank and employee number; and

(b) station/establishment and contact details; and

(iii) the reasons for the request.

Officers, who obtain a person's enforcement history as a result of an urgent request over the telephone, are to email written confirmation of the request to Financial and Major Investigations, Office of Fair Trading on official Service letterhead as soon as practicable.

2.31.9 Miscellaneous procedures relating to serious and organised crime

Persons claiming disassociation from a criminal organisation

Where a person requests information on how to disassociate themselves from any links to a criminal organisation, the officer is to advise the person to:

(i) complete QP 0978: 'Declaration of disassociation' (available on the QPS internet site); and

(ii) email the completed QP 0978 and associated document/s to QPolCrimOrg@police.qld.gov.au or lodge them at a police station.

Where a completed QP 0978 and associated document/s are received by an officer in person, the officer is to:

(i) submit a QPRIME intelligence submission with the scanned QP 0978 and associated document/s attached;

(ii) forward a task to the State Intelligence Group Criminal Associations Team [ORG 0783]; and

(iii) file the original hard copy QP 0978 and associated document/s at the station or establishment (see 'Statements and other attachments' of s. 1.11.2: 'Recording an offence in QPRIME' of this Manual).

State Intelligence Group will assess the information contained within the QP 0978 and associated document/s and upon assessment the relevant QPRIME flag will be amended as necessary in order to assist with processing requests from regulatory authorities and investigations.

Crown Law approval to include circumstance of aggravation on indictment

Section 161Q: 'Meaning of serious organised crime circumstance of aggravation' of the *Penalties and Sentences Act* (PSA) provides for a 'serious organised crime circumstance of aggravation' to be included on offences listed in Schedule 1C: 'Prescribed offences' of the PSA.

An indictment charging a specified offence with a prescribed offence circumstance of aggravation may not be presented to a District or Supreme Court without the consent of a Crown Law officer.

Officers, however, do not require the consent of a Crown Law officer to commence proceedings for a specified offence with a prescribed offence circumstance of aggravation. Where a person is charged with a prescribed offence and s. 161Q of the PSA applies to the commission of the offence, the person's charge should include the relevant circumstance of aggravation.

Permission to charge should be obtained in writing

Whenever practicable, permission to charge a person should be obtained in writing by forwarding a task from the relevant QPRIME occurrence. Where approval is obtained by other means (e.g. email, telephone) the authorisation should be recorded in the relevant occurrence.

OPM Issue 113 Public Edition

2.32 Prescribed offences and relevant assault offences

Prescribed offences

Under s. 108B: 'When community service order must be made' of the *Penalties and Sentences Act*, when a court convicts an offender of a prescribed offence (see SMD), with a circumstance of aggravation of the offence being committed in a public place while the offender was adversely affected by an intoxicating substance (see SMD), a community service order must be made. This applies unless the court is satisfied that, because of any physical, intellectual or psychiatric disability of the offender, the offender is not capable of complying with the order.

Relevant assault offences

Chapter 18A: 'Breath, saliva, blood and urine testing of persons suspected of committing particular assault offences' of the PPRA specifies relevant assault offences (see SMD). Section 548A: 'Purposes of ch 18A' of the PPRA allows the:

(i) taking of breath, saliva, blood and urine specimens from persons suspected of committing a relevant assault offence;

(ii) testing of those specimens; and

(iii) production of relevant certificates for use as evidence,

through an extended application of the provisions of s. 80: 'Breath and saliva tests, and analysis and laboratory tests' of the *Transport Operations (Road Use Management) Act*.

2.32.1 Circumstance of aggravation for prescribed offences (including relevant assault offences)

POLICY

Prescribed offences which includes all relevant assault offences (see SMD) carry a circumstance of aggravation when committed:

(i) in a public place; and

(ii) while the person was adversely affected by an intoxicating substance,

(see SMD).

Where an officer is considering if a person is adversely affected by an intoxicating substance, observation of that persons indicia and other available evidence is relevant. Additionally for relevant assault offences only where reasonable suspicion exists, alcohol and drug testing can also be utilised in accordance with the provisions of s. 2.32.4: 'Obtaining breath, saliva, blood or urine specimens for relevant assault offences' of this Manual.

(See also s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual and s. 7.22: 'Observing the subject person and noting of indicia relating to the consumption of liquor/drugs' of the Traffic Manual.)

ORDER

Investigating officers are only to include a circumstance of aggravation for a prescribed offence where appropriate evidence is available to prove the circumstance.

POLICY

For relevant assault offences this consideration should also include:

(i) initial specimen test indications; and/or

(ii) the results of analysis of specimens of breath, saliva, blood and urine.

Relevant assault offences and licensed premises

POLICY

Where a certificate has been issued following breath, saliva, blood or urine analysis for a relevant assault offence, which is related to licensed premises, s. 233(2)(ba): 'Evidentiary provisions' of the *Liquor Act* provides the certificate is admissible as evidence of an offence under the Act.

PROCEDURE

Where a relevant assault offence is related to licensed premises, officers are to ensure the appropriate fields of the QPRIME occurrences are completed to:

(i) indicate the offence is related to a licensed premises;

(ii) record the relevant statistics;

(iii) identify and record any nexus between the incident and the related licensed premises; and

(iv) record in the Occurrence MO that a certificate as to the concentration of alcohol present in the blood or breath of the person has been obtained and the results of the analysis,

OPM Issue 113 Public Edition

for reporting to the Office of Liquor and Gaming Regulation (see s. 13.7.1: 'Reporting incidents involving licensed premises' of this Manual).

2.32.2 Deleted

2.32.3 Deleted

2.32.4 Obtaining breath, saliva, blood or urine specimens for relevant assault offences

In accordance with s. 108B: 'When community service order must be made' of the *Penalties and Sentences Act*, a circumstance of aggravation applies if a prescribed offence, (which includes a relevant assault offence), (see SMD) was committed in a public place while the person was adversely affected by an intoxicating substance (see SMD).

In accordance with Chapter 35A: 'Circumstance of aggravation for particular offences' of the Criminal Code (CC), specific provisions are made concerning proof that a person is adversely affected by an intoxicating substance. Section 365C: 'Proof of being adversely affected by an intoxicating substance' of the CC provides the definition of 'adversely affected by an intoxicating substance' (see SMD). Section 365B: 'Application of defences' of the CC provides specific circumstances when a person is taken not to be adversely affected by an intoxicating substance.

POLICY

In considering a circumstance of aggravation for relevant assault offences, investigating officers should also consider that a person is taken to not be adversely affected by an intoxicating substance at the relevant time if the person is able to prove:

(i) they did not know they were ingesting an intoxicating substance; and

(ii) an ordinary person would not reasonably have known they were ingesting the intoxicating substance; and

(iii) they would not be adversely affected by an intoxicating substance at the relevant time apart from that ingestion,

(see s. 365B: 'Application of defences' of the CC).

Under Chapter 18A: 'Breath, saliva, blood and urine testing of persons suspected of committing particular assault offences' of the PPRA, police may take specimens of breath, saliva, blood and urine for use as evidence against persons suspected of committing a relevant assault offence. This is enabled through an extended application of the provisions of s. 80: 'Breath and saliva tests, and analysis and laboratory tests' of the *Transport Operations (Road Use Management) Act* (TO(RUM)A).

(See s. 548A: 'Purposes of ch 18A' of the PPRA)

Chapter 7: 'Drink and Drug Driving' of the Traffic Manual (TM) should be applied when an officer is to take a specimen of breath, saliva, blood or urine from a person suspected of committing a relevant assault offence with a circumstance of aggravation, in accordance with s. 548E: 'Application of s 80' of the PPRA.

PROCEDURE

Where an officer:

(i) finds a person, the officer reasonably suspects:

(a) is committing; or

(b) has committed within the preceding three hours; or

(ii) has arrested a person for committing,

a relevant assault offence and the officer reasonably suspects the:

(i) person is intoxicated; and

(ii) the relevant assault offence is being committed, or was committed, in a public place,

the officer may require the person to provide a specimen of breath, saliva, blood or urine for analysis.

If the person:

(i) has not been arrested, the officer is to make a requirement under s. 80(2): 'Request for specimen of breath or saliva' of the TO(RUM)A as if the subject were a person to whom s. 80(2) applies (see s. 548C: 'Person suspected of committing relevant assault offence' of the PPRA); or

(ii) has been arrested, the officer is to make a requirement under s. 80(8): 'Particular persons under arrest or detained may be required to provide specimen' of the TO(RUM)A as if the subject were a person to whom s. 80(8) applies (see s. 548D: 'Person arrested for relevant assault offence' of the PPRA).

(See also s. 548E: 'Application of s 80' of the PPRA).

OPM Issue 113 Public Edition

POLICY

Where an officer is deciding what type of specimen (breath, blood or saliva) should be sought from a person suspected of committing a relevant assault offence, compatibility of the choice of specimen type with the indicia displayed is to determine that selection. For example, where indicia suggests that an illicit drug has been consumed, a saliva test or blood specimen would hold increased relevance. Conversely, indicia of obvious alcohol consumption should result in seeking a specimen of breath.

Breath test

PROCEDURE

Where s. 7.3.1: 'Authority to breath test' of the TM applies, an officer investigating a person for a relevant assault offence may use the indication from a roadside breath testing device to aid in determining if the person is adversely affected by an intoxicating substance, namely alcohol. If positive indication is provided, a direction in compliance with the provisions of s. 7.4: 'Breath analysis' of the TM should be made.

If a person fails to provide a specimen of breath on a roadside breath testing device, the person should be required to provide a specimen for analysis on a breath analysis instrument.

Breath analysis

PROCEDURE

An officer investigating a relevant assault offence is to comply with the provisions of s. 7.4 of the TM to determine if the person is adversely affected by an intoxicating substance, namely alcohol.

If a person fails to provide a specimen of breath, following a direction under s. 7.4.3: 'The requirement' of the TM, in accordance with s. 365C(1)(d): 'Proof of being adversely affected by an intoxicating substance' of the CC, the person is deemed to be adversely affected by an intoxicating substance, unless the person can prove otherwise.

Blood analysis

PROCEDURE

An officer may require a person to provide a specimen of blood for a laboratory test in the same circumstances where a specimen of breath may be required of a person, in addition to the circumstances where an officer may require a person to provide a specimen of blood for a laboratory test see s. 7.5.1: 'Authority to require a specimen of blood' of the TM.

Saliva test

PROCEDURE

A saliva test may be conducted as part of an investigation into a relevant assault offence.

An officer investigating a relevant assault offence is to comply with the provisions of s. 7.7: 'Saliva test' of the TM to determine if the person is adversely affected by an intoxicating substance.

Saliva analysis

An officer investigating a relevant assault offence is to comply with the provisions of s. 7.8: 'Saliva analysis' of the TM in seeking to determine if the person is adversely affected by an intoxicating substance.

Urine analysis

PROCEDURE

An officer may only require a person to provide a specimen of urine after a specimen of blood has been obtained from the subject person, and the subject person has previously provided a specimen of breath for analysis on an approved breath analysing instrument or a specimen of saliva for analysis on approved saliva analysing instrument and the result of such analysis is inconsistent with the person's indicia (see s. 80(9): 'Requiring specimen of blood or urine for laboratory test' of the TO(RUM)A).

(See also s. 7.6: 'Urine analysis' of the TM)

2.32.5 Property and testing procedures

In accordance with s. 548A: 'Purposes of ch 18A' of the PPRA the taking of specimens of breath, saliva, blood and urine is also authorised from persons suspected of committing a relevant assault offence (see SMD) and to conduct testing and to produce certificates for use as evidence. This occurs through extended application of the provisions of s. 80: 'Breath and saliva tests, and analysis and laboratory tests' of the *Transport Operations (Road Use Management) Act*.

PROCEDURE

When an officer is investigating a circumstance of aggravation for a relevant assault offence, the provisions of s. 7.9: 'Handling of blood, urine and saliva specimens' of the Traffic Manual and s. 4.5.3: 'Saliva analysis' and Chapter 4: 'Property' of this Manual should be applied.

OPM Issue 113 Public Edition

Saliva analysis handling guidelines

Members seeking specific guidelines relating to saliva analysis should refer to 'Saliva Analysis Property Handling Guidelines' available on the Drug and Alcohol Coordination Unit SharePoint page.

2.33 Security, Counter-Terrorism and Forensic Services Command

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

2.34 Threats to Service members

Security, Counter-Terrorism and Forensic Services Command coordinates policing initiatives concerning threats to Service members, assisting the regions and commands.

When a current or former member or their immediate family are threatened as a direct result of undertaking their lawful duty, or as a result of their employment in the Service or other circumstance approved by the District Officer or Command Executive, the incident should be reported via QPRIME with an intelligence submission for Threats to Police Employee (TPE).

The reporting officer should:

(i) initiate action to ensure the immediate safety of the affected member or family and inform a supervisor as soon as practicable;

(ii) inform the member's supervisor where practicable;

(iii) enter a QPRIME intelligence submission (QI) with 'Threats' selected in the primary subject field and 'To police employee' in the subcategory;

(iv) ensure the TPE Assessment Tool is completed to determine tier rating and the result entered within the subject field of the QI (The TPE Assessment Tool can be located through the TPE SharePoint);

(v) where the POI has been identified, an Officer Safety Alert/BOLO should be disseminated and uploaded to the QI;

(vi) where the POI has been identified, a Threats to Police QPRIME flag added to POI, vehicles registered/used by POI & residence of POI; and

(vii) ensure a QPRIME flag for 'Priority Service' is added to the residence of the affected member/s in consultation with the affected member.

Following the initial reporting, the district or command where the affected member works will have primary responsibility to manage the threat and coordinate the implementation of the TPE framework.

If the result of the TPE Assessment Tool indicates Tier 1 or 2, it is recommended a case manager is appointed and assigned via QPRIME.

The Case Manager should consider appointing a:

(i) Welfare Officer;

(ii) Intelligence Officer; and

(iii) Investigations Officer.

Roles and responsibilities for each role are available through the TPE SharePoint.

Note: the roles and responsibilities may be jointly allocated dependent on the context of the threat and operational requirements.

2.35 Firearm prohibition order

Firearm prohibition orders (FPO) prohibit an individual subject to the order from:

(i) acquiring, possessing or using; or

(ii) attempting to acquire, possess or use,

a firearm or firearm related item. An FPO empowers officers to conduct warrantless searches of the individual, their vehicle or residence, to ensure compliance with the order. Under this scheme, an FPO can be issued against high-risk individuals only if the Commissioner (or delegate) is satisfied it is in the public interest to make the order.

OPM Issue 113 Public Edition

2.35.1 Definitions

For the purposes of this section:

Disqualified person

means a disqualified person as defined in s. 5D: 'Meaning of *disqualified person*' of the *Weapons Act* (WA).

Firearm

means a firearm as defined in Schedule 2: 'Dictionary' of the WA and for the purposes of a firearm prohibition order includes an antique firearm and a replica of a firearm.

Firearm prohibition order (FPO)

means a firearm prohibition order under s. 141G: 'Commissioner may make firearm prohibition orders' of the WA.

Firearm related item

means:

(i) ammunition; or

(ii) a magazine for a firearm; or

(iii) a silencer or another device or thing that is made or used, is capable of being used or is intended to be used for reducing the sound caused by discharging a firearm; or

(iv) another thing prescribed by regulation to be a firearm related item.

See s. 141D: 'Definitions for part' of the WA.

Public interest monitor (PIM)

means the public interest monitor appointed under s. 740: 'Public interest monitor' of the PPRA.

See s. 141ZU: 'Records to be kept' of the WA.

Relevant premises

means:

(i) premises owned or occupied by, or in the care or under the control or management of, an individual subject to a firearm prohibition order; or

(ii) premises at which an individual subject to a firearm prohibition order resides; or

(iii) a vehicle on premises mentioned in paragraph (i) or (ii).

resides, in relation to premises, includes sleeps at the premises on a regular or frequent basis.

See s. 141ZG: 'Power to search premises' of the WA.

Vehicle

means:

(i) a vehicle under the TO(RUM)A; or

(ii) an aircraft; or

(iii) a train; or

(iv) a tram; or

(v) a vessel.

See s. 141ZC: 'Definition for division' of the WA.

2.35.2 Authority to make firearm prohibition order

The Commissioner or delegate (see Delegation D 8.10), if satisfied it is in the public interest to do so, may make an FPO prohibiting an individual from:

(i) acquiring;

(ii) possessing;

(iii) using;

(iv) attempting to acquire;

(v) attempting to possess; or

OPM Issue 113 Public Edition

(vi) attempting to use,

a firearm or firearm related item.

See s. 141G: 'Commissioner may make firearm prohibition orders' of the *Weapons Act* (WA).

2.35.3 Application process

The Commissioner or delegate (see Delegation D 8.10) may issue an FPO only if the individual is 14 years or older.

The firearm prohibition order has effect for a period of:

(i) if the individual is an adult—10 years; or

(ii) if the individual is a child—5 years.

An applicant officer is to complete a QP 1258: 'Request for an application for a Firearms Prohibition Order' and obtain approval through the chain of command to their respective RCC, detective superintendent or equivalent. The Firearm Prohibition Order Unit (FPO Unit) will assess the request, which will then be reviewed by the FPO review committee. If deemed suitable, the officer is to prepare a written application with the assistance of a legal officer which will be assigned to a delegate for consideration. The application process work instructions are found on the FPO Unit SharePoint page.

See s. 141G: 'Commissioner may make firearm prohibition orders' of the *Weapons Act* (WA).

2.35.4 Service of firearm prohibition orders

Once an FPO is issued by the Commissioner or delegate (see Delegation D 8.10), the Firearm Prohibition Order Unit will be responsible for:

(i) entering the order into QPRIME;

(ii) flagging the individual in QPRIME; and

(iii) notifying the applicant officer if an order was granted by the delegate.

ORDER

An officer is to personally serve the FPO or a copy of the order on the individual and tell them that the order is an FPO. If the individual does not accept the order an officer may:

(i) put the order, or a copy of the order, down in the individual's presence; and

(ii) tell the individual that the order is an FPO.

An officer may, for the purpose of enabling service of the FPO, do any of the following:

(i) if it is necessary to confirm the identity of the individual, direct the individual:

(a) to state the individual's name and address; and

(b) to give evidence of the stated name and address if, in the circumstances, it would be reasonable to expect the individual to be in possession of the evidence;

(ii) direct the individual to remain at a stated appropriate place at or near the individual's current location for a stated reasonable period;

(iii) direct the individual to attend a stated police station immediately or within a stated reasonable period; or

(iv) direct the individual to accompany a police officer to the nearest police station or another stated place.

See s. 141Q: 'Power to give directions to facilitate personal service of firearm prohibition orders' of the *Weapons Act* (WA).

A statement of personal service is to be completed and saved into the relevant QPRIME occurrence.

Once an FPO comes into effect against a person, the person must immediately surrender to a police officer all relevant authorities (a weapons licence, permit or approval, or an authority under the *Explosives Act* which authorises a person to purchase small arms ammunition), firearms, and firearm related items in the possession of the person (see s. 141W: 'Surrender of authorities, firearms and firearm related items' of the WA).

2.35.5 Recording of searches and use of enforcement powers—QPRIME Occurrences

The OIC of the FPO Unit is to ensure a register about FPOs is made and includes:

(i) the number of FPOs made by the commissioner in the year;

(ii) the number of FPOs made in relation to children in the year;

(iii) the number of FPOs revoked in the year;

(iv) the day the order was made;

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(v) details of the individual subject to the order;

(vi) the period the order is in effect;

(vii) whether the decision to make the order was reviewed under Part 6: 'Provisions relating to reviews and appeals' of the WA or the *Queensland Civil and Administrative Tribunal Act*, and if so, the outcome of the review; and

(viii) details of any items given to or seized by a police officer under s. 141W: 'Surrender of authorities, firearms and firearm related items' of the WA.

The OIC of a region or command is to ensure QPRIME is updated to include:

(i) details of any actions taken by an officer under Part 5A: 'Firearm prohibition orders', Division 4: 'Powers relating to firearm prohibition orders' of the WA in relation to a FPO or a corresponding order, including any noncompliance with the Division by an officer in taking the action;

(ii) details of any firearms or firearm related items seized by an officer in exercising powers under Part 5A, Division 4 of the WA in relation to a FPO or a corresponding order;

(iii) details of any charges under the WA against an individual subject to an FPO or a corresponding order; and

(iv) details of any charges made under another Act against an individual subject to an FPO or a corresponding order, if the charges arise from a search under Part 5A, Division 4 of the WA.

See s. 141ZU: 'Records to be kept' of the WA.

2.35.6 Searches

Officers may exercise powers under the *Weapons Act* (WA) that are reasonably required to determine whether an individual subject to an FPO is committing an offence under (1) or (2) and s. 141Y: 'Acquiring, possessing and using firearms and firearm related items' of the WA. Officers are to ensure any searches are proportionate to the requirement to determine whether a subject of an FPO is committing an offence.

An officer may, without a warrant or consent:

(i) enter and search a relevant premises for a firearm or firearm related item;

(ii) stop, detain and search a vehicle that the individual subject to the FPO is:

(a) the registered operator of;

(b) driving or riding the vehicle, or is in charge or control of the vehicle;

(c) a passenger in or on the vehicle; or

(d) ordinarily has access to, or use of, the vehicle;

(iii) stop, detain and search the individual subject to the FPO and anything in the individual's possession for a firearm or firearm related item.

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If a person who is not subject to a FPO is:

(i) in the company of someone who is subject to a FPO;

(ii) in or on a vehicle to which s. 141ZF: 'Power to search vehicles' of the WA applies; or

(iii) at premises to which s. 141ZG: 'Power to search premises' of the WA applies,

and an officer reasonably suspects that the person:

(i) is committing or is about to commit an offence under the WA; and

(ii) is in possession of a firearm or a firearm-related item,

the officer is authorised to:

(i) stop and detain the person; and

(ii) search the person and any items in their possession for a firearm or firearm-related item.

See Part 5A: 'Firearm prohibition orders' Division 4: 'Powers relating to firearm prohibition orders' of the WA.

In all cases involving searches officers are to comply with:

(i) s. 630: 'Protecting the dignity of persons during search' of the PPRA;

(ii) s. 631: 'Special requirements for searching children and persons with impaired capacity' of the PPRA;

(iii) s. 2.8: 'Entry, search and seizure' of this chapter; and

(iv) s. 2.8.1: 'Search of a person' of this chapter.

Interstate orders

FPOs made by interstate jurisdictions are recognised under Part 5A: 'Firearm prohibition orders' of the WA as corresponding orders. See Weapons Regulation for the list of corresponding laws.

The offence provisions under sections 141Y: 'Acquiring, possessing and using firearms and firearm related items', 141Z: 'Supply of firearms and firearm related items' and 141ZA: 'Attending particular premises and events' of the WA apply to persons subject to corresponding orders.

The search powers under Part 5A, Division 4: 'Powers relating to firearm prohibition orders' of the WA apply to persons subject to corresponding orders.

Officers are to establish if a corresponding order exists prior to any use of power under the WA.

2.35.7 Compliance

ORDER

All powers, enforcement actions, and offences outlined in Part 5A: 'Firearm prohibition orders' of the WA are subject to review by the Public Interest Monitor (PIM). Any order issued or power exercised under a firearm prohibition order (FPO) must be documented in accordance with s. 141ZU: 'Records to be kept' of the WA in QPRIME.

The role and responsibilities of the PIM are detailed in (g), (h) and (i) of s. 742(4): 'Monitor's functions' in the PPRA. A critical requirement when exercising powers under Part 5A of the FPO is to ensure that a QPRIME 'Firearm Prohibition Order – Search Without Warrant' [1114] Occurrence is created for every search conducted under this authority.

2.35.8 Firearm Prohibition Order Unit

The FPO Unit is responsible for delivering and overseeing the FPO scheme. The roles and responsibilities are available on the FPO Unit SharePoint page.

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Appendix 2.1 Guidelines for conducting identification parades

(s. 2.11.5)

When conducting an identification parade the provisions of s. 617: 'Identification of suspects' of the PPRA apply. Officers are to comply with the procedures in Part 6: 'Identification procedures' of the Responsibilities Code in addition to this appendix.

The identification process is to be conducted as soon as reasonably practical to assist witnesses' ability to accurately recall their memory of the suspect.

An officer conducting an identification parade must, as far as reasonably practicable, replicate the conditions described by the witness, when the witness saw a person involved in the offence. This may include changing the lighting in the room, varying the distance from which the witness views the identification parade or concealing aspects of the participants in the identification parade.

Witnesses who have viewed the identification parade are not permitted to speak with, or otherwise influence other witnesses who have not viewed the parade. For this reason, the venue chosen for an identification parade should be such that other witnesses are not able to see or hear the proceedings.

Members of the Service are not to be used as participants in an identification parade unless a suspect is a member.

When the suspect has taken a position in the parade, no person in attendance is to leave until the process by the witness(es) has concluded. Each witness must view the identification parade separately.

The police officer conducting the identification parade must ask the witness to carefully view the parade and to state whether the witness recognises anyone in the parade. The officer must ask the question in a way that does not suggest the identity of any participant in the identification parade. If the witness indicates they recognise a person in the identification parade, the officer conducting the parade must ask the witness to clearly identify the person recognised, for example, by stating the number of the person identified or describing the persons position in the parade.

Witnesses are to be advised not to enter in any form of communication with the identified person or any other witness until such time as those witnesses have viewed the parade.

If reasonably practicable, the officer who conducts an identification parade must cause the behaviour and position of each person in an identification parade to be photographed or otherwise electronically recorded.

The full record of the proceedings should include:

(i) the time, date and place of the parade;

(ii) the suspect's full name, address and date of birth;

(iii) a description of the suspect's dress and appearance;

(iv) the offence under investigation;

(v) the particulars of persons present, other than those participating in the parade, including a friend, relative or lawyer;

(vi) the particulars of persons participating in the parade;

(vii) the numbered positions of each person in the parade;

(viii) any changes in positions during the parade;

(ix) the full name, address and date of birth of each witness;

(x) matters raised by the suspect, friend, relative or lawyer pertaining to the parade;

(xi) whether an identification was made and particulars of the identification; and

(xii) the words, actions and reactions used by the witness to identify the suspect.

Child witnesses may be accompanied by a parent, guardian or other person, providing they have been informed by the officer conducting the parade that they may not influence the child's decision or disrupt the proceedings in any way. See s. 21AT: 'Identification of persons or things by affected child' of the *Evidence Act*.

Officers are to obtain a written statement, or addendum, from witnesses who identify persons to them as soon as is reasonably practicable after the identification is made.

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Appendix 2.2 Rehabilitation of convictions generally

(s. 2.22.2)

A conviction for an offence is rehabilitated if:

(i) a term of imprisonment is not imposed on an offender, or a term of imprisonment not exceeding 30 months is imposed;

(ii) the order of the court has been satisfied e.g. fine has been paid or community service completed;

(iii) the rehabilitation period has expired (5/10 year periods);

(iv) the conviction has not been revived automatically by a later conviction (see 'Revival of convictions');

(v) a court has not revived the conviction when making an order in relation to a later conviction.

When a 'conviction' is not a conviction for the purposes of the Criminal Law (Rehabilitation of Offenders) Act

Some 'convictions' (acceptance of a plea of guilty or a finding of guilt) are deemed by law not to be a conviction for any purpose. These convictions include 'convictions without recording the conviction' under the *Penalties and Sentences Act*. These often appear in a criminal history as 'No conviction recorded'. These convictions cannot be entered in any record other than for court purposes or as expressly provided by that or another Act. Other convictions deemed by law not to be convictions are:

(i) Orders under s. 657A of the Criminal Code (discharged absolutely or on recognizance) (before 27 November 1992)

(ii) Orders under s. 19: 'Order of Court' of the *Penalties and Sentences Act* (discharged/released absolutely or on recognisance) (from 27 November 1992)

(iii) Convictions where probation or community service order was imposed (before 27 November 1992)

Rehabilitation of convictions (s. 3)

The *Criminal Law (Rehabilitation of Offenders) Act* provides for automatic rehabilitation of a conviction upon indictment (not a child) after ten (10) years from date of conviction. All other convictions are rehabilitated after five (5) years.

This means that convictions as an adult in the District and Supreme Courts have a rehabilitation period of ten years and all other convictions (including youths in any court) have a rehabilitation period of five years.

A conviction is not rehabilitated if:

(i) an order made in relation to the conviction is not satisfied within the five (5) or ten (10) year periods in which case the rehabilitation period terminates on the date the order is satisfied. If the order is not satisfied the conviction is not rehabilitated. The Police Information Centre, Information Management Services may advise if an order has not been satisfied when supplying a criminal history;

(ii) a term of imprisonment is imposed on the offender is for a period exceeding thirty (30) months (including imprisonment ordered by way of default) whether or not the offender actually serves any part of that period in custody, then the conviction is never rehabilitated; or

(iii) the rehabilitation period is revived by a later conviction on indictment (for an offence that can only be dealt with on indictment) in Queensland or elsewhere. If revived, the rehabilitation period of a conviction will re-commence from the date of the later conviction.

Revival of convictions (s. 11)

Where a person is convicted for an offence:

(i) in Queensland or elsewhere (a state, territory, other country); and

(ii) the conviction is on indictment (District Court, Supreme Court); and

(iii) the conviction is a conviction (if the conviction is deemed by law not to be a conviction then disregard); and

(iv) the offence could not be dealt with summarily if it had occurred in Queensland;

all previous convictions in Queensland (not Commonwealth offences) are revived as follows:

(i) all previous convictions in a magistrates court are revived from the date of the conviction for a further five (5) years; and

(ii) all previous convictions in the District or Supreme Court (not as a child) are revived from the date of the conviction for a further ten (10) years.

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EXAMPLE

COURT	DATE	OFFENCE	DECISION
IPSWICH M.C.	1/1/88	STEALING	CONVICTED & FINED
IPSWICH D.C.	1/1/91	STEALING	CONVICTED & FINED
IPSWICH M.C.	1/1/92	STEALING	CONVICTED & FINED
IPSWICH D.C.	30/6/95	GRIEVOUS BODILY HARM (cannot be dealt with summarily)	CONVICTED & FINED

The conviction on 30/6/95 revives all convictions prior to that date. The revised rehabilitation periods are as follows:

COURT	DATE	REHABILITATION PERIOD ENDS
IPSWICH M.C.	1/1/88	30/6/2000 (revived for 5 years)
IPSWICH D.C.	1/1/91	30/6/2005 (revived for 10 years)
IPSWICH M.C.	1/1/92	30/6/2000 (revived for 5 years)
IPSWICH D.C.	30/6/95	30/6/2005 (10 year rehabilitation period)

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Appendix 2.3 Indicative list of responsibilities for criminal investigations

(s. 2.7.1)

District and divisional

- Street and public order offences
- Minor crime
- Theft
- Burglary
- Unlawful use of motor vehicle
- Malicious damage
- Firearm offences
- Common and serious assaults
- Pawned property
- Marine offences
- Waterfront offences
- Uncomplicated serious sexual offences on both sexes (metro)
- Uncomplicated child abuse matters in conjunction with local SCAN team (ex-metro area)
- Local cheque and credit card offences
- Minor deficiencies fraud at local level
- Fraud of a local nature (incl. unlawful disposal of goods under hire purchase, mortgage, bill of sale, lease) misappropriation and embezzlement of a local nature
- Minor sexual offences
- Local paedophile activity
- Simple possession supply and production of all drugs (user)
- Homicide, attempted homicide and serious assaults where offender is known/apprehended
- Motor vehicle related deaths and serious injuries (non-homicide)
- Armed hold-ups, robbery, extortion, kidnapping, abduction, deprivation of liberty, where offender known/apprehended
- Uncomplicated or straightforward arson
- Auto arson
- Local SP, games, prostitution involving children
- Other local crime
- Liquor
- Railways
- Out of character disappearance of persons
- Local intelligence
- Minor offences within prisons
- Simple and minor stock offences
- Simple or uncomplicated fauna offences

Regional level

- Serious sexual offences on both sexes
- Serious child abuse matters within regional boundaries
- Paedophile activities within regional boundaries
- Local trafficking in drugs

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- Local drug groups with covert capability
- User, supplier, producer of all drugs
- Proceeds of crime from drug dealing in regional area
- Homicide, attempted murder and serious assaults where offender not known
- Systematic armed hold-ups and robberies in the region
- Systematic auto theft in the region
- Major fires or systematic/pattern arson
- Regional fraud of systematic type
- Fraud that has been assessed as being able to be investigated at regional level
- SP, vice, gaming organised at regional level
- Any other regionalized crime
- Regional intelligence, inter regional movement of convicted and known criminals to be communicated to relevant intelligence units
- Any offence involving movement of stock, major stock offences
- Major or organised fauna offences

Crime Command

- Crime Groups
- Intelligence Groups
- Any crime which the Assistant Commissioner, Crime Command considers is appropriate for investigation by the Crime Command
- Any matter directed by the Deputy Commissioner, Regional Operations or, after hours, the on call deputy commissioner.

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Appendix 2.4 Intergovernmental agreement—crimes at sea

(s. 2.5.10)

This Agreement is made on 16 November 2000

Between

the Commonwealth of Australia

the State of New South Wales

the State of Victoria

the State of Queensland

the State of Western Australia

the State of South Australia

the State of Tasmania

the Northern Territory

GIVEN THAT

(i) the Commonwealth and the States have agreed to a cooperative scheme to apply the criminal law of the States extraterritorially in the areas adjacent to the coast of Australia: and

(ii) the cooperative scheme is given the force of law by the following laws:

(a) Crimes at Sea Act 2000 (Commonwealth);

(b) Crimes at Sea Act 1998 (New South Wales);

(c) Crimes at Sea Act 1999 (Victoria);

(d) Crimes at Sea Act 2000 (Queensland) [as anticipated];

(e) Crimes at Sea Act 2000 (Western Australia);

(f) Crimes at Sea Act 1998 (South Australia);

(g) Crimes at Sea Act 1999 (Tasmania);

(h) Crimes at Sea Act 2000 (Northern Territory) [as anticipated]; and

(iii) clause 5 of the cooperative scheme authorises the making of an intergovernmental agreement providing for the division of responsibility for administering and enforcing the law relating to crimes at sea.

THE COMMONWEALTH AND THE STATES AGREE AS FOLLOWS:

1. Definitions

In this Agreement:

Adjacent area means an area where the law of a State is applied by Commonwealth law.

Adjacent State, in relation to an adjacent area, means the State whose laws are applied to that area by Commonwealth law.

Applied laws, in relation to a State, means the substantive and procedural laws applied to the State by clauses 2 and 3 of the cooperative scheme.

Arrival State means the participating State in which an Australian ship next arrives, with the alleged offender on board, after an offence has been committed on or from that ship within the adjacent area of another participating State.

Australian ship has the meaning given by clause 1 of the cooperative scheme.

Authority has the meaning given in clause 3 of the cooperative scheme.

Commonwealth means the Commonwealth of Australia.

Cooperative scheme means the legislative and administrative scheme for applying and enforcing criminal law in the areas adjacent to the coast of Australia, set out in Schedule 1 to the Crimes at Sea Act 2000 (Commonwealth).

Participating State means a State that is party to the cooperative scheme and this Agreement.

State has the meaning given by clause 1 of the cooperative scheme.

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2. Duty etc. of an authority of an adjacent State

An authority (other than a court) of a State that has a power, duty or function (other than a power, duty or function involving the exercise of judicial power) under a provision of the criminal law of the State that is also an applied law, has a corresponding power, duty or function under the applied law.

3. International obligations to be observed

To exercising or performing powers, duties and functions under the cooperative scheme, the parties and their agencies must act so as to avoid any breach by Australia of its international obligations, in particular under the United Nations Convention on the Law of the Sea, having regard especially to the responsibilities of Australia with respect to ships of the Australian flag, and to the rights of other countries in the maritime areas to which the arrangements in this Agreement apply.

4. Application of primary responsibility

(1) In respect of an alleged offence in an adjacent area, the adjacent State has primary responsibility for taking investigation and prosecution action under its applied laws in any of the following circumstances:

(a) the conduct occurs on, from or in relation to, a fixed or floating platform or other installation in that area;

(b) the conduct occurs on or from an Australian ship and the next place of entry to Australia is, or is intended to be at the time the conduct occurs, within that State;

(c) the alleged offender is an Australian citizen whose next place of entry to Australia is, or is intended to be at the time the conduct occurs, within that State.

(2) However:

(a) the arrival State has primary responsibility for taking investigation and prosecution action if the conduct occurs on or from an Australian ship and the next place of entry to Australia is within that State; and

(b) the Commonwealth has primary responsibility for taking investigation and prosecution action in respect of any alleged offence on or from an Australian Defence Force ship when it is outside the limits of a State.

5. Investigatory etc. decision to conform to standard

A decision of an authority of the State (or the Commonwealth) having primary responsibility under clause 4 whether to investigate, or further investigate, or prosecute or seek extradition, must be taken in the same manner and subject to the same considerations and policies as apply to decision in relation to other similar alleged offences against the laws of that State or the Commonwealth.

6. Undertaking to consult

(1) Where more than one party may take investigation or prosecution action in relation to the same alleged offence, the parties concerned must consult at the request of any of them on how the matter should be dealt with.

(2) If, following consultation, it appears that one of those parties may more conveniently take action to investigate or prosecute the alleged offence, it should do so.

7. Undertaking to assist other parties

Bearing in mind the possible difficulties for any single party of taking action at sea in relation to an alleged offence:

(a) any other party must, on request, give whatever assistance it considers practicable to the party with primary responsibility in relation to the alleged offence; and

(b) the Commonwealth must, on a request for assistance being made to the Attorney-General of the Commonwealth by the Attorney-General of the State with primary responsibility in relation to the alleged offence, use its best endeavours to secure that assistance from any relevant Commonwealth department, body or agency (including the Australian Defence Force, the Australian Customs Service and the Australian Federal Police), and any such assistance may include:

(i) the gathering of evidence; or

(ii) the provision of investigating personnel; or

(iii) the provision of transport, communication facilities or information.

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8. Date of effect

This Agreement comes into effect on the commencement of Schedule 1 to the *Crimes at Sea Act* of the Commonwealth.

SIGNED by the Honourable Minister for Justice and Customs of the Commonwealth of Australia, in the presence of:	)))
SIGNED by the Honourable Attorney-General of the State of New South Wales, in the presence of:	)))
SIGNED by the Honourable Attorney-General of the State of Victoria, in the presence of:	)))
SIGNED by the Honourable Attorney-General of the State of Queensland, in the presence of:	)))
SIGNED by the Honourable Attorney-General of the State of Western Australia, in the presence of:	)))
SIGNED by the Honourable Attorney-General of the State of South Australia, in the presence of:	)))
SIGNED by the Honourable Attorney-General of the State of Tasmania, in the presence of:	)))
SIGNED by the Honourable Attorney-General of the State of Northern Territory, in the presence of:	)))

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Appendix 2.5 Agreement for a national protocol for receiving reports of crimes at sea

(s. 2.5.10)

BETWEEN

THE NORTHERN TERRITORY POLICE
-AND-

THE NEW SOUTH WALES POLICE FORCE
-AND-

THE QUEENSLAND POLICE SERVICE
-AND-

THE SOUTH AUSTRALIA POLICE
-AND-

THE TASMANIA POLICE
-AND-

THE VICTORIA POLICE
-AND-

THE WESTERN AUSTRALIA POLICE
-AND-

THE AUSTRALIAN FEDERAL POLICE

('the parties/signatories')

This agreement is made on the 29th day of April 2010 and the following Australian law enforcement agencies agree to the Protocol:

THE NORTHERN TERRITORY POLICE
AND

THE NEW SOUTH WALES POLICE FORCE
AND

THE QUEENSLAND POLICE SERVICE
AND

THE SOUTH AUSTRALIA POLICE
AND

THE TASMANIA POLICE
AND

THE VICTORIA POLICE
AND

THE WESTERN AUSTRALIA POLICE
AND

THE AUSTRALIAN FEDERAL POLICE

1. Purpose

1.1 The parties have determined the need to document the following agreement between them for the purpose of better responding to reports of crimes at sea.

2. Objective

2.1 This Protocol aims to ensure:

2.1.1 an appropriate police response to crimes at sea reported to Australian law enforcement agencies who are participants in the agreement.

2.1.2 that the rights and needs of victims and perpetrators of crimes at sea are protected.

2.1.3 that evidence is obtained and or secured at the earliest opportunity in accordance with guidelines and policies of the jurisdiction investigating the crime.

2.1.4 that where appropriate, prosecutions are commenced in accordance with existing laws and agreements/protocols.

2.1.5 a cooperative approach to the commencement of an investigation by the police jurisdiction receiving the report if it is required.

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3. Application

3.1 The parties expressly acknowledge that this agreement is not a substitute for, and cannot override any provision in International or Australian law that is inconsistent with this agreement.

3.2 The parties acknowledge the International Agreement—Crimes at Sea as referred to in the *Crimes at Sea Act* (Cwth) Schedule 1, Part 3, Clause 5 (see Schedule 1 to this agreement). The parties accept that this Protocol operates in conjunction with the Intergovernmental Agreement—Crimes at Sea.

3.3 This Protocol applies to criminal acts committed on vessels at sea which are:

3.3.1 reported to Australian law enforcement agencies; and

3.3.2 subject to any law of the Commonwealth or any State or Territory.

4. Primary Responsibilities

4.1 It is agreed that:

4.1.1 when a crime at sea is reported to one of the parties, the party receiving that report will commence an investigation as soon as practicable; and

4.1.2 consideration of the most appropriate jurisdiction for further investigation and prosecution will be undertaken after the investigation has commenced. This consideration should not in any way impede or delay any investigation.

4.2 In the event that a crime occurs at sea and is reported to one of the parties, that party agrees to follow their organisational policies and procedures for:

4.2.1 receiving reports of crime;

4.2.2 investigation of crimes;

4.2.3 management of victims, witnesses and offenders;

4.2.4 seizure and security of physical evidence;

4.2.5 referral to, or liaison with other jurisdictions where appropriate; and

4.2.6 commencement of legal proceedings where jurisdiction is established.

4.3 Consideration should also be given to:

4.3.1 victim care and support;

4.3.2 appropriate management of offenders;

4.3.3 gathering and dissemination of intelligence;

4.3.4 appropriate use of resources;

4.3.5 compliance with clearance processes by relevant border agencies; and

4.3.6 adherence to standing media policy.

4.4 Due to the sometimes complicated nature of jurisdictional law arising from crimes occurring at sea, legal support and advice should be sought at an early stage of the investigation and maintained throughout.

5. Undertaking to assist other parties

5.1 All parties to this Protocol agree to:

5.1.1 assist other parties in their investigations when requested and appropriate; and

5.1.2 engage with other jurisdictions in determining which party should have the responsibility for continuing the investigation of the matter.

5.2 Each party will nominate a principal point of contact in respect of this agreement (see Schedule 2 to this agreement).

6. Promotion of this Protocol

6.1 It is agreed that:

6.1.1 each party will promote this Protocol within their own agency; and

6.1.2 the Commissioner of each party will highly recommend to the cruise industry, national shipping industry, shipping agents and other industries that conduct their business at sea that they develop, and implement, complementary protocols about the reporting of crimes at sea to Australian law enforcement agencies.

7. Review

7.1 This Protocol, after being implemented, will be reviewed after twelve months.

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8. Counterparts

8.1 This Protocol may consist of a number of copies each signed by one or more parties to the Protocol. If so, the signed copies are treated as making up the one document.

Date of effect

This Protocol will take effect on the 29th day of April 2010.

SIGNED by the Commissioner of Police, Northern Territory Police Force

SIGNED by the Commissioner of Police, NSW Police Force

SIGNED by the Commissioner of Police, Queensland Police Service

SIGNED by the Commissioner of Police, South Australia Police

SIGNED by the Commissioner of Police, Tasmania Police

SIGNED by the Commissioner of Police, Victoria Police

SIGNED by the Commissioner of Police, Western Australia Police

SIGNED by the Commissioner of Police, Australian Federal Police

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Appendix 2.6 Forensic procedure type table

(s. 2.23)

This table is intended to assist officers in quickly identifying and applying the relevant legislation and policies. Definitions have been included. The table gives examples of procedures intended to be performed and it asks questions which assist in determining whether the required procedure is a forensic procedure, non-medical examination, DNA sample or identifying particulars.

If a question is answered in the affirmative, the relevant provisions of the Act and the policy are to be followed. In some cases the procedure intended to be performed may fall within more than one of the definitions. In these cases officers should follow the legislation and the policies, which are most applicable in the circumstances.

What is the procedure that you intend to perform?	**Is it a Forensic Procedure** OPM s. 2.23	**Is it a Non-medical examination** OPM s. 2.24	**Is it a DNA sample** OPM s. 2.25	**Is it an Identifying particulars** OPM s. 2.26
	Intimate Forensic Procedure (i) a procedure performed on a person's external genital or anal area, buttocks or, breasts, that involves: • an external examination of the relevant part of the body; or • taking a sample from the relevant part of the body, by swab, washing, vacuum suction, scraping, or by lifting by tape; or • photographing the relevant part of the body or • making an impression or cast from the relevant part of the body; or • measuring the relevant part of the body; (ii) a procedure performed on a person that involves: • an internal examination of a body cavity; or • taking a sample of the person's hair from the genital or anal area or the buttocks or breasts; or • taking a sample, by swab or washing, from a body cavity other than the mouth; or • removing a substance or thing from a body cavity other than the mouth; or • taking an X-ray of a part of the person's body; or • taking a dental impression; or • taking a sample of the person's blood or urine. Non-intimate forensic procedure a procedure performed on a person, other than an intimate forensic procedure, that involves all or any of the following: • an examination of an external part of the person's body, that requires clothing to be removed or contact with the person's body;	a procedure performed on a person, other than an intimate forensic procedure, that involves all or any of the following: • an examination of an external part of the person's body, that requires clothing to be removed or contact with the person's body; • taking a sample from a part of the person's body, by swab, washing, vacuum suction, scraping, or by lifting by tape; • photographing a part of the person's body; • making an impression or cast of a part of the person's body; • taking a sample of saliva; • taking a sample from, or from under, a fingernail or toenail; • a photograph of the person's identifying features (scars or tattoos or photographs of the person); • a measurement of any part of the person's body, other than the person's genital or anal area, buttocks or breasts.	(i) a sample of a person's hair, including roots of the hair, other than hair from the genital or anal area or the buttocks or breasts. (ii) a sample obtained by swabbing a person's mouth.	• palm prints • fingerprints • handwriting • voice prints • footprints • a photograph of the person's identifying features (scars or tattoos or photographs of the person); • a measurement of any part of the person's body, other than the person's genital or anal area, buttocks or breasts

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	• taking a sample from a part of the person's body, by swab, washing, vacuum suction, scraping, or by lifting by tape; • photographing a part of the person's body, including a person's breasts (if required); • making an impression or cast of a part of the person's body; • taking a DNA sample; • taking a sample of saliva; • taking a sample from, or from under, a fingernail or toenail; • taking identifying particulars.			
	Applies if: Forensic procedure consent: • for a non-intimate forensic procedure, the relevant person is suspected of committing an offence, or if consent relates to taking DNA sample only—to help decide if the person is a suspect—to help locate a missing person—to help identify a deceased person or their remains (s. 448). • for an intimate forensic procedure, the relevant person is suspected that he/she may have committed an indictable offence (s. 449). Forensic procedure order: • a police officer is satisfied performing a forensic procedure on a person suspected of committing an indictable offence may provide evidence of the commission of the offence (s.457). • If a child and the forensic procedure is a sample for DNA analysis and it is practicable to make application under s. 488 for an order to take a DNA sample from the child and it is likely that an order under s. 488 can be given immediate effect, no application can be made for a forensic procedure order.	**Applies if:** • proceeding for indictable offence against an adult has been started or continued (s. 498).	**Applies if:** • proceeding for indictable offence against a relevant person has been started or continued (ss. 481, 482 & 488).	**Applies if:** • relevant person is in custody for an identifying particulars offence, the charge of which has not been decided, or if the person is to be released after arrest for the offence (s. 467). • proceedings for an identifying particulars offence are to be started or have been started by notice to appear or complaint and summons against a relevant person, other than a child (s. 468).
EXAMPLES Taking an x-ray of a part of the person's body	Yes—an intimate forensic procedure—follow the relevant procedures in s. 2.23.	No.	No.	No.

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Making an impression or cast of a part of the person's body	Yes—a non-intimate forensic procedure—follow the relevant procedures in s. 2.23.	Yes—follow the relevant procedures in s. 2.24.	No.	No.
A photograph of the person's scars or tattoos.	Yes—a non-intimate forensic procedure—follow the relevant procedures in s. 2.23.	Yes—follow the relevant procedures in s. 2.24.	No.	Yes—follow the relevant procedures in s. 2.26.

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Appendix 2.7 Evaluation—Admiralty Code

(s. 2.8.3)

Source Reliability		
A	Completely reliable	• No doubt re authenticity, trustworthiness, competency. • History of complete reliability.
B	Usually reliable	• Some doubt re authenticity, trustworthiness, competency. • History of reliable information majority of the time.
C	Fairly reliable	• Usually some doubt re authenticity, trustworthiness, competency. • History of reliable information some of the time.
D	Not usually reliable	• Definite doubt re authenticity, trustworthiness, competency. • History of occasional reliability.
E	Unreliable	• Great doubt re authenticity, trustworthiness, competency. • History of unreliable information.
F	Cannot be judged	• Cannot be judged.
Information Validity		
1	Confirmed	• Confirmed by other independent sources. • Logical in itself. • Agrees with other information on the subject.
2	Probably true	• Not confirmed. • Logical in itself. • Agrees with other information on the subject.
3	Possibly true	• Not confirmed. • Logical in itself. • Agrees somewhat with other information on the subject.
4	Doubtfully true	• Not confirmed. • Not illogical in itself. • Not believed at time of receipt although possible.
5	Improbable report	• The contrary is confirmed. • Is illogical in itself. • Contradicted by other information on subject.
6	Cannot be judged	• Cannot be judged.

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Appendix 2.8 Risk control measures for conducting searches of places

(s. 2.8.2)

Introduction

The following principles, strategies and references are intended to assist a member planning a search to choose appropriate control measures to eliminate or significantly reduce the risks to persons involved in the search. These control measures are by no means exhaustive, members may choose to adopt different or additional control measures for particular circumstances, depending on the level of risk(s) perceived.

in general, the following information is intended to apply to searches of small and enclosed places, including vehicles and vessels. They are not intended to apply to searches of large and open spaces, which should be organised and coordinated by personnel with appropriate training. However, some of the following control measures may apply to any type of search.

Basic principles

To ensure their own safety and the safety of others, members involved in a search should:

(i) wherever possible, only conduct searches when accompanied by another member;

(ii) only place hands where they can clearly see;

(iii) follow the 'Standard Precautions' of infection control (see 'First Aid and Infection Control' within Safety and Wellbeing of the Human Resources Policies);

(iv) comply with instructions given for workplace health and safety at their place of work; and

(v) use personal protective and specialised search equipment if the equipment is provided and they have been properly instructed in its use.

Strategies:

(i) anticipate circumstances where sharp objects, such as knives and needles may be concealed, such as in the gap of car seats;

(ii) always use suitable personal protective equipment. For example:

(a) as latex gloves may not be adequate for some types of searches, the use of two pairs of latex gloves or heavier duty gloves should be considered; and

(b) the use of disposable overalls should be considered to prevent contamination of clothing or skin when dealing with biological hazards, such as body fluids;

(iii) latex gloves should be removed, sealed in a plastic bag and disposed of appropriately when no longer required. Re-usable gloves should be disinfected and air dried before re-use;

(iv) use aids such as tongs or forceps to handle materials or to reach into small or confined spaces (e.g. behind car seats, in cupboards);

(v) use mirrors and torches to see in difficult areas;

(vi) don't run hands along or under tables, beds, seats in vehicles etc. Where practicable, turn items over to provide maximum view;

(vii) when searching bags, drawers etc. consider tipping contents onto a flat surface for examination;

(viii) consider the use of technology such as metal detectors, if available;

(ix) needles should not be recapped, bent or broken. Sharp objects should only be placed in approved sharps containers (see 'First Aid and Infection Control' within Safety and Wellbeing of the Human Resources Policies);

(x) contaminated items other than sharps should be placed in a yellow leak proof bag and sealed (see 'First Aid and Infection Control' within Safety and Wellbeing of the Human Resources Policies); and

(xi) if in doubt, obtain advice from and/or use the services of specialist personnel. For example:

(a) Forensic officers;

(b) Police Dog Squad;

(c) Explosive Ordnance Response Team (EORT);

(d) Diving Squad;

(e) Synthetic Drug Operations Unit (see s. 2.6.6: 'Clandestine illicit drug laboratories' of this chapter); and

(f) Marine and Land Search and Rescue Mission Coordinators.

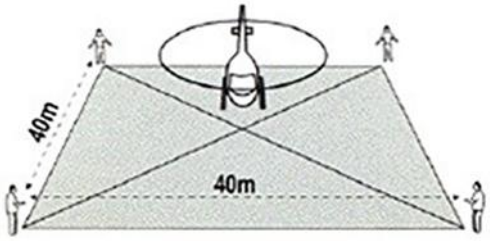
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Appendix 2.9 Helicopter landing areas

(s. 2.32.4)

Prior to the landing of a helicopter, police on the ground or other appropriate personnel should ensure that a safety perimeter is established and maintained around the helicopter landing area. No persons are permitted to enter this area without the permission of the pilot.

Landing Areas



Where officers are required to prepare a helicopter landing site, they should:

(i) ensure landing areas are 40 metres square and clear of loose articles;

(ii) appoint responsible people to keep the landing area clear until the rotor has stopped;

(iii) where available, use a radio to warn the pilot of obstacles, power lines, etc.;

(iv) ensure any ground articles are secure from the effects of rotor wash;

(v) ensure that the area around the landing site is free of power lines. The surface must be able to support a fully laden helicopter and be free from holes, tree stumps and any loose items which could be blown up into the rotor blades. As a guide, the ground must be firm enough to enable a loaded vehicle to stop and restart without sinking in;

(vi) ensure the slope of the ground does not exceed 7 degrees or 1 in 10;

(vii) ensure the centre of the landing point may be marked with a white H. All markings must be firmly secured to the ground over their entire length; and

(viii) ensure wind indications at landing sites maybe indicated by any of the following methods:

(a) white or coloured smoke generator placed on the downwind side of the landing point. Note that if the wind is light and variable, smoke may obscure the landing point and be more of a hindrance than a help and should therefore be dispensed with; or

(b) a white fluorescent 'T' placed at the downwind edge of the landing point, the horizontal bar of the 'T' must be positioned facing into the wind; or

(c) a windsock, the position of which must not conflict with the clearances and approach gradients; or

(d) radio contact with the ground party.

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Illuminating landing areas at night

An effective method of providing emergency lighting at the landing points is by using two vehicles.

Night Landings



General safety precautions

Do not walk in front of an aeroplane near its turning propeller, or walk around the rear of a helicopter near its tail rotor. Other danger areas include the exhaust and air intake. The pilot is especially busy during take-off and landing and is naturally concerned with the safety of the helicopter, passengers and nearby persons. Police can help the pilot do a safer and more efficient job if they are aware of the potential hazards and act accordingly. Always obtain the 'thumbs up' from the pilot before approaching. Do not approach or leave the aircraft without the pilot's knowledge, or during start up or shut down.



Helicopters create 20–40 knot down drafts when positioning above a landing point. Loose articles or light equipment must not be left lying in or around the area, otherwise they could be picked up by the rotor wash causing injury to ground teams or damage to the aircraft. If external loads are to be hooked up to a helicopter, it is important that the person positioning the hook wears protective goggles. Wait until the pilot has lowered the winch hook and touched the ground with it so as to discharge static electricity before anyone touches the hook.

When approaching a helicopter, keep your head low. Should the aircraft land on sloping ground, always approach and leave from the downhill side.



If blinded by swirling dust or grit, stop, sit down and await assistance.



When the helicopter engine is running down, winds may cause the rotor to dip below head height. Do not approach until the rotor blade has stopped.



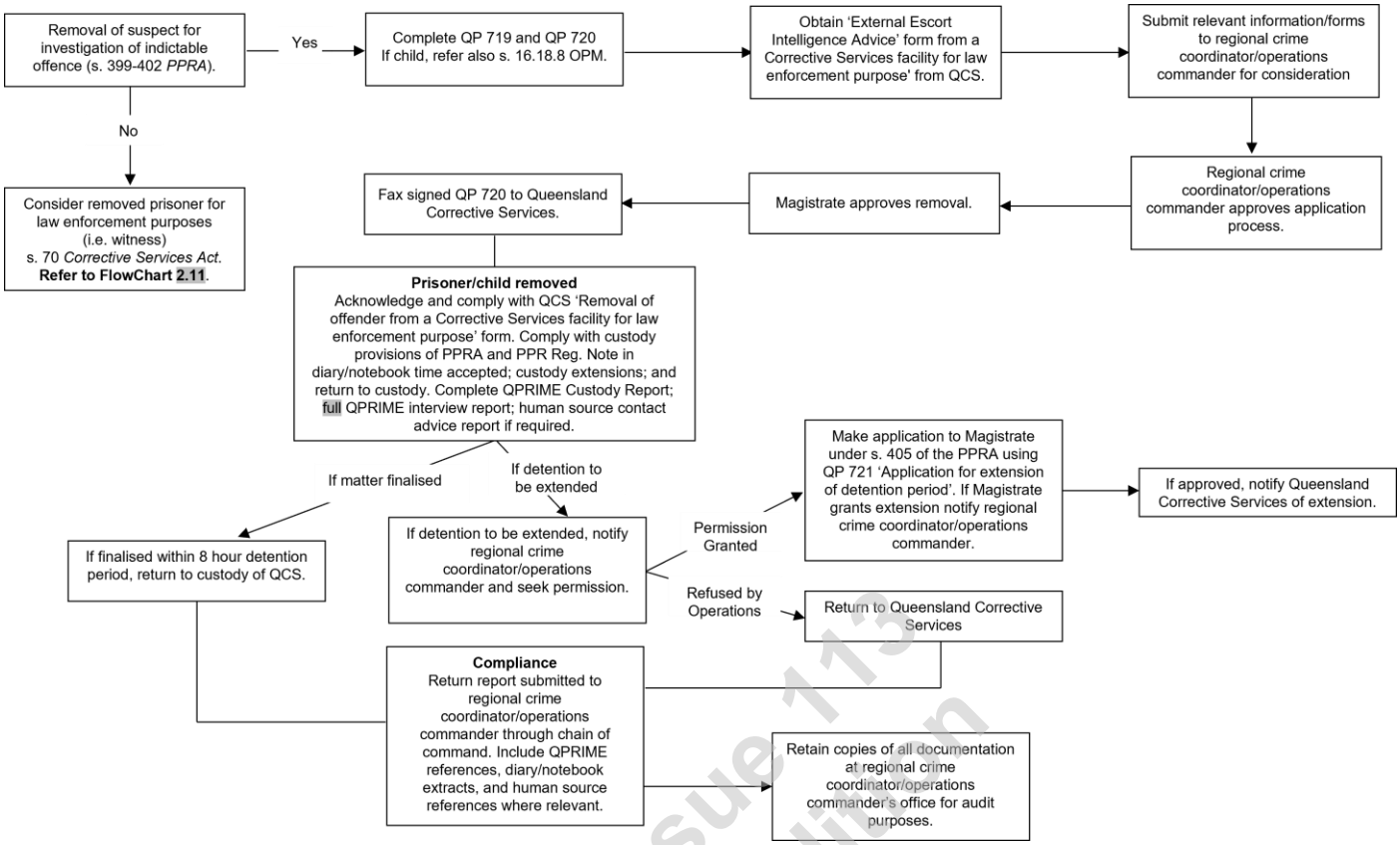
Only approach the helicopter from the front between the 10 o'clock and 2 o'clock positions (represented by the shaded area at the front of the helicopter in the diagram), assuming that the nose of the helicopter is in the 12 o'clock position. Only approach the side of the aircraft (represented by the exclamation marks in the diagram) when so directed by a crew member.



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Appendix 2.10 Removal of prisoners/children from Corrective Services facilities/youth detention centres as suspects

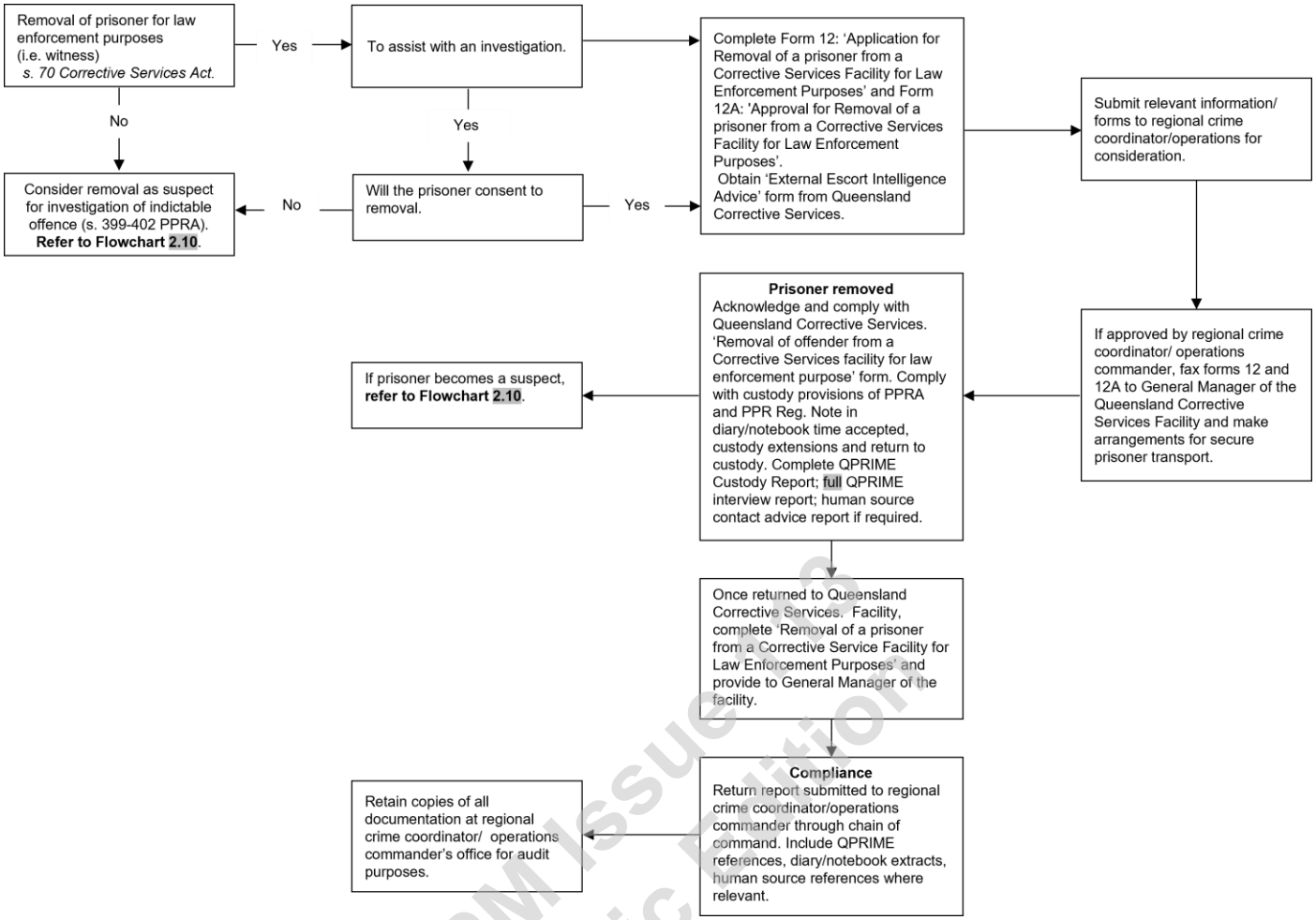
(s. 2.5.6)



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Appendix 2.11 Removal of prisoners from Corrective Services facilities for law enforcement purposes

(s. 2.5.6)



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Appendix 2.12 Prisoner removal audit checklist for QPRIME

(s. 2.5.6)

- QP 0719: 'Application for Removal Order' PPRA ss. 399 & 401; OR
- Form 12: 'Application for Removal of a Prisoner from a Corrective Services facility for law enforcement purposes' *Corrective Services Act* s. 70; AND
- QP 0720: 'Removal Order' PPRA s. 402; OR
- Form 12A: 'Approval for Removal of a Prisoner from a Corrective Services Facility for Law Enforcement Purposes' *Corrective Services Act* s. 70; AND
- External Escort Intelligence Advice' forms s. 2.5.6 OPM; AND
- 'Removal of Offender from a Corrective Services Facility for Law Enforcement Purpose' forms s. 2.5.6 OPM; AND
- Return report s. 2.5.6 OPM; AND
- QPRIME Custody Report (Full), search, property, and occurrence entries s. 2.5.6 OPM; AND
- QPRIME Interview Report s. 2.5.6 OPM; AND IF PRISONER IS HUMAN SOURCE
- Contacts recorded in accordance with s. 10.2.1: 'Contact (generally)' of the Human Source Management Policy where appropriate s. 2.9.2 OPM.

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Appendix 2.13 Deleted

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Appendix 2.14 Civil Banning Order fact sheet

(s. 2.29.2)

Text of fact sheet supplied by Department of Transport and Main Roads.

This fact sheet is for anyone who is the subject of a civil banning order application (a respondent). This fact sheet includes information about the purpose and process for civil banning orders and outlines the respondent's obligations in relation to a civil banning order.

1. What is a civil banning order?

A civil banning order is a court-imposed order meant to discourage violent or repeat offenders from offending on the public transport network.

A civil banning order may:

- prohibit the respondent from using the public transport network; or
- restrict the general route services or public transport infrastructure the respondent may use, the days, times or periods of a day when the person may use the network, and the purpose for which a person may use the network;

for a period of not more than 12 months.

2. What is the purpose of an order?

The purpose of a civil banning order is to ensure the safety, security and amenity of the public transport network and aid revenue protection. The public transport network includes all general route services (such as public trains and buses) and all public transport infrastructure associated with general route services.

3. Who can apply for a civil banning order?

The Department of Transport and Main Roads and the Queensland Police Service may apply for a civil banning order.

4. When can a court make a civil banning order?

To make a civil banning order a Magistrates Court must be satisfied the respondent:

- has been served 10 or more penalty infringement notices (PINs) for a 'relevant offence' (see Question 5) in any 12-month period within the two years before the date of the application. Those PINs must have been 'dealt with' (see Question 6); or
- has committed an act of violence against another person or property on the public transport network without reasonable excuse which would cause other people to fear that they or their property might be harmed.

The court must also be satisfied that the person would pose an unacceptable risk to the good order or management of the network, or the safety and welfare of other persons using the network unless the order is made.

5. What is a 'relevant offence'?

A relevant offence includes most commonly fare evasion and interfering with or creating a disturbance or nuisance on the public transport network.

6. When is a PIN 'dealt with'?

A PIN is considered 'dealt with' when:

- a person has paid the fine;
- a person has elected for the matter to be considered by a Magistrates Court and the court has decided against the person;
- the person has applied to pay the fine by instalments; or
- an enforcement order has been issued against the person.

7. What is the civil banning order application process?

Applications for civil banning orders must be filed in a Magistrates Court and served on the respondent within 10 days of filing the application. Applications must include information in support of a civil banning order being made, including affidavits to be relied on at the court hearing.

8. What information may the respondent provide to the court?

The respondent may file affidavits to be relied on at the court hearing within 28 business days after the date the application is filed.

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The respondent is responsible for informing the court about personal circumstances they would like the court to consider, including:

- whether the order is likely to cause undue hardship on the respondent or the respondent's family (e.g. by depriving the respondent's way of earning a living or ability to study or maintain their health);
- the effect the order may have on the respondent's safety and wellbeing; and
- any other personal circumstances and the likely effect of the order on those circumstances.

If the respondent does not provide this information to the court, the court cannot take the circumstances into consideration when deciding whether to make an order or the conditions of the order.

9. Does the respondent need to attend the court hearing?

The respondent does not need to attend the court hearing. The respondent can elect for a legal representative to attend the hearing on their behalf.

If the respondent or a legal representative does not attend the hearing, the court may still make an order against them in their absence. In this event, the order takes effect once it is served on the respondent.

10. What happens if a person breaches a civil banning order?

It is an offence to breach a civil banning order without reasonable excuse. The maximum penalty for this offence is $4,400 or 6 months imprisonment. The court may vary the civil banning order in addition to or instead of sentencing the person for this offence.

A person breaching a civil banning order may be directed by an authorised person to leave public transport infrastructure (such as a train station). It is also an offence not to comply with a direction from an authorised person without a reasonable excuse. The maximum penalty for this offence is $440.

11. Can a civil banning order be varied or revoked?

An authorised person or respondent may apply to the Magistrates Court to vary or revoke the order. A respondent cannot, without leave of the court, apply to vary or revoke the order until 3 months after the order is made.

12. Where can you find more information about civil banning orders?

Civil banning order provisions can be found in Chapter 11, Part 4C of the *Transport Operations (Passenger Transport) Act 1994*. To access these provisions, click on the following link:

https://www.legislation.qld.gov.au/view/html/inforce/current/act-1994-043

For more information about the Queensland courts system, click on the following link:

https://www.courts.qld.gov.au/

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Appendix 2.15 Protocols for the execution of search warrants by the Queensland Police Service on the premises of a member of the Queensland Legislative Assembly

(s. 2.8.14)

Text of Memorandum of Understanding.

PROTOCOLS FOR THE EXECUTION OF SEARCH WARRANTS BY THE QUEENSLAND POLICE SERVICE ON THE PREMISES OF A MEMBER OF THE QUEENSLAND LEGISLATIVE ASSEMBLY

Between

PARLIAMENT OF QUEENSLAND

And

QUEENSLAND POLICE SERVICE

1 Purpose and Intent

1.1 The protocols form part of the Memorandum of Understanding ("MOU") between the Parliament of Queensland and the Queensland Police Service (QPS), in accordance with clause 3 of the MOU.

1.2 The purpose of the Protocols is to establish Protocols agreed between the Speaker of the Legislative Assembly and the QPS for the execution of a search warrant on premises occupied or used by a member of the Legislative Assembly.

1.3 The intent of the Protocols are to ensure that search warrants are executed on the premises occupied or used by member of the Queensland Legislative Assembly in a way which does not amount to a contempt of Parliament and which gives a proper opportunity to members to raise claims of parliamentary privilege in relation to documents or other things that may be on the search premises.

2 Application

2.1 The Protocols apply, subject to any overriding law or legal requirement in a particular case, to any premises used or occupied by a member including:

- the office of a member on the Parliamentary precinct;
- the ministerial office of a member who is also a minister;
- an electorate office of a member; and
- any other premises used by a member for private or official purposes at which there is any reason to reasonably suspect that material that may be the subject of parliamentary privilege is located.

2.2 The protocols apply to search warrants to be executed by QPS Officers.

3 Parliamentary privilege and contempt

3.1 A search warrant, if otherwise valid, can be executed over premises occupied or used by a member of the Queensland Legislative Assembly. Evidentiary material cannot be placed beyond the reach of QPS Officers simply because it is held by a member or is on premises used or occupied by a member.

3.2 However, in executing a warrant on premises used or occupied by a member care must be taken regarding any claim of parliamentary privilege. Parliamentary privilege attaches to any material including electronic documents, which falls within the scope of 'proceedings in Parliament' per Article 9 of the *Bill of Rights 1688*.

3.3 Article 9 is part of the law of Queensland and is elucidated by section 8 of the *Parliament of Queensland Act 2001* (POQA). Section 9(1) and (2) of the POQA sets out matters included in 'proceedings in the Assembly' and hence unable to be 'impeached or questioned'—

(1) "Proceedings in the Assembly" include all words spoken and acts done in the courts of, or for the purposes of or incidental to, transacting business of the Assembly or a committee.

(2) Without limiting subsection (1), "proceedings in the Assembly" include—

(a) giving evidence before the Assembly, a committee or an inquiry; and

(b) evidence given before the Assembly, a committee or an inquiry; and

(c) presenting or submitting a document to the Assembly, a committee or an inquiry; and

(d) a document tabled in, or presented or submitted to, the Assembly, a committee or an inquiry; and

(e) preparing a document for the purposes of, or incidental to, transacting business mentioned in paragraph (a) or (c);I and

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(f) preparing, making or publishing a document (including a report) under the authority of the Assembly or a committee; and

(g) a document (including a report) prepared, made or published under the authority of the Assembly or a committee.

3.4 The question of whether the material constitutes 'proceedings in Parliament' may turn on what has been done with the material, or what the member intends to do with it, rather than what is contained in the material or where it is found.

3.5 Care must also be taken by QPS Officers in executing a warrant on premises used or occupied by a member not to improperly interfere with the free exercise by the member of the performance of their duties or the authority of function of the Assembly or its committees.

3.6 Section 37 of the *Parliament of Queensland Act 2001* defines the meaning of "contempt" of the Assembly as follows—

(1) "Contempt" of the Assembly means a breach or disobedience of the powers, rights or immunities, or a contempt, of the Assembly or its members or committees.

(2) Conduct, including words, is not contempt of the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with—

(a) the free exercise by the Assembly or a committee of its authority or functions; or

(b) the free exercise by a member of the performance of their duties as a member.

4 Execution of a search warrant on premises used or occupied by a member (not being on the Parliamentary Precinct)

4.1 The following procedures are to be observed in relation to the executing of a warrant on premises used or occupied by a member, not being an office on the Parliamentary Precinct:

4.1.1 Prior to the warrant being executed, the QPS will advise the Speaker of the Parliament of its intention to execute the warrant on a confidential basis. The Speaker will advise the Clerk at the earliest opportunity and may seek the advice of the Clerk on the matter. In the absence of the Speaker, the QPS will advise the Clerk.

4.1.2 If the premises are under the control of the Clerk (such as an electorate office) the QPS will, in addition to advising the Speaker, advise the Clerk of its intention to execute a warrant on a confidential basis.

4.1.3 If the premises are under the control of the Clerk, the Clerk on the request of the QPS will arrange for the premises to be sealed and secured pending execution of the warrant.

4.1.4 If the premises are under the control of the Clerk, a search warrant should be executed at a time when the Clerk (or delegate) is present.

4.1.5 A search warrant on the premises of a member should be executed at a time when the member or senior member of his or her staff are present, unless the QPS is satisfied that compliance with this restriction would affect the integrity of the investigation.

4.1.6 The QPS should also consider, unless it would affect the integrity of the investigation, whether it is feasible to contact the member or a senior member of his/her staff, prior to executing the warrant with a view to agreeing on a time for execution of the warrant.

4.1.7 The QPS will allow the member and the Clerk a reasonable time to seek legal advice in relation to the search warrant prior to the execution and for the member to arrange for a legal adviser to be present during the execution of the warrant.

4.1.8 The QPS will allow the member a reasonable opportunity to claim parliamentary privilege in respect of the documents or other things located on the premises.

4.1.9 Hard copy documents over which parliamentary privilege is claimed should be placed in a property bag or other secured container. A list of those documents should be prepared by the QPS with assistance from the member or staff member. The member or staff member or the Clerk should be given the opportunity to make copies of those documents before they are secured.

4.1.10 Electronic documents (such as files on a computer hard drive) may need to be removed from the premises in order to copy them. For evidentiary purposes such removal and copying may be necessary prior to the documents being viewed for the purposes of identifying claims of privilege. In such instances, the QPS must advise the member or staff member or the Clerk of its intention to remove the electronic documents and the place of copying and agree to the time and place for the member or staff member of the Clerk to view the electronic documents for the purposes of identifying claims of privilege. Any electronic documents identified as being privileged should be partitioned by the QPS' forensic staff and not provided to the investigative staff.

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4.1.11 At the conclusion of the search the QPS should provide the member with a list of the items seized and inform the member that to the extent possible the QPS will facilitate access to the seized material where necessary for the performance of the member's duties.

4.1.12 The QPS should deliver any documents over which parliamentary privilege is claimed in a property bag or other the secured container to the Clerk of the Parliament who will examine each document.

4.1.13 A list of material considered to be within the scope of proceedings of Parliament will then be prepared by the Clerk and provided to the member and the QPS.

4.1.14 Any material not listed as falling within the scope or proceedings of Parliament will be made available to the QPS by the Clerk.

4.1.15 In the event the QPS disputes the claim of privilege, the QPS may write to the Speaker of the Legislative Assembly and the matter will then be determined by the House or judicial process.

5 Execution of a search warrant on premises used or occupied by a member on the Parliamentary Precinct

5.1 In addition to the procedures outlined above, the following procedures should be observed when seeking to execute a warrant on the Parliamentary Precinct:

5.1.1 A warrant should not be executed on a parliamentary sitting day or a day on which a committee involving the member is meeting unless compliance with this prohibition would affect the integrity of the investigation.

5.1.2 Prior to the warrant being executed, the QPS will advise the Speaker of the Parliament of its intention to execute a warrant on a confidential basis. The Speaker will advise the Clerk at the earliest opportunity and may seek the advice of the Clerk on the matter. In the absence of the Speaker, the QPS will advise the Clerk.

5.1.3 The Clerk, after consultation with the Speaker, will arrange for the premises the subject of the warrant to be cordoned off and secured pending execution of the warrant.

EXECUTION

Signed for and on behalf of PARLIAMENT OF QUEENSLAND by [Signature of Peter Wellington MP], Speaker of the Legislative Assembly

Date: 1/9/2015

In the presence of Roylene Mills [Signature]

Signed for and on behalf of QUEENSLAND POLICE SERVICE by IAN STEWART, Commissioner of Police

[Signature]

Date: 16 September 2015

In the presence of Nyree Whelan [Signature]

OPM Issue 113 Public Edition

Chapter 3—Prosecution process

3.1 Introduction **382**

3.1.1 Consider all disposition and diversion options 382

3.2 Cautioning adults **382**

3.2.1 Purpose of an adult caution 382
3.2.2 Scope of offences 382
3.2.3 Eligibility to be cautioned 383
3.2.4 Adult caution process 384
3.2.5 Police referral 384
3.2.6 Disposal of property 384

3.3 Adult Restorative Justice Conferencing **384**

3.3.1 Suitability of offences and eligibility of individuals for referral to adult restorative justice conferencing 385
3.3.2 Responsibilities for adult restorative justice conferencing 386
3.3.3 Clerk or magistrate order for referral for restorative justice conferencing after proceedings have been commenced 387
3.3.4 Disclosure of information to adult restorative justice conferencing 387
3.3.5 Recommencing proceedings where matter cannot proceed through adult restorative justice conferencing 387
3.3.6 Finalisation of an adult restorative justice conferencing referral 387

3.4 General prosecution policy **388**

3.4.1 Introduction 388
3.4.2 The decision to institute proceedings 388
3.4.3 Factors to consider when deciding to prosecute 388
3.4.4 Withdrawal of charges 390
3.4.5 Director of Public Prosecutions (State) guidelines 392
3.4.6 Swearing oaths and making affirmations 392
3.4.7 Assisting court staff 392
3.4.8 Deleted 392
3.4.9 Responsibility for the prosecution of charges 392
3.4.10 Drink driving offences 392
3.4.11 Legal opinions 392
3.4.12 Drug exhibits 393
3.4.13 Supply of copies of court brief (QP9), particulars, statements and reports 393
3.4.14 Jurisdiction for Commonwealth offences 394
3.4.15 Supply of defendant's criminal or traffic history 394
3.4.16 Disclosure to courts of spent convictions 394
3.4.17 Submissions to be made by prosecutors on the sentencing process 395
3.4.18 Supply of information where court outcome requires action by Queensland Corrective Services or Department of Youth Justice and Victim Support 395
3.4.19 Charges against prisoners 396
3.4.20 Recording of court results 396
3.4.21 Ex officio indictment 396
3.4.22 Conspiracy and other offences requiring the consent of the Attorney-General to prosecute 398
3.4.23 Notification of court results 398
3.4.24 Members not to act as orderlies in civil proceedings 399
3.4.25 Advice to defendants of possible penalties 399
3.4.26 Prosecution of offences on behalf of Department of Transport and Main Roads 399
3.4.27 Secret commissions 399
3.4.28 Notification of Queensland College of Teachers regarding an approved teacher 399
3.4.29 Notification of Office of Fair Trading regarding Debt Collectors (Field Agents and Collection Agents) Act and Security Providers Act 400
3.4.30 Supply of information to the Parole Board Queensland 401
3.4.31 Supply of information under Mental Health Act 402
3.4.32 Prosecuting authority to notify chief executive about committal, conviction etc. under the Public Sector Act 403
3.4.33 Notification of Queensland Parks and Wildlife Service of convictions of conservation related offences 403
3.4.34 Deleted 404
3.4.35 Animal valuations—Criminal Code (Animal Valuers) Regulation 404
3.4.36 Notification of Chief Executive, Queensland Corrective Services regarding committal, conviction, etc. of relevant person 404

OPM Issue 113 Public Edition

3.4.37 Prosecuting authority to notify chief executive officer about committal, conviction etc. under the Crime and Corruption Act 405
3.4.38 Supply of information to the department responsible for education regarding State school students 405

3.5 Commencing proceedings 406

3.5.1 Responsibility to establish authority to prosecute 406
3.5.2 Responsibility to prefer all charges 406
3.5.3 Proceedings by way of notice to appear 407
3.5.4 Proceedings by way of complaint and summons 408
3.5.5 Service of a summons 409
3.5.6 Responsibilities after serving a summons 410
3.5.7 Unserved summons 411
3.5.8 Responsibilities of officers in charge of stations or establishments in respect of summonses 411
3.5.9 Justification for arrest 411
3.5.10 Making an arrest 412
3.5.11 Use of force in effecting arrest 412
3.5.12 Calling for assistance in making an arrest 412
3.5.13 Proceedings by way of an arrest warrant 413
3.5.14 Deleted 413
3.5.15 Deleted 413
3.5.16 Proceedings against solicitors and barristers (incidents in precincts of a court) 413
3.5.17 Commencement of proceedings against Members of Parliament 413
3.5.18 Notices alleging previous criminal and traffic histories and circumstances of aggravation 413

3.6 Status of charges 414

3.6.1 Introduction 414
3.6.2 Responsibilities of prosecutors 415
3.6.3 Role of Superior Court Liaison Officer 415
3.6.4 Responsibilities of officers in charge 415
3.6.5 Responsibilities of arresting officers 415
3.6.6 Deleted 416
3.6.7 Deleted 416
3.6.8 Responsibilities of district or command brief managers 416

3.7 Court processes 416

3.7.1 Introduction 416
3.7.2 Documentation at first appearance 417
3.7.3 Restitution/compensation 419
3.7.4 Suppressing child identifying information 420
3.7.5 Checking of court briefs (QP9) 420
3.7.6 Rectification order 421
3.7.7 Deleted 421
3.7.8 Deleted 421
3.7.9 District/Supreme Court hearings 421
3.7.10 Victim impact statements 423
3.7.11 Investigation and contact with members of Judiciary and Magistracy 424
3.7.12 Attendance of arresting officer during court proceedings 424
3.7.13 Comments by Magistracy concerning members of the Service 424
3.7.14 Field Arrest Sheet 425
3.7.15 Breach of suspended sentence 427
3.7.16 Presentence custody certificates (Penalties and Sentences Act 1992) 428
3.7.17 Transcripts of court proceedings 430
3.7.18 Cooperation in an investigation 430
3.7.19 Banning orders 431
3.7.20 Making of control orders 431
3.7.21 Restriction on the arrest of persons in a magistrates court precinct 431

3.8 Preparation and submission of briefs of evidence 432

3.8.1 Introduction 432
3.8.2 Format of briefs of evidence 432
3.8.3 Deleted 432
3.8.4 Precis 432

OPM Issue 113 Public Edition

3.8.5 Presentation of statements 433
3.8.6 Hand-up statements 433
3.8.7 Copies of certificates 434
3.8.8 Records of interview and transcripts 434
3.8.9 Number of copies to be supplied 434
3.8.10 Collation of briefs 434
3.8.11 Deleted 434
3.8.12 Supply of prints and other prescribed articles to defence 434
3.8.13 Video/audio recordings in relation to sexual abuse investigations 435
3.8.14 Comment sheet 435
3.8.15 Checking briefs of evidence 435
3.8.16 Delivery of briefs of evidence to prosecutor 436
3.8.17 Computer records (Evidence Act) 437
3.8.18 Committals conducted by the Office of the Director of Public Prosecutions (State) 437
3.8.19 Action where defendant fails to appear 438
3.8.20 Delivery of documentary exhibits to the Office of the Director of Public Prosecutions 438
3.8.21 Supplying the Office of the Director of Public Prosecutions (State) with the names of persons involved in the investigation process 439

3.9 Evidence 439

3.9.1 Introduction 439
3.9.2 Relevance and admissibility 439
3.9.3 Proof 439
3.9.4 Onus of proof 439
3.9.5 Standard of proof 439
3.9.6 Circumstantial evidence 439
3.9.7 Competence and compellability 439
3.9.8 Dying declarations 440
3.9.9 Expert evidence 440
3.9.10 Joinder of charges 441
3.9.11 Charging conjointly 441
3.9.12 Principal offenders 441
3.9.13 Use of regression therapy (hypnosis) and eye movement desensitisation and reprocessing in evidence 442
3.9.14 Indemnities against prosecution 442
3.9.15 Use of justices of the peace and commissioners for declarations 443
3.9.16 Use of justices of the peace and commissioners for declarations who are members of the Service 443
3.9.17 Senior police officers as witnesses for affidavits and declarations made by police officers in the course of duty 443
3.9.18 Protection of methodologies 445

3.10 Witnesses 445

3.10.1 Introduction 445
3.10.2 Civilian witness arrangements and expenses for magistrates, childrens and coroners courts 445
3.10.3 Officers travelling from interstate appearing as witnesses at Queensland Magistrates Courts 447
3.10.4 Officers travelling interstate or overseas appearing as witnesses at courts in other states or countries 447
3.10.5 Civilian witness arrangements and expenses for the District, Supreme Courts and the Court of Appeal 447
3.10.6 Special witnesses 449
3.10.7 Witnesses on stand-by 450
3.10.8 Prosecutor as a witness 450
3.10.9 Witnesses not to discuss evidence and to remain outside of court 450
3.10.10 Returning witnesses to crime scenes 451
3.10.11 Property in witnesses 451
3.10.12 Disclosure of prosecution witnesses' previous convictions to the defence 451
3.10.13 Obtaining medical records for presentation in court 451
3.10.14 Members as witness for the defence 451
3.10.15 Person in witness protection program to appear in court 451

3.11 Appeals 452

3.11.1 Appeals by the defence 453
3.11.2 Appeals by the prosecution 453
3.11.3 Review of sentence order by a Childrens Court Judge 454
3.11.4 Members inappropriately joined as respondents 454
3.11.5 Deleted 454

OPM Issue 113 Public Edition

3.11.6 Review of bail decisions 454

3.12 Prosecution review committee 457

3.12.1 Introduction—prosecution review committee 457
3.12.2 Responsibilities of district officers 458
3.12.3 Duties and functions 459
3.12.4 Responsibilities of Prosecutors 459

3.13 Costs 460

3.13.1 Costs awarded against the Service 460
3.13.2 Costs awarded to the Service 460
3.13.3 Responsibilities of prosecutors and arresting officers receiving notice of costs 461
3.13.4 Responsibilities of district officers 462
3.13.5 Responsibilities of officers in charge of regions or commands 462
3.13.6 Deleted 462
3.13.7 Costs awarded against officers after a magistrate's decision is overturned on appeal 462
3.13.8 Costs awarded as a result of proceedings against members of the Service 462

3.14 Disclosure of information to defence (relevant proceeding) 463

3.14.1 Introduction 463
3.14.2 Definitions 463
3.14.3 Forms 464
3.14.4 Mandatory disclosure 465
3.14.5 Disclosure that must be made on request 467
3.14.6 Disclosure of sensitive evidence in a relevant proceeding 468
3.14.7 Disclosure of witness contact details in a relevant proceeding 469
3.14.8 Disclosure contrary to the public interest in a relevant proceeding 469
3.14.9 Disclosure of Evidence Act section 93A device statement or recorded statement in a relevant proceeding 470
3.14.10 Viewing of evidence in relation to a relevant proceeding 470
3.14.11 Disclosure of protected sexual assault counselling communications 471

3.15 Sexual offence prosecutions 472

3.15.1 Definitions 472
3.15.2 Memorandum of understanding—sexual offence prosecutions 473
3.15.3 Failed sexual offence prosecutions 474

3.16 Case conferencing 474

3.16.1 Responsibilities for case conferencing 475
3.16.2 Restrictions on case conferencing 476
3.16.3 Provision and disclosure of material during case conferencing 477

3.17 Deleted 477

3.18 Deleted 477

3.19 Attorney-General appeals and disclosure of information to the Department of Justice 477

Appendix 3.1 Factors for consideration in restitution/compensation 478

Appendix 3.2 Procedure to be adopted when checking briefs of evidence 480

Appendix 3.3 Police prosecutors appeal report where a record or transcript of the proceedings is not available 481

Appendix 3.4 Deleted 482

Appendix 3.5 Schedule for restitution/compensation 483

Appendix 3.6 Request for prescribed articles 484

Appendix 3.7 Field Arrest Sheet process flow chart 485

OPM Issue 113 Public Edition

Appendix 3.8 Advice pursuant to the Debt Collectors (Field Agents and Collection Agents) Act 2014 486

Appendix 3.9 Advice pursuant to the Security Providers Act 487

Appendix 3.10 Deleted 488

Appendix 3.11 Notification under s. 74 of the Public Sector Act 489

Appendix 3.12 Deleted 490

Appendix 3.13 Recording of court results 491

OPM Issue 113
Public Edition

3.1 Introduction

The requirements of officers when investigating an offence and identifying the person(s) responsible are dealt with in Chapter 2: 'Investigative Process' of this Manual. After an offender is identified the provisions of this chapter apply.

3.1.1 Consider all disposition and diversion options

After an offender is identified for an offence the investigating officer is to be satisfied of the following before taking action in response to the offence:

(i) an offence has been committed;

(ii) all elements of the charge(s) can be proven;

(iii) any relevant defences can be negated; and

(iv) admissible evidence to substantiate the charge(s) can be presented when necessary.

When deciding what action in response to an offence is appropriate, the investigating officer is to adopt the 'PLAN' approach (Proportionate, Lawful, Accountable, Necessary) to assess whether an action or decision is compatible with human rights (see s. 1.2: 'Human rights and policing' of this Manual).

Before deciding to commence proceedings against a person, the investigating officer is to first consider whether in the circumstances one of the following alternatives would be appropriate:

(i) take no formal action;

(ii) administer a caution (see s. 3.2: 'Cautioning adults' of this chapter);

(iii) refer the offence for a restorative justice conference (see s. 3.3: 'Adult restorative justice conferencing' of this chapter);

(iv) if the offence is a minor drugs offence and the person is eligible, offer the person an opportunity to participate in the Police Drug Diversion Program (a drug diversion warning, initial Drug Diversion Assessment Program or subsequent Drug Diversion Assessment Program. See s. 2.22: 'Police Drug Diversion Program' of this Manual);

(v) if the person is intoxicated in a public place, take the person to a place of safety (see s. 16.6.3: 'Intoxication' of this Manual);

(vi) if the offence is an infringement notice offence (see s. 8.3: 'Offences for which infringement notices may be issued' of the TM) and a caution is not appropriate, issue an infringement notice, unless ss. 8.6: 'Manner of issuing infringement notices' or 8.6.2: 'Infringement notices not issued where other offences detected not able to be issued with infringement notice' of the TM applies; or

(vii) if another appropriate alternative to commencing a proceeding is available, utilise that alternative.

OPM Issue 113 Public Edition

3.2 Cautioning adults

This policy does not extend to minor incidents where an officer would routinely verbally warn a person about general behaviour. It is relevant where an offence has been established, there is sufficient evidence to prove the offence and it is in the public interest for a formal outcome to be recorded in resolving the matter.

Officers are to consider the *Human Rights Act* when deciding to caution adults (see s. 1.2.1: 'Human Rights Act' of this Manual).

For Service policy in respect of cautioning adults for traffic offences, see s. 8.8: 'Verbal cautions and formal warning notices' of the TM.

3.2.1 Purpose of an adult caution

An adult caution is a formal warning that may be administered by an officer to a person who is aged 18 years and over. Cautioning provides a means of dealing with lower-end, non-habitual offending without commencing a proceeding.

The purpose of adult cautioning is to:

(i) manage lower-end offending in a manner that positively contributes to behaviour change and reduced recidivism;

(ii) divert appropriate offenders from the criminal justice system; and

(iii) reduce the disproportionate use of prosecution resources for minor matters by finalising matters in an efficient and effective manner.

3.2.2 Scope of offences

Officers are not to administer an adult caution for indictable offences that cannot be dealt with summarily.

An officer may consider administering an adult caution to a person for any offence that can be dealt with summarily, except for an offence:

(i) involving domestic and family violence;

(ii) involving drink or drug driving;

(iii) which carries mandatory licence disqualification upon conviction;

(iv) against the *Drugs Misuse Act*;

(v) involving a victim, where:

(a) an injury to the victim constitutes or is more serious than bodily harm (see s. 1: 'Definitions' of the CC); or

(b) there is an outstanding financial loss to the victim because of the offending.

An officer is not to negotiate the payment of compensation or restitution on behalf of a victim.

A victim's consent is not required for an officer to administer an adult caution. In all cases involving a victim, the officer is to inform the victim of the intention to administer a caution and may consider the victim's views in the decision-making process.

3.2.3 Eligibility to be cautioned

To be eligible to be cautioned the following factors must be present:

(i) the officer is satisfied that there is sufficient evidence to charge the person and public interest favours charging the person;

(ii) the person must not deny committing the offence; and

(iii) the person must provide informed consent to being cautioned for the offence.

In deciding whether it is appropriate to administer a caution, an officer should consider any aggravating or mitigating circumstances relevant to the offending behaviour including, but not limited to, the following factors:

(i) if the person has recently been cautioned for a similar offence;

(ii) characteristics of the person, such as age, mental health and special needs;

(iii) seriousness of the offence;

(iv) the person's willingness to consent to a referral to an available support service;

(v) the relevance and recency of any criminal history of the person.

Dependent on the circumstances and seriousness of each offence, officers may administer a caution to a person on more than one occasion and in respect of similar offences. The above factors are considerations to guide officers in their decision-making and are not absolute barriers to eligibility for an adult caution.

A person can be offered an adult caution without having admitted to the offence. An officer may decide that an adult caution is appropriate if satisfied the requirements of sufficiency of evidence and public interest have been satisfied, with or without an admission (see Adult Caution Guide).

Informed consent

To obtain informed consent an officer is to provide a person with:

(i) the details of the offence committed; and

(ii) an explanation of the implications of being cautioned for the offence.

An officer is to inform the person:

(i) the person does not have to consent to be cautioned and may choose to have the matter dealt with by a court;

(ii) the caution will be recorded in police records (Not-for-production history) but will not be included in the person's disclosable criminal history;

(iii) the caution is a formal process and provides an opportunity for the person to consider and address the offending behaviour and avoid entering the criminal justice system;

(iv) after being cautioned any further offending may result in the person appearing in court; and

(v) once a caution is administered the matter is finalised.

If a person does not consent to being cautioned for the offence an officer should consider an alternative course of action.

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3.2.4 Adult caution process

Officers are to:

(i) investigate an offence in accordance with Chapter 2: 'Investigative Process' of this Manual prior to deciding to administer a caution to a person; and

(ii) create and complete a QPRIME occurrence for the offence by:

(a) creating all necessary charge records against the person;

(b) creating a diversion record from the Disposition area of the Offence/Charge window;

(c) completing and uploading a QP 1150: 'Notice of Adult Caution' to the occurrence; and

(d) updating the occurrence status to reflect the administration of a caution.

Before an officer can administer a caution to a person:

(i) the person must sign the QP 1150; or

(ii) the person's consent to being cautioned should be digitally recorded.

Where proceedings have been commenced, only officers authorised under s. 3.4.4: 'Withdrawal of charges' of this chapter, may authorise the issuing of an adult caution. When the adult caution has been successfully administered, the authorising officer is to also authorise the withdrawal of the relevant charge.

Where an adult caution is to be administered in lieu of commenced proceedings, officers are to:

(i) ensure the Court Brief (QP9) contains sufficient information to satisfy the sufficiency of evidence and public interest tests (see s. 3.4.3: 'Factors to consider when deciding to prosecute' of this chapter);

(ii) complete a QP 1150: 'Notice of Adult Caution';

(iii) obtain the person's informed consent (see s. 3.2.3: 'Eligibility to be cautioned' of this chapter) by having the person sign the QP 1150:

(a) where practicable, the person's consent to being cautioned should be digitally recorded;

(b) where it is not practicable to digitally record the person's consent, detailed notes are to be made in the Case Diary Log of the relevant QPRIME Case File;

(iv) upload a copy of the signed QP 1150 to the Events/Reports tab on the relevant occurrence; and

(v) update the Case Diary Log to reflect the administration of the adult caution and authorisation of the withdrawal of the charge(s).

ORDER

Where a QP 1150 is completed, officers are to provide the person with a copy.

Once the electronic transfer of court results update has been received in QPRIME, the officer who administered the caution is to cause a diversion record to be created from the Disposition section of the Offence/Charge window of the relevant charge.

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3.2.5 Police referral

Where a support service is available, and it is appropriate in the circumstances of the offending behaviour, an officer should consider making a police referral (see s. 6.3.14: 'Police Referrals' of this Manual).

3.2.6 Disposal of property

Property relating to an offence, which is dealt with by way of a caution, is to be disposed of in accordance with Chapter 4: 'Property' of this Manual. Where reasonably practicable, any property is to be returned to the rightful owner and a QPB 32A 'Field Property Receipt' is to be completed and uploaded to the relevant QPRIME occurrence.

3.3 Adult Restorative Justice Conferencing

Formerly referred to as the Criminal Justice Mediation Program Adult Restorative Justice Conferencing is a restorative justice program for adult offenders and their victims.

An adult restorative justice conference (ARJC) is a Statewide service which involves a meeting between an offender and a victim to discuss the impact of the offender's actions and reach agreement in relation to reparation for the harm caused to the victim or community by the offence committed by the offender. This meeting can occur in person via phone or video conferencing depending on what option suits the parties involved and the availability of a physical convenor. The ARJC provides an opportunity for the offender to take responsibility for the offender's actions, and for the victim to hold the offender accountable in a way that is meaningful for the victim.

Restorative justice approaches conceptualise crime as a violation of another (the victim) which causes harm, rather than a violation of the law to be punished by the State. This violation creates obligations for the person who caused the harm (the offender), including the responsibility to make amends for the harm caused by:

(i) accepting responsibility for the offender's actions;

(ii) providing a meaningful apology;

(iii) other steps, such as the provision of restitution or compensation; or

(iv) completing counselling or other programs.

Restorative justice has unique benefits including increased victim satisfaction, offender responsibility for actions and compliance with outcomes compared with prosecution. Qualified mediators from the Dispute Resolution Branch (DRB) of the Department of Justice (DJ) provide ARJC under the *Dispute Resolution Centres Act*.

The objectives of restorative justice are:

(i) supporting victims and enabling them to participate in the resolution process;

(ii) repairing relationships damaged by crime;

(iii) denouncing criminal behaviour as unacceptable and reaffirming community values;

(iv) encouraging offenders to take responsibility for their behaviour;

(v) identifying restorative, forward-looking outcomes; and

(vi) reducing recidivism.

Matters may be referred to ARJC by:

(i) investigating officers as an alternative to commencing proceedings for the offence (police referral—pre-charge); or

(ii) prosecutors after proceedings for the offence have been commenced (prosecutor referral—post-charge).

Referrals can also be made pre-sentence after a guilty finding in the court, and post-sentence for an offender who is serving a term of imprisonment or who is being managed by Queensland Corrective Services in the community.

Further information regarding ARJC and other processes offered by the DRB can be obtained from the DJ website.

ORDER

Officers and prosecutors are only to refer matters to the DRB or local Community Justice Groups (as relevant). The Service does not have agreements with private mediators or any other entities to provide this service.

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3.3.1 Suitability of offences and eligibility of individuals for referral to adult restorative justice conferencing

Officers and prosecutors may refer a matter to adult restorative justice conferencing (ARJC) when the following criteria are met:

(i) the offence(s):

(a) is an offence which is dealt with summarily or, where appropriate, an indictable offence which cannot be dealt with summarily;

(b) is not a domestic violence or sexual assault offence (for the meaning of 'domestic violence offence' see Schedule: 'Dictionary' of the DFVPA); and

(c) can be substantiated by sufficient evidence.

ARJC cannot accept high risk and complex referrals including:

(a) matters involving sexual violence/assault;

(b) gender-based violence; or

(c) contraventions of domestic violence orders;

(ii) the offender:

(a) was an adult at the time of the offence;

(b) accepts the general circumstances of the matter and expresses a willingness for the matter to be referred for an adult restorative justice conference (ARJC); and

(c) is not, at the time of the commission of the offence:

- the subject of a community-based order;
- serving a term of imprisonment and is not on parole; or

- subject to a suspended sentence;

(iii) the victim expresses a willingness for the matter to be referred for an ARJC; and

(iv) the parties to the ARJC, including the victim and offender, are not prohibited from having contact with each other by a court order or otherwise.

Agreement required for referral

Where the victim or the offender does not indicate a willingness for the matter to be referred for ARJC, a police referral or prosecutor referral should not be made. If the offender is subsequently charged, the investigating officer should articulate in the QP9 the victim or offender does not support referral of the matter for an ARJC.

Where the investigating officer or prosecutor does not support referral of the matter to ARJC, but the victim or offender requests the matter be dealt with via an ARJC, a member should provide the requesting party with:

(i) contact details for the DRB, Department of Justice (DJ); and

(ii) advise contact can be made with the DRB, DJ, to inquire whether an ARJC can be arranged independent of the investigation or proceedings for the offence.

3.3.2 Responsibilities for adult restorative justice conferencing

An officer or prosecutor who refers a matter to adult restorative justice conferencing (ARJC) is not required to attend and participate in the adult restorative justice conference (ARJC). Involvement can be limited to the making of the referral.

Police referrals

Where appropriate, investigating officers may refer a matter to ARJC as an alternative to commencing proceedings for the offence. This includes where an adult is arrested for the offence but subsequently released in accordance with s. 377(4): 'Additional case when arrest of adult may be discontinued' of the PPRA.

Shift supervisors and OICs are to support referral to ARJC to facilitate the participation of officers under their control in the police referral of matters for conferencing.

When making a police referral to ARJC, officers are not to commence proceedings in relation to the offence. Proceedings are only to be commenced if advice is received from the DRB the matter is not suitable for an ARJC or the ARJC has not proceeded for some other reason.

Where a proceeding has already been commenced for an offence and the investigating officer considers it may be appropriate for the matter to be referred to ARJC, the officer is to contact the relevant police prosecution corps to request a prosecutor referral be considered.

Investigating officers are to note referral to ARJC may not result in the successful resolution of a matter and the officer may later be required to commence a proceeding and prepare and present a brief of evidence for the matter.

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Prosecutor referrals

Where a proceeding has already been commenced for an offence, investigating officers are not to refer a matter directly to ARJC. Referral of the matter to ARJC is only to be progressed through the relevant police prosecutions corps and a referral made by a prosecutor.

Prior to referring a matter to ARJC, prosecutors should consult with the investigating officer about the suitability of the matter for referral.

Where a proceeding has been commenced and an officer is involved in the ARJC process, the officer should keep the relevant police prosecutions corps updated with the status of the ARJC.

Police officers as complainants (victims)

A matter involving a victim who is an officer, and was in the performance of the officer's duties at the time of the offence and meets the above listed criteria can be referred to ARJC.

An officer cannot refer themselves for ARJC. A referral must be approved by the relevant OIC or prosecutions corps.

Referral procedure

Where a matter is to be referred to ARJC, an officer (police referral) or a prosecutor (prosecutor referral) is to complete a QP 1151: 'Adult restorative justice conference referral' (available in QPRIME), upload a copy to the relevant QPRIME occurrence and forward a copy to the DRB, DJ via email to ARJC.referral@justice.qld.gov.au.

Where a prosecutor referral is made, prosecutors should seek that the matter be adjourned until the outcome of the ARJC, unless the DRB, DJ advise the matter is unsuitable for referral to ARJC (see s. 88(1B): 'Adjournment of the hearing' of the *Justices Act*).

Where a matter involves an officer as a victim, the QP 1151 referral must be made by a senior officer not involved in the relevant incident (e.g. the victim officer's OIC or prosecutions corps). The referral is to be recorded in QPRIME in accordance with the above procedure.

3.3.3 Clerk or magistrate order for referral for restorative justice conferencing after proceedings have been commenced

Where a summons or a notice to appear has been issued, the clerk of the court or a magistrate may order the officer who made the complaint to refer the matter to 'mediation' under the *Dispute Resolution Centres Act* (see s. 53A: 'Power, after summons issued, to order mediation' of the *Justices Act*).

Where such order is made:

(i) the matter is referred to ARJC, and processed as a restorative justice matter; and

(ii) service of the summons is stayed.

Where an officer receives notice such order has been made, the officer should:

(i) update the relevant QPRIME occurrence; and

(ii) advise the relevant police prosecutions corps.

Proceedings may be recommenced if a prescribed 'event' (e.g. the matter is assessed as unsuitable by the DRB) occurs (see s. 53B: 'Further provision for a summons after mediation is ordered' of the *Justices Act*).

Where an officer receives notice the restorative justice conference did not proceed, the officer should consult with the relevant police prosecutions corps to request an application be made to the relevant court for an order to proceed with the summons or notice to appear.

Once a matter is before the court, s. 53A of the *Justices Act* does not apply.

3.3.4 Disclosure of information to adult restorative justice conferencing

Officers and prosecutors who refer matters to adult restorative justice conferencing may disclose information about the offence to the Dispute Resolution Branch, Department of Justice.

3.3.5 Recommencing proceedings where matter cannot proceed through adult restorative justice conferencing

With the exception of court ordered referrals under s. 53A: 'Power, after summons issued, to order mediation' of the *Justices Act*, if circumstances arise where the Dispute Resolution Branch (DRB), Department of Justice (DJ) advise:

(i) the matter is not suitable for an adult restorative justice conference (ARJC);

(ii) either party has withdrawn consent for participating in an ARJC;

(iii) the ARJC has not resulted in an agreement between the parties; or

(iv) the offender has not complied with undertakings in the restorative outcome plan,

the investigating officer is to promptly consider if:

(i) where proceedings have not been commenced:

(a) another diversion option would be appropriate; or

(b) a proceeding should be commenced; or

(ii) where proceedings have been commenced, the proceeding should be recommenced and continued.

An officer or prosecutor may withdraw a referral to ARJC in exceptional circumstances. Where this occurs the officer or prosecutor is to advise the DRB, DJ the referral is withdrawn, and the Service does not support and will not be involved in the ARJC. Where appropriate, an explanation for this determination should be provided.

Any concerns with the conduct of an ARJC should be communicated to the investigating officer's OIC or the referring prosecutor's OIC.

3.3.6 Finalisation of an adult restorative justice conferencing referral

The completion of an adult restorative justice conference (ARJC), including finalisation of all terms of the agreement, should result in the discontinuation of the investigation or prosecution of a matter. Continuation of an investigation or prosecution despite a successful ARJC outcome may undermine the value of ARJC.

Upon being notified by DRB, DJ the ARJC has been successful, the investigating officer or prosecutor is to finalise the matter in the public interest (see s. 3.4.3: 'Factors to consider when deciding to prosecute' of this chapter).

Continuing the investigation or prosecution of the matter despite a successful ARJC is to only occur if there are exceptional circumstances.

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If it is determined an investigation or prosecution should proceed despite the completion of an ARJC and the successful fulfillment of the terms of the restorative outcome plan, the participation of the defendant may be submitted as mitigating factors at the sentence hearing.

Where the ARJC is successful and no exceptional circumstances exist that would justify the ongoing investigation or prosecution of the matter, in the case of a:

(i) police referral, the investigating officer should finalise the matter; or

(ii) prosecutor referral, a prosecutor should seek approval to have the charge(s) withdrawn (see s. 3.4.4: 'Withdrawal of charges' of this chapter).

3.4 General prosecution policy

3.4.1 Introduction

Before deciding to commence proceedings against a person, the investigating officer is to first consider whether, in all the circumstances, any diversionary options (including ARJC, adult caution or other referrals) are appropriate (see s. 3.1.1: 'Consider all disposition and diversion options' of this chapter).

Service policy on when to commence proceedings against offenders is drawn from the Office of the Director of Public Prosecutions (State) (ODPP), Director's Guidelines (DPP Guidelines) (see Guideline 4: 'The decision to prosecute' and 5: 'The decision to prosecute particular cases' of the DPP Guidelines).

The decision to prosecute an offender is based on a two-tiered test:

(i) is there sufficient evidence? and

(ii) does the public interest require a prosecution?

This decision should be considered on a case by case basis as not all offences brought to the attention of the Service will be prosecuted. Where a minor offence is detected, and the offender is an otherwise law-abiding citizen, prosecution for the offence may be counterproductive. Diversionary alternatives, such as restorative justice process and cautioning, may be appropriate in the circumstances and may prevent a disproportionate use of prosecution resources (see ss. 3.3: 'Adult Restorative Justice Conferencing', 3.2: 'Cautioning adults' and 5.5: 'Cautioning process' of this Manual).

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3.4.2 The decision to institute proceedings

The decision to commence proceedings against a person for an offence initially rests with the arresting officer. Generally, an officer may commence proceedings without seeking further advice or approval, upon being satisfied on reasonable grounds:

(i) an offence has been committed;

(ii) the person against whom prosecution is proposed has committed that offence;

(iii) a statutory authority to prosecute for that offence exists, including any authority referred to under s. 3.5.1: 'Responsibility to establish authority to prosecute' of this chapter;

(iv) any statutory limitation on proceedings has not expired; and

(v) the elements of the intended charge can be proven.

Before deciding to institute proceedings against a person, the investigating officer is to first consider whether, in all the circumstances, any diversionary options (including ARJC, adult caution or other referrals) are appropriate (see s. 3.1.1: 'Consider all disposition and diversion options' of this chapter).

Where investigating officers are satisfied an offence can be proven but it may not be in the public interest to commence proceedings, they are to update the relevant QPRIME occurrence by submitting an occurrence enquiry log entry, and include particulars of the offending conduct, results of any investigation and the reasons why proceedings should not be commenced. Officers are to submit a QPRIME task to their OIC seeking advice.

Arresting officers should select an offence which accurately reflects the nature and extent of the criminal behaviour under investigation and which is supported by the admissible evidence. Where the circumstances of a particular case indicate two or more alternative charges may be made out, the offence carrying the greater penalty should be preferred, subject to the DPP Guidelines. Charges should not be laid with the intention of providing scope, for subsequent bargaining.

3.4.3 Factors to consider when deciding to prosecute

Sufficiency of evidence

The primary test for the decision to prosecute is the 'sufficiency of evidence' test. This test will be satisfied if there is sufficient admissible evidence to prove the charge against the defendant. A prima facie case is essential but is not

enough. There must be a reasonable prospect of the defendant being found guilty of the offence. A detailed evaluation of how strong the case will be when presented in court should be undertaken as part of this test.

In evaluating the sufficiency of evidence, it is necessary to consider all aspects of the evidence to be presented, including:

(i) admissibility of evidence;

(ii) reliability of evidence, including identification;

(iii) possible defences;

(iv) the extent of any contradictory evidence;

(v) competency of witnesses;

(vi) compellability of witnesses;

(vii) credibility of witnesses;

(viii) availability of witnesses;

(ix) whether witnesses will be hostile, adverse, or cooperative; and

(x) where the court brief (QP9) or brief of evidence is not provided to the relevant prosecution corps in the required time frame (see ss. 3.7.2: 'Documentation at first appearance' and 3.7.5: 'Checking of court briefs (QP9)' of this chapter),

(see Guideline 4: 'The decision to prosecute' subsection (i): 'Sufficient evidence' of the DPP Guidelines.

Before charging a person with an offence, the investigating officer is to ensure there is sufficient admissible evidence to prove the charge to the requisite standard. The admissible evidence must be clearly articulated in the QP9 to enable a prosecutor to deal effectively with the matter, including case conferencing, at the first appearance (see s. 3.7.2 of this chapter).

Public interest

Once the sufficiency of evidence test has been satisfied, the next test to be applied is the 'public interest' test. This test involves determining whether, in light of the facts and the surrounding circumstances of the case, the public interest will be served in pursuing a prosecution.

The factors relevant to whether the public interest requires a prosecution will vary. In most cases there will be public interest factors supporting a prosecution and competing public interest factors supporting a decision not to prosecute. Generally, the more serious the offence the more likely the public interest will require a prosecution. Where there is sufficient evidence and diversionary options are not considered appropriate (as in the case with domestic violence offences), the proper decision, in most cases, will be to proceed with the prosecution. Mitigating factors can be put to the court at sentence.

Factors which arise for consideration in determining whether the public interest requires a prosecution include:

(i) the seriousness or, conversely, the triviality of the alleged offence or it is of a 'technical' nature only (noting that domestic violence offences are not to be considered as being of 'technical' or trivial nature);

(ii) any mitigating or aggravating circumstances;

(iii) the youth, advanced age, intelligence, physical health, mental health or special infirmity of the alleged offender, a witness or a victim;

(iv) the alleged offender's antecedents and background, including culture and ability to understand the English language;

(v) the degree of culpability of the alleged offender in connection with the offence;

(vi) whether the prosecution would be perceived as counter-productive to the interests of justice;

(vii) the availability and efficacy of any alternatives to prosecution (including a restorative justice process)

(viii) the prevalence of the alleged offence and the need for deterrence either personal or general;

(ix) whether or not the alleged offence is of minimal public concern;

(x) any entitlement or liability of the victim or other person or body to criminal compensation, reparation or forfeiture, if prosecution action is taken;

(xi) the attitude of the victim of the alleged offence to a prosecution with regard to the seriousness of the alleged offence and whether the complainant's change of attitude has been activated by fear or intimidation;

(xii) the cost of the prosecution relative to the seriousness of the alleged offence;

(xiii) whether the alleged offender is willing to cooperate in the investigation or prosecution of others, or the extent to which the alleged offender has done so, subject to the DPP Guidelines, particularly Guideline 35: 'Immunities';

OPM Issue 113 Public Edition

(xiv) the necessity to maintain public confidence in such institutions as the Parliament and the courts;

(xv) the effect on public order and morale;

(xvi) pending the outcome of any other prosecution from the same circumstances (including in a civil jurisdiction);

(xvii) whether the prosecution for the class or type of offence has been discouraged by the courts in the course of judicial comment;

(xviii) whether the prosecution will result in hardship to any witness, particularly children; and

(xix) vexatious, oppressive or malicious complaints.

(See Guideline 4: 'The decision to prosecute' subsection (ii): 'Public Interest Criteria' of the DPP Guidelines).

Officers and prosecutors are not to withhold available, uncontested and incontrovertible evidence from the Court. This includes, to achieve a desired/preferred outcome for a defendant, particularly in circumstances where the legislature has statutorily prescribed minimum sentencing options to the Court to revoke such discretions and to ensure that strong deterrents exist to protect the public from the harms. While officers and prosecutors have a broad discretion when deciding to prosecute, that discretion should not be focussed on the personal interests of an individual, rather, it should seek to balance the interests of the public as a whole.

Impartiality

ORDER

When officers are making a decision to prosecute they are not to be influenced by matters such as:

(i) race, religion, sex, national origin or political views;

(ii) personal feelings concerning the offender or the victim;

(iii) possible political advantage or disadvantage to the government or any political group or party; or

(iv) the possible effect of the decision on the personal or professional circumstances of those responsible for the prosecution,

(See Guideline 4(iii): 'Impartiality' of the DPP Guidelines).

3.4.4 Withdrawal of charges

Unless indicated otherwise, this section does not apply when action is taken under s. 3.16: 'Case conferencing' of this chapter.

ORDER

When an officer or prosecutor determines the sufficiency of evidence test or the public interest test is no longer satisfied, the officer is to immediately complete:

(i) a QP 0626: 'Request for authority to withdraw charge/s' in the relevant QPRIME case file and submit to the member's OIC; and

(ii) a QPRIME charge withdrawal notification task from the relevant case file via the member's OIC to the relevant prosecution corps.

Consultation

Where a prosecutor, including an OIC of a police prosecution corps, is considering withdrawing a charge, the investigating officer is to be consulted whenever reasonably practicable, prior to withdrawing the charge.

Where the investigating officer is not available, their OIC may be consulted.

Where the offence(s) involves:

(i) an offence against the person of someone;

(ii) a domestic violence offence within the meaning of s 1: 'Definitions' of the CC;

(iii) an offence against sections:

(a) 177(2): 'Contravention of domestic violence order';

(b) 177A(2): 'Contravention of a police protection direction';

(c) 178(2): 'Contravention of police protection notice'; or

(d) 179(2): 'Contravention of release conditions',

of the DFVPA; or

(iv) an offence of attempting to commit, or conspiring to commit, an offence mentioned in (i), (ii), or (iii) above,

OPM Issue 113 Public Edition

the victim is to be consulted in accordance with s. 41: 'Charter of victim's rights' of the *Victims' Commissioner and Sexual Violence Review Board Act*.

In all other circumstances, the victim of crime should be consulted whenever reasonably practicable. A prosecutor may task the investigating officer to consult with the victim.

Where it is not reasonably practicable to consult with the investigating officer or victim, the prosecutor responsible for withdrawing the charge is to record such reasoning on the case diary log of the relevant QPRIME case file. The views of the investigating officer, their OIC, and victim must be considered, but are not conclusive. It is the public, rather than the individual, interest which must be served (see Guideline 17: 'Charge negotiations' subsection (vi): 'Consultation' of the DPP Guidelines).

It is acknowledged that investigating officers will always have an interest in any prosecution and should be consulted whenever practicable prior to the decision to withdraw a charge. Although it is desirable for the prosecutor to consult with an investigating officer prior to withdrawing a charge, if the matter is a simple (not indictable) or regulatory offence (including traffic offences that have been commenced by the Service), a member of the Service performing prosecution duties with authority to withdraw charges is not required to consult the investigating officer prior to doing so, where there is a need to achieve an expeditious outcome. The officer authorising the withdrawal is to ensure an entry is made in the relevant QPRIME case diary log recording the reasons for the decision to withdraw the charge.

Officers are to consider s. 3.4.3: 'Factors to consider when deciding to prosecute' of this chapter (sufficiency of evidence test and the public interest test) when determining whether a prosecution should proceed.

Authorisation

The following officers have authority to approve the withdrawal of a charge/s:

(i) a commissioned officer or senior sergeant:

(a) supervising the station or establishment to which the arresting officer is attached; or

(b) performing the role of district or command brief manager;

(ii) a detective inspector or detective senior sergeant, operations leader, Crime Command exercising supervision over the work group responsible for the particular charge;

(iii) a commissioned officer (or manager equivalent) attached to Prosecution Services, Legal Division;

(iv) an OIC (including sergeants), or principal prosecutor attached to a police prosecution corps;

(v) in the case of traffic infringement notices see s. 8.7: 'Waiving and cancellation of infringement notices' of the TM;

(vi) in the case of camera detected offences, the OIC, Speed Camera Operations, Road Policing Group; and

(vii) in the case of any other infringement notice (e.g. marine infringement notice), whether or not that infringement notice has proceeded to SPER, the administering authority.

ORDER

An officer in either (i) or (ii) above, who is considering an approval for withdrawal of charge/s before a magistrates or childrens court, is to consult with the OIC or principal prosecutor of the police prosecution corps which has carriage of the matter, prior to authorising the withdrawal.

Where an officer in either (i) or (ii) above consults with the OIC or principal prosecutor of the police prosecution corps which has carriage of the matter and agreement cannot be reached with respect to the withdrawal of the subject charge/s, the OIC of the police prosecution corps (with carriage of the matter) is to refer the matter to a commissioned officer attached to Prosecution Services for determination.

The OIC of the police prosecution corps with carriage of the matter is to cause details of the consultation and the outcome to be recorded in the case diary log of the relevant QPRIME case file.

The officer in either (i) to (ii) above authorising the withdrawal of charge/s is to ensure a QPRIME 'QPS pros charge withdrawal notification' workflow is initiated; and assigned to the org unit of the prosecution corps with carriage of the matter. The task priority is to be listed as high. The officer is to also ensure that the relevant QPRIME occurrence is amended, recording the grounds for withdrawing the charge.

In the case of a withdrawal of a summons resulting from an infringement notice where a prosecutor is not involved, the officer approving the withdrawal of the summons is to:

(i) arrange the necessary notifications to be made to the relevant court; and

(ii) note the time, date and method of communicating such advice on the relevant prosecution file.

Where a type 1 or type 2 vehicle related offence is withdrawn the relevant flags are to be cancelled (see s. 16.18: 'Infringement notice or charges withdrawn or dismissed' of the TM).

A member of the Service performing prosecution duties, who receives authorisation to withdraw a charge, or who intends to withdraw a charge is to inform the defendant or their legal representative of the prosecution's intention to withdraw

OPM Issue 113 Public Edition

the matter at the earliest practicable time. The member is to note the time, date and method of communicating the advice on the relevant prosecution file.

A member of the Service performing prosecution duties does not require authorisation to amend a charge.

3.4.5 Director of Public Prosecutions (State) guidelines

Section 11: 'Powers of Director' of the *Director of Public Prosecutions Act* empowers the Director of Public Prosecutions (State) (DPP) to issue guidelines to the Commissioner in respect of:

(i) prosecutions for particular offences; and

(ii) offences or classes of offences to be referred to the DPP for the institution and conduct of proceedings.

The Director of Public Prosecutions (State) Guidelines (DPP Guidelines) are to be complied with.

Members who have identified significant operational matters related to the DPP Guidelines or the standards of communication and assistance between the two organisations, should attempt to resolve those issues at a local level. Where such attempts have not resolved the issue, members should refer the matter through their chain of command to their district officer or branch manager for consideration and referral to the ODPP Interdepartmental Liaison Committee via the Superintendent, Prosecution Services, Legal Division.

3.4.6 Swearing oaths and making affirmations

As part of the investigative and prosecution process, officers are regularly required to swear an oath or make an affirmation attesting to the truth of some matter. Section 5: 'Affirmation in lieu of Oath' of the *Oaths Act* allows officers, where appropriate, to make an affirmation rather than swear an oath.

3.4.7 Assisting court staff

Section 308: 'Powers of proper officer of a court' of the *Corrective Services Act* empowers the proper officer of a court to require the Commissioner to provide officers, including watch-house officers, to assist in the safe custody and welfare of any prisoner of the court (for a definition of a proper officer, see Schedule 4: 'Dictionary' of the *Corrective Services Act*).

ORDER

An officer who receives a lawful request from any court for assistance in the safe custody and welfare of any prisoner before the court, is to provide assistance or arrange for another officer or officers to provide the assistance.

Assisting bailiffs to protect juries

Where a bailiff of the district or supreme court makes a reasonable request of a district officer for the provision of an officer to assist in protecting a jury during a trial, responsibility rests with the district officer to arrange for the attendance of an officer as required during the trial.

Staff members, watch-house officers and police liaison officers are not to guard a jury.

An officer assigned to assist a bailiff with jury protection duties during a criminal trial should cooperate with the bailiff and the relevant court by assisting where lawful requests are made by the bailiff.

See also s. 16: 'Helping Public Officials exercise powers under other Acts' of the PPRA and s. 13.3: 'Public officials' of this Manual.

3.4.8 Deleted

3.4.9 Responsibility for the prosecution of charges

The responsibility to prosecute charges rests essentially with prosecutors, although the ODPP is empowered to prosecute any charge. If an external prosecutor is used in summary prosecutions or committal proceedings, the Service will be responsible for the external prosecutor's fees and travel expenses.

Requests for the services of an external prosecutor are to be made to the Superintendent, Prosecution Services, Legal Division.

3.4.10 Drink driving offences

Persons apprehended for drink driving offences involving an alcohol concentration reading of equal to or less than 20 milligrams of alcohol in 100 millilitres of blood (0.02%) or 0.02 grams of alcohol in 210 litres of breath (0.02g/210L) should not be prosecuted (for further see s. 7.4.5: 'Breath analysis certificate by operator' of the TM).

3.4.11 Legal opinions

Legal opinions and advice are to be sought from the appropriate subject matter expert within Legal Division (LD). Generally, advice regarding operational matters is supplied by Operational Legal Advice, Prosecution Services, LD in accordance with s. 1.13: 'Operational Legal Advice' of this Manual.

OPM Issue 113 Public Edition

Requests for advice from sources outside of LD including the Crime and Corruption Commission, Crown Law, ODPP or independent counsel are to be made through the chain of command to Legal Services, LD.

When submitting requests for legal advice ensure the following issues are addressed:

(i) all relevant documentation is included;

(ii) requests are forwarded expeditiously, especially for court processes; and

(iii) matters of privilege are clearly expressed and include reasons why privilege is claimed.

Additionally, the relevant provisions of Guideline 26: 'Advice to police' of the DPP Guidelines are to be complied with where the advice sought from the ODPP relates to the sufficiency of evidence or the appropriateness of charging an offender.

3.4.12 Drug exhibits

Officers are to comply with ss. 703–713: 'Dealing with controlled drugs, dangerous drugs etc.' of the PPRA.

Photographs are to be taken of drug matter and tendered as secondary evidence in court proceedings (see s. 4.2.6: 'Retention of exhibits' of this Manual).

ORDER

When a certificate of analysis under the *Drugs Misuse Act* (DMA) is required, prosecutors are to forward a 'QPS PROS drug exhibit analysis required' workflow to the arresting officer, informing them of the requirement for the DMA certificate.

Prosecutors are to ensure that the 'QPS PROS drug exhibit analysis required' workflow clearly articulates the priority code relevant to the analysis required (see QP 0127: 'Submission of articles for forensic examination')

There are two types of analyst's certificates:

(i) a quantitative certificate, showing the drug identity, weight and purity (necessary to prove the element of dangerous drug); and

(ii) a qualitative certificate (known as a 'shop front' certificate and necessary to show only a dangerous drug was detected or absent).

Prosecutors are to indicate in the task which type of certificate is required.

Whenever possible, investigating officers should comply with district property plans for storage and transport (see s. 4.8.4: 'Property plans' of this Chapter).

Where personal delivery is not practicable due to geographical or operational considerations, arresting officers are to ensure a QP 0694: 'Running statement' and QP 0684: 'Evidentiary certificate' are completed. Arresting officers are to ensure the completed QP 0694 and QP 0684 are delivered to the relevant prosecution corps with the full brief of evidence no later than the date set by the relevant prosecutor (see s. 4.2.7: 'Continuity of possession' of this Manual).

OPM Issue 113 Public Edition

3.4.13 Supply of copies of court brief (QP9), particulars, statements and reports

Supply of court brief (QP9)

Prosecutors are to provide a copy of the QP9 to the defendant or legal representative in relation to all matters for mention before a magistrates court. Prosecutors should, upon request, provide a copy of the QP9 to:

(i) the defendant's legal representative within a reasonable time; or

(ii) an unrepresented defendant, by personally handing to the defendant at an appropriate time before the defendant's initial appearance.

Where practicable, prior to providing a copy of the QP9 to an unrepresented defendant or their legal representative, the prosecutor receiving the request should check the relevant case file to ensure that the QP9 has not already been disclosed via a portal.

Where a QP9 has been provided by a prosecutor to a defendant or to their legal representative, or when a prosecutor becomes aware that a QP9 has been disclosed via a portal, the relevant prosecution file is to be noted.

ORDER

Where a QP9 is to be disclosed via a manual disclosure process, prosecutors are to ensure:

(i) a person's personal particulars (e.g. addresses and contact details of complainants and witnesses) are not provided to the defence, unless it relates to a material particular of the offence (see s. 3.14.7: 'Disclosure of witness contact details in a relevant proceeding' of this chapter); and

(ii) any notes to prosecutors from officers concerning operations and investigations or of a confidential nature are not disclosed to the defence.

Supply of particulars

Prosecutors, upon request, should provide particulars of charges to the defence from the relevant brief of evidence.

If written particulars are to be disclosed to defence (including an unrepresented defendant), by request or by virtue of a direction of the court, the prosecutor responsible for the disclosure is to ensure that the written particulars do not contain personal particulars such as the address, telephone, or next of kin details relating to a victim or witness unless the information is required to prove the particulars of the offence.

Where written particulars are supplied to the defence a copy should be uploaded to the documents tab of the relevant QPRIME case file and recorded by the prosecutor on the relevant prosecution file. For the supply of particulars on request for a relevant proceeding, see s. 3.14.5: 'Disclosure that must be made on request' of this chapter.

Copies of statements and documentary exhibits

If a copy of statements or documentary exhibits is requested by defence and it is to be provided by a prosecutor during case conferencing of a matter before the magistrates court, the material is to be provided to defence as soon as practicable but within 10 days of the request. If the material cannot be provided within 10 days, the prosecutor is to advise the defence and provide the material as soon as possible (see s. 3.14: 'Disclosure of information to defence (relevant proceeding)' of this chapter).

In all cases, arresting officers are to provide the relevant prosecutor or ODPP officer with a copy of statements or documentary exhibits requested by the prosecutor, as soon as practicable but within the time specified by the prosecutor or the ODPP officer.

ORDER

If it is impracticable to have a copy of a statement or relevant documentary exhibit requested by the prosecutor or the ODPP officer delivered within the required time, the arresting officer is to advise the relevant prosecutor forthwith.

The arresting officer is to ensure that the statements or any associated documentation (submitted with the statements) do not contain personal particulars such as the address, telephone, or next of kin details relating to a victim or witness unless the information is required to prove the particulars of the offence.

Unless otherwise required by Service policy or legislation, officers other than prosecutors are not to provide copies of documents or witness statements to defendants or their legal representatives, unless authorised by a prosecutor or a Crown prosecutor.

Unless otherwise required by Service policy, legislation, or approval is granted from a prosecutor or Crown prosecutor, officers are not to communicate directly with legal representatives once charges are before the court.

Copies of sentencing schedules

If a QPRIME sentencing schedule or written sentencing submission is to be disclosed to defence (including an unrepresented defendant), by request or by virtue of a practice direction, the prosecutor responsible for the disclosure is to ensure that the sentencing schedule or written sentencing submissions do not contain personal particulars such as the address, telephone, or next of kin details relating to a victim or witness unless the information is required to prove the particulars of the offence.

When a prosecutor prepares a sentencing schedule or written sentencing submissions, the prosecutor is to ensure a copy of each document prepared is uploaded to the documents tab of the most recent relevant case file in QPRIME.

OPM Issue 113 Public Edition

3.4.14 Jurisdiction for Commonwealth offences

ORDER

Prosecutors are to elect summary jurisdiction whenever a Commonwealth statute allows.

3.4.15 Supply of defendant's criminal or traffic history

Prior to manual disclosure of a defendant's criminal history, prosecutors should, where practicable, check the relevant QPRIME case file to ensure the disclosure has not already been made via a portal.

ORDER

For summary proceedings, and where a defendant's criminal history has not been disclosed via a portal, prosecutors are to manually disclose a copy of the defendant's criminal, traffic history and non-TORUM history to the defence when requested.

For the disclosure of a defendant's previous criminal history in a relevant proceeding, see s. 3.14.4: 'Mandatory disclosure' of this chapter.

3.4.16 Disclosure to courts of spent convictions

Under the provisions of the *Criminal Law (Rehabilitation of Offenders) Act* a prosecutor can disclose to a sentencing justice convictions in relation to which the rehabilitation period has elapsed and which have not been revived.

ORDER

Members are not to disclose the contents of offender history reports to any person except:

(i) other members as part of the performance of their employment;

(ii) where permissible and a relevant requirement exists; or

(iii) prosecutors performing court duty bring to the notice of the presiding justice all convictions contained in the defendant's offender history report prior to sentencing.

3.4.17 Submissions to be made by prosecutors on the sentencing process

Prosecutors are to assist courts in the sentencing process by making appropriate submissions as to penalty. The prosecutor should address:

(i) the seriousness of the offence (noting that a court must treat a domestic violence offence as aggravating unless there are exceptional circumstances or the offending is attributable to being a victim of domestic violence: ss. 9(10A) and 9(10B) 'Sentencing guidelines' of the *Penalties and Sentences* Act);

(ii) the circumstances under which the offence was committed;

(iii) any circumstance(s) of aggravation;

(iv) compensation/restitution;

(v) the antecedents of the defendant;

(vi) the antecedents of the complainant/victim;

(vii) any previous convictions of the defendant;

(viii) any remorse, sorrow or lack thereof shown by the defendant;

(ix) comparative sentences if known;

(x) any submission or application on sentence as required by Guideline 47: 'Sentence' of the DPP Guidelines;

(xi) whether a banning order should be imposed when the offence involved actual, attempted or threatened violence towards a person or property and occurred within, or in a public place in the vicinity of, a licensed premises (see s. 13.7.6: 'Court-issued banning orders' of this Manual); and

(xii) whether a discretionary control order should be made when the prescribed circumstances exist (see s. 2.31.7: 'Control orders' of this Manual).

Where written sentencing submissions are prepared for tendering to the court, prosecutors are to ensure that a copy of the written sentencing submissions tendered to the court are uploaded to the Documents tab of the relevant Case File in QPRIME.

Prosecutors should not make concessions with the defendant or the defendant's legal representative for the imposition of a lenient sentence.

If the prosecutor is aware the court has imposed an incorrect penalty due to some statutory provision, the prosecutor should inform the court.

3.4.18 Supply of information where court outcome requires action by Queensland Corrective Services or Department of Youth Justice and Victim Support

Queensland Corrective Services (QCS) and Department of Youth Justice and Victim Support (DYJVS) are supplied with copies of the appropriate court brief (QP9) and offender history report(s), to assist with security assessments of persons in custody and the risks and needs assessment of persons subject to other orders.

ORDER

The prosecutor is to deliver a copy of the relevant:

(i) QP9; and

(ii) offender history report (Queensland court outcomes) (if any); and

(iii) interstate criminal history (if any, where it has been obtained),

when a person is

(i) to be held in custody:

(a) being an adult and sentenced to a term of imprisonment (unless wholly suspended);

(b) being a child and sentenced to a period of detention; or

(c) is remanded into custody for the first time pending trial or sentence,

OPM Issue 113 Public Edition

to the watch-house manager prior to terminating duty. The watch-house manager is to deliver the document(s) to the:

(a) QCS; or

(b) DYJVS,

representative taking custody of the person; or

(ii) released and:

(a) being an adult subject to an intensive correction order;

(b) being a child subject to an immediate release order;

(c) ordered to perform community service;

(d) placed on a probation order; or

(e) subject to a pre-sentence report,

the representative present in court from:

(a) QCS; or

(b) DYJVS.

If the representative is not present in court and a copy of the document(s) cannot be personally delivered within two working days, the information is to be forwarded by email to the relevant local office (see SMCD).

If QCS or DYJVS request a copy of the QP9, an offender history report and an interstate criminal history if applicable, it may be supplied by:

(i) a prosecutor;

(ii) the OIC of a station or establishment; or

(iii) the Manager, Police Information Centre.

See s. 13.5.6: 'Supply of information impacting on the security classification, protection or security of prisoners to Queensland Corrective Services' of this Manual for the provision of information impacting on the security classification, protection or security of prisoners.

Where a person meets the criteria of this section and s. 3.4.36: 'Notification of Chief Executive, Queensland Corrective Services, regarding committal, conviction, etc. of relevant person' of this chapter, both sections will need to be complied with, as the information is required by two different agencies.

OPM Issue 113 Public Edition

3.4.19 Charges against prisoners

When it is proposed to prefer charges against a prisoner detained in a corrective services facility, wherever possible, officers are to:

(i) ensure any such charges are preferred as soon as practicable and before the prisoner is released;

(ii) commence proceedings by way of a notice to appear (see s. 3.5.3: 'Proceedings by way of notice to appear' of this chapter); and

(iii) ensure the appearance date of the notice to appear coincides with the date of the first of any other court appearances the prisoner may have.

Where proceedings are to be commenced for an offence by way of a notice to appear against a child detained in a detention centre, officers are to refer to and comply with the procedures in s. 5.9: 'Commencing proceedings against a child' of this Manual.

3.4.20 Recording of court results

Court results entered on a QP9 may need to be interpreted and recorded by the Police Information Centre (PIC). Results must therefore be written legibly to ensure Offender History Reports and Traffic History Reports are updated accurately, see Appendix 3.13: 'Recording of court results' of this chapter.

Where officers or prosecutors identify an error with an entry in a person's Offender History Report, the member is to advise the PIC via an email [PIC Offender Histories] with sufficient information for the specific entry to be readily identified.

3.4.21 Ex officio indictment

An ex officio indictment may be considered by the ODPP, upon receipt of a written request from the legal representative of an accused person (the defence (see Guideline 11: 'Ex officio indictments' of the DPP Guidelines. The ODPP will not entertain an ex officio request from an accused person who is not legally represented.

The ODPP will notify investigating police and the responsible prosecutor of the ex officio indictment.

Exceptions to the requirement for a written request for ex officio indictment are where:

(i) alternative procedures are established between police and the local office of ODPP; or

(ii) a matter is adjourned before a magistrates court to an ex officio mention date. In such cases the prosecutor or ODPP prosecutor (in accordance with their policy) involved should notify the arresting officer to forward the relevant information, as outlined below, to the ODPP. For prosecutors, this notification can be made by forwarding a QPRIME task to the arresting officer through their organisational unit. Advice concerning the notification should also be provided to the ODPP ex officio clerk.

The ex officio or partial brief of evidence is to be forwarded to the ODPP within 14 days of being notified the matter is to proceed by way of ex officio indictment.

ORDER

When a member of the Service receives a request for a matter to proceed by ex officio indictment, the inquirer is to be referred to the local office of the ODPP. Arresting officers are not to directly provide material to the defence for ex officio indictments.

Upon receiving advice an ex officio indictment will be presented:

(i) the OIC of the prosecution corps handling the matter is to immediately forward a copy of the QP9 to the relevant ODPP and update the relevant QPRIME case file accordingly. The prosecutor concerned is to retain the original QP9 for further appropriate action;

(ii) the arresting officer, in addition to complying with the provisions of s. 3.7.2: 'Documentation at first appearance' of this chapter, is to:

(a) compile an ex officio or partial brief of evidence (see Guideline 12: 'Ex officio sentences' of the DPP Guidelines, for a list of material required for an ex officio brief);

(b) attach to the ex officio or partial brief:

- the complainant's name and address;
- the amount of compensation/restitution requested (see s. 3.7.3: 'Restitution/compensation' and Appendix 3.1: 'Factors for consideration in restitution/compensation' of this chapter);
- the up to date offender/traffic history of the defendant;
- copies of notices to appear, summonses and bench charge sheets, in chronological order;
- obtained victim impact statements;
- if there are multiple or complicated charges, where appropriate, a schedule of restitution/compensation requested (see Appendix 3.5: 'Schedule for restitution/compensation' of this chapter); and
- if there are co-offenders for any charges, a list containing the:
  - names of all co-offenders;
  - charges each co-offender has been charged with;
  - amount of compensation/restitution sought from each offender; and
  - court results of co-offenders who have had their charges finalised; and

(c) deliver the ex officio or partial brief of evidence to the ODPP within 14 days of being notified the matter is to proceed by way of ex officio indictment; and

(iii) the relevant district officer or command equivalent is to ensure local arrangements are put in place which ensure officers under their control deliver partial briefs of evidence to the ODPP no later than the date set by the relevant prosecutor.

Where an assault (including an assault of a sexual nature) is alleged, the following are to be included in the ex officio or partial brief:

(i) a statement outlining the facts of the assault by the complainant;

(ii) statement(s) from doctor(s) noting any injuries; and

(iii) photographs of injuries where appropriate.

Where a charge involves a covert operative, the following are to be included in the ex officio or partial brief:

(i) a statement from the covert operative and the controller outlining their involvement; and

(ii) a copy of all related covert operative tapes.

OPM Issue 113 Public Edition

Where charges involve property, the following are to be included in the ex officio or partial brief:

(i) a quote for property unable to be returned to the owner(s); and

(ii) an indication of offences which are related to one another (e.g. stealing and false pretence charges).

If additional information is required, the ODPP will contact the arresting officer(s) directly. All requested additional information, is to be delivered to the ODPP as soon as practicable, and no later than 14 days from the original request. If there are difficulties complying with the requirements of this section officers are to advise the relevant ODPP office.

The officer responsible for providing material for ex officio indictments is:

(i) in cases involving one arresting officer, the arresting officer;

(ii) where there is more than one arresting officer from the same station/establishment, the senior arresting officer;

(iii) where the arresting officer is on leave, has resigned, or is suspended etc., the arresting officer's OIC immediately prior to the arresting officer commencing leave, resigning or being suspended etc.; and

(iv) where an arresting officer has been transferred to another station/establishment, the arresting officer (in conjunction with the OIC of the arresting officer's previous station/establishment).

Where a request for an ex officio indictment is rejected, the defence, the arresting officer and the prosecutor (in centres where the police conduct the committal hearings) will be advised by the ODPP in writing. Once a request is rejected, the matter will be set down for a committal hearing on the next available date.

ORDER

If it is impractical to have the partial brief or any additional information requested by the ODPP delivered within 14 days of being notified the matter is to proceed by way of ex officio indictment, the arresting officer is to advise the relevant ODPP officer.

3.4.22 Conspiracy and other offences requiring the consent of the Attorney-General to prosecute

The CC provides offences for which a prosecution shall not be instituted without the Attorney-General's (AG) consent. These offences are:

(i) s. 54A: 'Demands with menaces upon agencies of government';

(ii) s. 131: 'Conspiracy to bring false accusation';

(iii) s. 132: 'Conspiring to defeat justice';

(iv) s. 541: 'Conspiracy to commit crime';

(v) s. 542: 'Conspiracy to commit other offences'; and

(vi) s. 543: 'Other conspiracies'.

Before providing consent, the AG requires the ODPP to assess the referred briefs of evidence.

ORDER

Prior to preferring a charge for which the AG consent is required, investigating officers are to:

(i) fully investigate the matter;

(ii) submit the completed brief of evidence to a brief checker for checking; and

(iii) submit the brief of evidence and covering report to their OIC.

OIC are to forward the file, through the chain of command, to the Superintendent, Prosecution Services, Legal Division, who is to forward the file to the ODPP for assessment and approval where appropriate.

3.4.23 Notification of court results

Magistrates courts

At the conclusion of most magistrates court proceedings, the results are transmitted from the Department of Justice QWIC information system via ETCR to QPRIME. More complex criminal matters require Police Information Centre (PIC) staff to manually enter information obtained from finalised QP9 in QPRIME.

ORDER

The OIC of police prosecutions corps (PPC) and prosecutors at stations where there is not a PPC, are to ensure the QP9 and recorded results for the following matters:

(i) re-hearings and re-openings;

(ii) Queensland offences commenced by the Australian Federal Police;

(iii) criminal matters which received a traffic licence disqualification;

OPM Issue 113 Public Edition

(iv) substituted charges not captured by electronic transfer of court results (ETCR); and

(v) pre-QPRIME charges,

are forwarded to the Manager, PIC as soon as reasonably practicable, but within 2 working days of the date of finalisation.

Superior courts

At the conclusion of superior court proceedings, superior court staff forward a Verdict and Judgment Record (VJR) to the PIC for the purpose of updating offender histories.

ORDER

At the conclusion of superior court proceedings, the Superior Court Liaison Officer (or where there is no Superior Court Liaison Officer, the OIC of the station or establishment, where the superior court sits) is to return the full brief of evidence to the arresting officer. The brief of evidence is not to be forwarded to the Manager, PIC.

Exhibits are to be dealt with according to the provisions of s. 4.6: 'Disposal of property' of this Manual. Electronic recordings are to be dealt with according to the provisions of the DERIE Manual.

3.4.24 Members not to act as orderlies in civil proceedings

OICs who receive requests to provide officers to act as orderlies at civil proceedings of magistrates courts should not accede to such requests under normal court circumstances.

Where there are extraordinary circumstances which might justify the presence of an officer at civil proceedings of a magistrates court, the OIC receiving the request should refer the matter to the RDO or DDO for determination.

3.4.25 Advice to defendants of possible penalties

Officers who receive requests from defendants relating to possible penalties should only advise those defendants of the penalty provided by the relevant legislation. Officers are not to comment on a specific penalty which may be incurred.

3.4.26 Prosecution of offences on behalf of Department of Transport and Main Roads

Prosecutors will only appear on behalf of the Department of Transport and Main Roads (DTMR) in remote courts where the Magistrate has declined for DTMR to appear remotely (video/phone link). This is only to be on an ad hoc basis. Prosecutors should not appear on call overs, multiple matters, pleas of guilty, adjournments and matters to be listed for summary trial on behalf of the DTMR. Prosecutors should also not appear on the hearing of appeal matters or summary trials on behalf of the DTMR.

For ad hoc appearances, prosecutors should ensure DTMR is immediately advised of trial dates and completed files with appropriate notations are returned to the DTMR within two working days.

3.4.27 Secret commissions

A prosecution for an offence under Chapter 42A: 'Secret Commissions' of the CC will not commence without the consent of a Crown Law officer (see s. 442M(3): 'Custom of itself no defence' of the CC).

Guideline 14: 'Charges requiring Director's consent' subsection (ii): 'Chapter 42A Secret Commissions' of the Director of Public Prosecutions (State) Guidelines provides the circumstances where a Crown Law officer will not give consent to prosecute an offence under Chapter 42A of the CC.

Officers proposing to commence a prosecution for an offence against Chapter 42A of the CC should submit a full brief of evidence with a covering report through the chain of command to the OIC, Prosecution Services, Legal Division, who should consider all the available evidence relating to the alleged offence and, where appropriate, refer the matter to the ODPP with a request for the consent of a Crown Law officer in accordance with s. 442M(3) of the CC to prosecute the offence. This request should be forwarded through the Executive Director, Legal Division to the Deputy Commissioner (Specialist Operations).

3.4.28 Notification of Queensland College of Teachers regarding an approved teacher

Notice to be given to the Queensland College of Teachers (QCT) about the progress of a prosecution

The prosecutor responsible for prosecuting an indictable offence against a person who:

(i) is an approved teacher; or

(ii) was an approved teacher at the time the offence is alleged to have been committed by the person,

is to notify the Director, Queensland College of Teachers (DQCT) within seven days when the:

(i) person was committed for trial;

(ii) person was summarily convicted (whether or not a conviction is recorded);

OPM Issue 113 Public Edition

(iii) person is committed to stand trial but the district court directs the prosecution back to the magistrate court for completion;

(iv) prosecution process has ended, whether as a result of an acquittal, a mistrial, the withdrawal of charges, no evidence being offered or, in some other way.

(see s. 80: 'Requirement for prosecuting authority to notify college about committal, conviction etc.' of the *Education (Queensland College of Teachers) Act* (EQCT) and Delegation D 37.6).

Where a matter has been finalised in the district court, the ODPP (State) is responsible for notifying the DQCT of the outcome.

To assist in determining whether a person is an approved teacher, officers can search the electronic database at the QCT internet page. If it is determined the person was an approved teacher, a notation should be made in the facts of the QP9 and the prosecutor is to forward a notification letter (see QP 1205: 'Notice required under s. 80 of the Education (Queensland College of Teachers) Act 2005') to the DQCT.

Prosecutors are to ensure copies of any correspondence or reports forwarded to and received from the DQCT are attached to the prosecutions copy of the QP9.

See also s. 7.8: 'Allegations of physical/sexual harm committed against a child which may amount to corrupt conduct by Government employees' of this Manual.

Application for information concerning a person's suitability to teach in a college

If the college becomes aware of an applicant seeking registration or permission to teach, being charged or convicted of an offence, the college may seek information from the Commissioner about the suitability of the applicant (see s. 15AA: 'Obtaining other information for commissioner of police' of the EQCT).

When a member receives a request for information concerning the suitability of an applicant seeking registration or permission to teach, the member should forward the request to the Police Information Centre, Information Management Services.

3.4.29 Notification of Office of Fair Trading regarding Debt Collectors (Field Agents and Collection Agents) Act and Security Providers Act

Debt Collectors (Field Agents and Collection Agents) Act

Holders of a licence or registration certificate under the *Debt Collectors (Field Agents and Collection Agents) Act* (DC(FACA)) are authorised to perform the following activities:

(i) a debt collection activity;

(ii) a repossession activity;

(iii) a process serving activity (serving a writ, claim, application, summons or other process).

(See ss. 14: 'What a licence authorises' and 18: 'What a registration certificate authorises' of the DC(FACA)).

Under s. 68: 'Immediate cancellation' of the DC(FACA) the Office of Fair Trading (OFT) should cancel a licence held under the Act, for a number of reasons, including where the licensee is convicted of a serious offence.

Under s. 97: 'Immediate cancellation' of the DC(FACA) the OFT should cancel a registration certificate held by a subagent who is registered under the Act, if the subagent is convicted of a serious offence.

A serious offence is defined in Schedule 2: 'Dictionary' of the DC(FACA).

When an investigating officer believes, on reasonable grounds, a person against whom a prosecution has been commenced for a serious offence as defined in Schedule 2 of the DC(FACA) and the person is licensed or registered under the Act, the officer is to include relevant information in the 'Summary of Facts' of the QP9.

The prosecutor responsible for the prosecution relating to the person concerned is to ensure the OFT (see SMCD) is advised, upon a finding of guilt against the person for a serious offence.

Security Providers Act

Section 4: 'Who is a Security Provider' of the *Security Providers Act* (SPA) states a security provider is a:

(i) body guard

(ii) crowd controller;

(iii) private investigator;

(iv) security adviser

(v) security equipment installer

(vi) security officer; or

OPM Issue 113 Public Edition

(vii) security firm.

A licence granted under the SPA may be suspended, cancelled or not renewed by the OFT under s. 21: 'Grounds for suspension, cancellation or refusal to renew' of the Act for a number of reasons, including where a licensee:

(i) has contravened the SPA, including a code of practice;

(ii) has committed an offence against the SPA;

(iii) is not, or is no longer, an appropriate person; or

(iv) has been charged with a disqualifying offence listed in Schedule 1: 'Disqualifying offence provisions under the Criminal Code' of the SPA.

A licence granted under the SPA may be cancelled by the OFT under s. 24: 'Automatic cancellation on conviction' of the Act where a licensee or another person who would have been required to be an appropriate person for the grant of the licence, is convicted of a disqualifying offence listed in the Schedule contained in the Act.

When an investigating officer believes, on reasonable grounds a person against whom a prosecution has been commenced for any offence outlined above is:

(i) an applicant for a licence; or

(ii) the holder of a licence;

under the SPA, the officer is to include information in the summary of facts of the relevant QP9 and include where possible the person's security providers number.

The prosecutor responsible for the prosecution relating to the person concerned is to ensure the OFT (see SMCD) is advised after the person's first appearance in court.

See also s. 13.4.6: 'Security providers' of this Manual.

3.4.30 Supply of information to the Parole Board Queensland

The Parole Board Queensland (PBQ) is an independent statutory body appointed by the Governor in Council to:

(i) makes decisions on parole and resettlement leave programs for prisoners; and

(ii) monitor the progress of prisoners granted parole and make decisions regarding the amendment, suspension or cancellation of these orders.

Providing court brief (QP9) to the Parole Board Queensland

Breaches of parole orders may result in the offender's parole being rescinded. If the breach involves the commission of any new offences, the parole board's assessment is aided by having information about the offence(s) readily available.

Where a request from the PBQ is received, those parts of the relevant QP9 regarding the:

(i) wording of the charge;

(ii) offender details; and

(iii) facts of the offence,

may be supplied to the PBQ by:

(i) a prosecutor;

(ii) the OIC of a station or establishment; or

(iii) the members of the PIC.

This section is to be read in conjunction with s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' and Appendix 5.2: 'Example of caveat when responding to requests for information by government departments, agencies or instrumentalities' of the MSM.

Proposed submission on an officer's initiative

ORDER

Where an officer:

(i) believes it is appropriate to provide information to the PBQ, other than a QP9, on the officer's own initiative (e.g. because of the assistance the prisoner has provided to law enforcement or because the prisoner's behaviour suggests he will re-offend); or

(ii) has been requested by the PBQ to provide information, other than a QP9,

the relevant officer is to seek the approval of their district officer before providing the additional information. (Note—officer's opinions alone or their guarantees as to the future likelihood of prisoner's reoffending are not considered

OPM Issue 113 Public Edition

relevant by the PBQ. Consequently, any submission in this regard is to be limited to known facts relating to the prisoner's behaviour or actions).

Approval is to be sought by completing a report addressing:

(i) if the information to be provided is to support the prisoner's early release:

(a) whether the prisoner has been registered as a human source in accordance with the Human Source Management Policy, and if not, why;

(b) the nature of the assistance given by the prisoner;

(c) the truthfulness, completeness and reliability of the information provided;

(d) the value of such assistance, e.g. arrests made, offences detected, and seizures made;

(e) the timelines of the assistance or undertaking to assist;

(f) whether the information could have been obtained from any other source;

(g) whether the safety of the prisoner or any member of the prisoner's family was compromised by their actions and, if so, to what degree;

(h) any reward paid to the prisoner by the Service;

(i) any involvement of the prisoner in offences for which the prisoner provided information;

(j) any ongoing assistance being provided by the prisoner;

(k) whether the prisoner is going to give any evidence or not. If the prisoner is not prepared to give evidence clearly state the reasons (e.g. fear of physical repercussions); and

(l) how the prisoner's early release on parole may benefit a criminal investigation; or

(ii) if the information is to be provided to support the prisoner's re-imprisonment, the report is to outline the intelligence in possession of the Service.

The district officer is to consider the application and if approved, forward the file to the Detective Superintendent, State Intelligence Group so the intelligence may be forwarded to the Queensland Corrective Services Intelligence Group (QCSIG) via the QPS/QCSIG electronic interface.

Officer's attendance at hearing required by Parole Board Queensland

Despite the power of a parole board under s. 219: 'Power to require attendance' of the *Corrective Services Act*, as a general rule, the PBQ will not require an officer to attend a parole hearing and give the board relevant information or produce a stated document containing relevant information.

In the event an officer's attendance is required at a parole hearing, the relevant officer is to notify their district officer as soon as practicable after receiving the attendance notice. If the information likely to be sought by PBQ is known by the relevant officer, they are to advise their district officer of the information.

The relevant district officer is to appoint a commissioned officer to accompany the officer to the parole hearing.

Where the information or documentation likely to be sought by PBQ may compromise a current investigation, the relevant assistant commissioner should be advised. The assistant commissioner may consider seeking approval from the PBQ President to instead provide the required information through the QPS/QCSIG interface.

For the provision of information to a Queensland Corrective Services (QCS) officer, see:

(i) s. 3.4.18: 'Supply of information where court outcome requires action by QCS or Youth Justice';

(ii) s. 3.4.36: 'Notification of Chief Executive, QCS, regarding committal, conviction, etc. of relevant person'; and

(iii) s. 13.5.6: 'Supply of information impacting on the security classification, protection or security of prisoners and/or the security and good order of correctional facilities to QCS',

of this Manual.

See also s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM).

3.4.31 Supply of information under Mental Health Act

Under s. 96: 'Information from prosecuting authority' of the *Mental Health Act* (MHA), an administrator of a treating health service, authorised psychiatrist or chief psychiatrist may, in relation to a person for which s. 92: 'Application of pt 3' of the MHA applies, ask the prosecuting authority, which includes the Commissioner (see Schedule 3: 'Dictionary' of the MHA) to give them copies of documents which have been included as part of the brief of evidence (see Schedule 3 of the MHA). Section 96(3) provides the Commissioner must comply with the request as soon as practicable.

OPM Issue 113 Public Edition

All statutory requests for documents in possession of the Service under s. 96 of the MHA are to be addressed to the Commissioner. Generally, these requests will be forwarded electronically by way of a proforma to the relevant police prosecution corps.

The Commissioner's power under s. 96 of the MHA has been delegated to the OIC of police prosecution corps and stations and establishments (see Delegation D 82.2).

Members receiving a request under s. 96 of the MHA should forward it to the OIC of the responsible prosecution corps. If the documents requested are not available from the relevant prosecution corps, the request is to be referred to the OIC of the arresting officer's station or establishment.

In complying with a request, members should complete the form and return it, together with the available documents of the brief of evidence as defined under Schedule 3 of the MHA, by way of facsimile or email to the treating health service or authorised psychiatrist. If the requested documents are not available at the prosecution corps or station or establishment, or will become available at a later date, or will be provided by other means, members are to indicate this on the form and return the form as soon as practicable.

Members are to act on a request as soon as practicable but within fourteen days to allow the administrator, authorised psychiatrist or chief psychiatrist to fulfil their obligations under the MHA.

The request under s. 96 of the MHA does not apply:

(i) to information as defined by subsections (4) and (5) of the section; or

(ii) Commonwealth offences (see s. 92 of the MHA).

Where the request relates to information covered in (i) to (ii) above, the OIC should ensure information is not provided, or is removed from the relevant documents prior to delivery.

Where a defendant has been committed for trial or sentence, the requesting administrator is to be referred to the relevant ODPP.

See also s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM.

3.4.32 Prosecuting authority to notify chief executive about committal, conviction etc. under the Public Sector Act

When the arresting officer is aware a person charged with a relevant offence is a Queensland public service employee (i.e. a person employed in a Queensland Government department or public service office), the officer is to include relevant information in the 'Summary of Facts' of the QP9. Queensland public service employees include professionals and non-professionals at all levels and examples may include but not limited to directors, managers, administration officers, technicians, field staff, legal officers, medical practitioners, nurses, and cleaners.

Section 74: 'Prosecuting authority must disclose to chief executive committals, convictions and other information' of the *Public Sector Act* (PSA), provides when a prosecuting authority is aware a person is a public service employee in a department and is charged with a relevant offence, the prosecutor must give notice to the chief executive or director of the relevant department within 7 days of:

(i) the person being committed to a court for trial for a relevant offence; or

(ii) the person being convicted before a court; or

(iii) the prosecution process otherwise ending.

Where a prosecutor is required to notify the chief executive of the relevant department within 7 days in accordance with s. 74 of the PSA, the prosecutor is to provide the information by mail or Service email to the relevant department (see SMCD).

The notification is to be provided to the relevant department on Service letterhead (see Appendix 3.11: 'Notification under s. 74 of the Public Sector Act' of this chapter for a sample letter).

3.4.33 Notification of Queensland Parks and Wildlife Service of convictions of conservation related offences

Investigation of offences in relation to Queensland parks and wildlife matters are generally conducted by the Department of the Environment, Tourism, Science and Innovation (DETSI).

Officers may be appointed as:

(i) conservation officers pursuant to s. 127: 'Appointment of conservation officers' of the *Nature Conservation Act* (NCA);

(ii) inspectors pursuant to s. 52: 'Appointment and qualifications' of the *Marine Parks Act* (MPA); or

(iii) authorised officers pursuant to s. 143: 'Appointment and qualifications' of the *Recreation Areas Management Act*.

OPM Issue 113 Public Edition

Information concerning convictions for offences, including where no conviction is recorded, are used by DETSI to assess the suitability of applicants for licences, permits and authorities under the NCA. Offences under the following legislation are relative to applications in these circumstances:

(i) *Great Barrier Reef Marine Park Act* (Cwlth);

(ii) MPA;

(iii) Marine Parks (Great Sandy) Zoning Plan;

(iv) Marine Parks (Moreton Bay) Zoning Plan;

(v) Marine Parks Regulation;

(vi) NCA;

(vii) Nature Conservation (Estuarine Crocodile) Conservation Plan;

(viii) Nature Conservation (Koala) Conservation Plan;

(ix) Nature Conservation (Macropod) Conservation Plan;

(x) Nature Conservation (Protected Areas Management) Regulation; and

(xi) *Recreation Areas Management Act*.

Additionally, under s. 135(2)(a): 'Chief executive may inquire into applications' of the NCA the Chief Executive may obtain a report from the Commissioner regarding the criminal history of such applicants.

The prosecutor responsible for the prosecution of a person charged with an offence under the above legislation is to forward a copy of the QP9 (or infringement notice where appropriate), including details of the penalty imposed, to the Manager Compliance Optimisation, QPWS, after the court appearances are finalised and the person is found guilty of the offence (see SMCD). Parts of the QP9 which may identify complainants or other witnesses are to be deleted prior to release.

When information of a successful appeal against a conviction for an offence under the legislation listed above is received, QPS Legal Services, Office of the General Counsel is to forward advice to the Manager Compliance Optimisation, QPWS (see SMCD).

Where an infringement notice fine is paid, no further action is necessary (see also s. 13.25: 'Environmental (State Parks and Wildlife)' of this Manual).

3.4.34 Deleted

3.4.35 Animal valuations—Criminal Code (Animal Valuers) Regulation

In all cases where a provision of the CC relates the amount of a fine to the value of an animal determined in accordance with the provisions of the Criminal Code (Animal Valuers) Regulation, and a prosecutor from the ODPP is involved, the prosecutor will arrange the inspection or valuing of the animal pursuant to s. 450F: 'Animal valuers and valuations' of the CC.

In cases where a provision of the CC relates the amount of a fine to the value of an animal (e.g. s. 398(2): 'Punishment of Stealing' and s. 444A: 'Killing animals with intent to steal' of the CC), the matter is being dealt with summarily and a prosecutor is involved in the prosecution, the prosecutor is to notify the Manager, Operations and Administration, ODPP and request for the selection of a tribunal to value the animal or inspect it. The request is to be in writing and contain:

(i) the basis of the need for a tribunal to:

(a) inspect the animal; or

(b) value the animal under s. 450F of the CC for the charge; and

(ii) the details required by s. 8(3): 'When appointment as animal valuer ends' of the Criminal Code (Animal Valuers) Regulation.

Investigating officers are not to directly arrange with animal valuers for a tribunal of animal valuers to be convened.

3.4.36 Notification of Chief Executive, Queensland Corrective Services regarding committal, conviction, etc. of relevant person

Under s. 335: 'Prosecuting authority to notify chief executive about committal, conviction etc.' of the *Corrective Services Act* (CSA), the Commissioner or the DPP (State) is required to give written notice about a relevant person, charged with an indictable offence, to the Chief Executive, Queensland Corrective Services (QCS) within seven days of:

(i) a person being committed to a court for trial for a relevant offence;

(ii) a person being convicted before a court;

(iii) any appeal by the person being ended; or

OPM Issue 113 Public Edition

(iv) the prosecution process ending without the person being convicted.

When the arresting officer is aware a person charged with an indictable offence is a relevant person under the CSA, the officer is to include relevant information in the 'Summary of Facts' of the QP9.

Where a prosecutor is required to notify the Chief Executive, QCS within 7 days in accordance with s. 335: 'Prosecuting authority to notify chief executive about committal, conviction etc.' of the CSA, the prosecutor is to provide the information on Service letterhead by email to the Executive Director, Ethical Standards Unit, Department of Justice (see SMCD).

See also s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM.

3.4.37 Prosecuting authority to notify chief executive officer about committal, conviction etc. under the Crime and Corruption Act

When the arresting officer is aware a person charged with a relevant offence is a relevant commission officer (generally persons employed by or seconded to the Crime and Corruption Commission (CCC) as set out in the *Crime and Corruption Act* (CCA)), the officer is to identify the fact and include relevant information in a note to the prosecutor in the 'Summary of Facts' of the QP9.

Section 273H: 'Relevant prosecuting authority to notify chief executive officer of prosecution proceeding' of the CCA provides when a prosecuting authority is aware a relevant commission officer is charged with a relevant offence, the prosecutor must give notice and certain information to the chief executive officer (CEO) of the CCC within 7 days of:

(i) the person being committed to a court for trial for a relevant offence;

(ii) the person being convicted before a court;

(iii) an appeal against conviction ending; or

(iv) the prosecution process otherwise ending.

Where a prosecutor has carriage of a matter that requires the CEO of the CCC to be notified in accordance with the legislation, the prosecutor is to email the CEO via email (see SMCD). The email must be sent within 7 days of the event and include a copy of the QP9 and any other information required by the CCA.

3.4.38 Supply of information to the department responsible for education regarding State school students

The release of information as required of the Commissioner, pursuant to the *Education (General Provisions) Act* (EGPA) to the Chief Executive for education has been delegated to the Manager, Police Information Centre (PIC), Legal Division in accordance with:

(i) Delegation D 75.4; and

(ii) Delegation D 75.6.

Members receiving requests for information under the EGPA:

(i) s. 175E: 'Mature age State school's principal may make request about mature age student'; or

(ii) s. 280C: 'Chief executive may ask police commissioner about student charge or conviction',

are to direct the inquirer or inquiry to the Manager, PIC.

Notification to a mature age school of a mature age student charged with an offence

When an arresting officer reasonably suspects a person charged with an offence is a relevant mature age student, the officer is to forward an email to the Manager, PIC, including:

(i) the person's full name and address;

(ii) the person's date of birth;

(iii) the offence the person is charged with;

(iv) brief particulars of the alleged offence;

(v) the date of the charge;

(vi) the school they attend; and

(vii) the relevant QPRIME occurrence number(s),

to enable the school's principal to be advised of the charge in accordance with s. 175J: 'Notice of change in criminal history' of the EGPA.

OPM Issue 113 Public Edition

3.5 Commencing proceedings

The *Youth Justice Act* imposes particular requirements on arresting officers who commence a prosecution against a child, and provides alternative means for dealing with juvenile offenders. These are dealt with in Chapter 5: 'Children' of this Manual.

Not all offenders need to be placed before a court to be dealt with for their offending. Successful outcomes can often be achieved through diversionary options. A successful outcome is achieved when the right person is lawfully held to account for the commission of the right offence.

Where a person has been identified as being responsible for an offence, officers are to first consider whether, in all the circumstances, the matter could be appropriately dealt with via a diversionary option (see s. 3.1.1: 'Consider all disposition and diversion options' of this chapter), by:

(i) administering a cautioning (see s. 3.2: 'Cautioning Adults' of this Chapter and Chapter 5: 'Children' of this Manual);

(ii) referring the offence for a restorative justice conference (see s. 3.3: 'Adult restorative justice conferencing' of this Chapter);

(iii) if the offence is a minor drug offence and the person is eligible, offer the person an opportunity to participate in a drug diversion assessment program (see s. 2.22: 'Drug Diversion Assessment Program' of this Manual);

(iv) if the person is intoxicated in a public place, take the person to a place of safety (see s. 16.6.3: 'Intoxication' of this Manual);

(v) if the offence is an infringement notice offence (see s. 8.3: 'Offences for which infringement notices may be issued' of the TM) and a caution is not appropriate, issue an infringement notice, unless ss. 8.6: 'Manner of issuing infringement notices' or 8.6.2: 'Infringement notices not issued where other offences detected not able to be issued with infringement notices' of the TM; or

(vi) if another appropriate alternative to commencing a proceeding is available, utilise that alternative.

Officers should not commence proceedings against a person by way of arrest if an appropriate diversionary option exists.

Where an officer is satisfied that a diversionary option is not considered appropriate in the circumstances there are four methods available to commence proceedings namely:

(i) service of a notice to appear

(ii) service of a complaint and summons;

(iii) arrest without warrant; or

(iv) make a complaint and apply for an arrest warrant.

The issue of an infringement notice is a further method which may lead to the commencement of a prosecution (see s. 13.15: 'Issue of infringement notices generally' of this Manual and Chapter 8: 'Infringement Notices' of the TM).

ORDER

Where an officer determines that, in all the circumstances, a diversionary option is not appropriate, and commences proceedings, the officer is to clearly articulate the reasons why a diversionary option was not considered appropriate in the court brief (QP9) summary of facts.

3.5.1 Responsibility to establish authority to prosecute

ORDER

Where the authority of any person is required before proceedings are to be commenced, the investigating officer is to obtain the stipulated authorisation.

3.5.2 Responsibility to prefer all charges

Officers should prefer all known charges against a defendant at or about the same time where possible. There should be only one arresting officer for multiple charges preferred at the same time, unless compelling reasons exist for the use of different arresting officers.

Specimen charges

Officers are to use QPRIME when creating charges. When QPRIME is unavailable, specimen charges are available from the Specimen Charges Lookup System on the Service Intranet. If officers wish to conduct research as to what charges can be preferred, there is a search facility in the Specimen Charges Lookup System on the Service Intranet.

OPM Issue 113 Public Edition

3.5.3 Proceedings by way of notice to appear

Officers may commence proceedings for an offence by issuing and serving a QP 0699: 'Notice to appear' (NTA) on a person (see s. 382: 'Notice to appear may be issued for offence' of the PPRA. Officers issuing a NTA to a child should refer to s. 5.9.2: 'Proceedings against a child by notice to appear' of this Manual.

A NTA may be issued by an officer who:

(i) discontinues an arrest;

(ii) reasonably suspects a person has committed or is committing an offence;

(iii) is requested by another police officer, who reasonably suspects a person has committed or is committing an offence, to issue and serve a NTA; or

(iv) is a prescribed police officer (see ss. 394: 'Duty of officer receiving custody of person arrested for offence' of the PPRA and 7: 'Power of police officer to grant bail' of the *Bail Act*).

Where a NTA has been issued by:

(i) a police officer at the request of another officer; or

(ii) by a prescribed police officer,

the officer who arrested the person or made the request, and not the police officer who issued the notice, is taken to have commenced the proceeding against the person (see s. 388(3) & (4): 'Notice to appear equivalent to a complaint and summons' of the PPRA).

Wherever practicable, proceedings should be commenced by means of a NTA, unless:

(i) an infringement notice can be issued for the offence (see s. 13.15: Issuing infringement notices generally' of this Manual); or

(ii) an arrest can be justified (see s. 3.5.9: 'Justification for arrest' of this chapter).

ORDER

Officers (including a prescribed or requested police officer) issuing a NTA are to:

(i) identify the correct court jurisdiction and ascertain a suitable first mention date and time. Wherever practicable, the date and time stated in a NTA to appear for the person to appear before the court should not exceed 21 days after the notice is served;

(ii) ensure the date the person is required to appear is a sitting court day by conferring with the relevant police prosecution corps or check the court's calendar at www.courts.qld.gov.au;

(iii) fully and accurately complete a QP 0699 ensuring:

(a) the time and place at which the person is to appear before a court is at least 14 days or, with the person's written agreement, a shorter time after the NTA is served;

(b) if the NTA was issued at the request of another officer, the requesting officer's particulars are stated in the NTA; and

(c) for an offence against s. 6: 'Public nuisance' of the *Summary Offences Act* (SOA), the NTA also states the type of behaviour the person committed (e.g. disorderly behaviour) as provided for in s. 6(2)(a)(i) to (iv) of the SOA;

(iv) cause the NTA to be personally served on the person, unless exempted as below, and ensure the 'Service' portion on the bottom section of the NTA is completed and signed by the serving officer;

(v) where a hard copy NTA is issued and served, ensure the station copy is filled with the OIC; and

(vi) ensure the NTA is filed with the relevant magistrates court where the person is to appear within three days of service of the notice and in any case before the date set for the person's date of appearance on the notice.

If a NTA is issued by:

(i) a prescribed police officer; or

(ii) an officer at the request of another officer,

the officer is to advise the arresting officer the NTA has been served and forward a copy of the NTA to the arresting officer.

Officers commencing proceedings by way of NTA, including officers taken to have started the proceedings, are to ensure a Court Brief (QP9) and all necessary documentation in relation to the matter is completed and approved in accordance with ss. 3.7.2: 'Documentation at first appearance' and 3.7.5: 'Checking of court briefs (QP9)' of this chapter.

OICs are to monitor and ensure court briefs (QP9) relating to proceedings commenced by way of NTA are completed to allow sufficient time for checking as required by s. 3.7.5 of this chapter.

OPM Issue 113 Public Edition

Service of a notice to appear

A NTA is to be personally served on a person unless it is for an offence against the TO(RUM)A. A NTA for an offence against the TO(RUM)A may be served on a person by registered post if it is served as provided for in s. 56(1) or (2)(a), (b) or (c): 'Service of summonses' of the *Justices Act*.

An officer may enter a place, which is not a dwelling, without the consent of the occupier and stay on the place for a reasonable time to serve a NTA (see ss. 19: 'General power to enter to make inquiries, investigations or serve summons' and 20: 'What is a reasonable time to stay on a place' of the PPRA).

Authority to take fingerprints and other identifying particulars of persons served with a NTA are contained in s. 2.26: 'Identifying particulars' of this Manual. An officer investigating an indictable offence is to take a DNA sample (see s. 2.25 'DNA' of this Manual).

Where a NTA is to be served personally on a person, the serving officer is to:

(i) hand the person a copy or a copy of the QPRIME generated NTA;

(ii) explain the offence for which the NTA has been issued;

(iii) advise the time, date and court at which the person is to appear;

(iv) provide the officer's details (see s. 637: 'Supply police officer's details' of the PPRA); and

(v) when explaining the availability of 'plea of guilty' information, ensure any conversation with the person cannot be construed as an inducement or threat.

Where a person refuses to accept a copy of the NTA, officers are to:

(i) ensure the time, date and court at which the person is to appear are given to the person where possible, and the copy left in a conspicuous place where the person named therein is likely to see it; or

(ii) if the person's actions raise a reasonable suspicion the person will not appear before the nominated court, the officer concerned may consider arresting the person under s. 365(1)(c): 'Arrest without warrant' of the PPRA.

3.5.4 Proceedings by way of complaint and summons

ORDER

Proceedings are only to be commenced by way of complaint and summons, where it is impractical to serve a notice to appear on a defendant.

A summons is simply a direction to the defendant to appear before a court to answer a charge(s). A complaint or information laid before a magistrate or justice is the basis for issuing the summons (see s. 53: 'When justice may issue summons' of the *Justices Act*). The 'complaint' or 'information', as the case may be and the 'summons', although separate legal instruments, are included on one form and are generally referred to as a complaint and summons. The date nominated for the defendant to appear is referred to as the return date of the complaint and summons.

To institute proceedings by way of complaint and summons, officers should:

(i) select an appropriate court having jurisdiction over the matter and ascertain a suitable return date;

(ii) ensure the date the defendant is required to appear is a sitting court day by conferring with the relevant police prosecution corps or check the court's calendar at www.courts.qld.gov.au;

(iii) complete a Form 003: 'Complaint, Sworn and Summons' (available in QPRIME). Particulars are to be provided for simple offences so such matters can be dealt with ex parte (see s. 142A: 'Permissible procedure in absence of defendant in certain cases' of the *Justices Act*). The form should be completed in original and three copies. In all cases, the statute and section under which the charge is alleged should be indicated on the top left hand corner of the complaint and summons form. Officers should ensure the following information is clearly indicated on the summons form:

(a) the date of birth of the defendant;

(b) the full address of the court, and where appropriate, the number of the court, before which the defendant is to appear; and

(c) the indigenous identifier provision;

(iv) ensure the OIC is advised of the issuing of and service of the complaint and summons;

(v) attend before a clerk of the court or a justice of the peace and swear out the information contained in the complaint. The same person before whom the complaint is sworn must issue the summons, otherwise the summons is invalid. A summons may not be issued by a commissioner for declarations;

(vi) lodge every complaint and summons, where the summons has been issued on a complaint in writing, with the clerk of the court at the place at which the defendant is required by the summons to appear;

OPM Issue 113 Public Edition

(vii) serve, or arrange for the service of, a copy of the summons on the defendant. Allow at least fourteen days between the date of service and the date of the appearance. Such a period of time will enable a court to deal with simple offences ex parte under the provisions of s. 142A of the *Justices Act*;

(viii) complete the appropriate oath/memorandum of service on the summons but do not sign;

(ix) include the defendant's address for service in the appropriate space;

(x) attend before a justice of the peace or commissioner for declarations and sign and swear out the oath/memorandum of service;

(xi) return the endorsed copy to the clerk of the court at the courthouse at which the defendant is to appear and at which the relevant complaint and summons were lodged;

(xii) update QPRIME; and

(xiii) prepare a court brief (QP9) in relation to the matter and have it approved as prescribed in s. 3.7.5: 'Checking of court briefs (QP9)' of this chapter, irrespective of whether the summons has been served. Wherever practical, a court brief (QP9) is to be completed immediately following the issue of a complaint and summons. A copy of the endorsed summons is to be attached to the copies of the court brief (QP9) and forwarded or delivered to the police prosecutor.

OICs are to monitor and ensure court briefs (QP9) relating to proceedings commenced by way of complaint and summons are completed to allow sufficient time for checking as required by s. 3.7.5 of this chapter.

3.5.5 Service of a summons

It is the responsibility of the officer who serves a summons to ensure the summons is served in accordance with the provisions of this chapter.

When a summons has been served on a defendant and they fail to appear, it is open to the court, after hearing evidence of proper service and facts to substantiate the charge, to issue a warrant subject to the provisions of s. 59: 'Warrant in the first instance' of the *Justices Act*.

There are 3 methods by which a summons may be properly served:

(i) postal service;

(ii) personal service, where the summons is served personally on the defendant; or

(iii) substituted service, where the summons is served on another person who will later give the summons to the defendant.

Postal service

Postal service of summonses is often a more convenient means of securing service. This method should always be considered and used where appropriate. The responsibility to post a summons rests with the arresting officer who swears out the summons.

ORDER

Arresting officers are to ensure:

(i) any summons sent by post is sent by 'Registered Post' and posted no later than 28 days before the return date of the summons;

(ii) a summons intended for postal service is addressed to the defendant at the place of business or place of residence of the defendant last known to an arresting officer. Where arresting officers are aware the defendant no longer works or resides at one or other of those 2 places they are to send the summons to the appropriate address pursuant to s. 56: 'Service of summonses' of the *Justices Act*; and

(iii) an envelope containing a summons for service by post is endorsed on the front with the words 'Not to be re-addressed. If addressee has left the address hereon, return to' followed by the address of the station or establishment from which the summons originated.

Where appropriate, prosecutors and officers performing duty as prosecutors are to seek an order from the court for the cost of postage, in addition to other costs.

Officers are to record on the brief of evidence, for the information of the prosecutor, any costs incurred for the postage of the summons.

Personal service

An officer may enter a place, which is not a dwelling, without the consent of the occupier and stay on the place for a reasonable time to serve a summons (see ss. 19: 'General power to enter to make inquiries, investigations or serve documents' and 20: 'What is a reasonable time to stay on a place' of the PPRA).

An officer who serves a summons on a defendant should:

OPM Issue 113 Public Edition

(i) hand a copy of the summons to the defendant;

(ii) explain the offence for which the summons has been issued;

(iii) advise the time, date and court at which the defendant is to appear;

(iv) where necessary, obtain the home address of the defendant if this is not already correctly shown on the summons for inclusion in the 'address for service' section of the summons; and

(v) provide the officer's details (see s. 637: 'Supply police officer's details' of the PPRA).

ORDER

Where the defendant refuses to accept a copy of the summons, officers are to, wherever possible, verbally advise the defendant of the time, date and court at which the defendant is to appear and leave a copy of the summons in a conspicuous place where the defendant is likely to see it.

Substituted service

Substituted service may occur when a defendant cannot reasonably be located at the time of service. It simply involves leaving the summons with another person, who is in a position to later give the summons to the defendant.

An officer should only serve a summons by substituted service, after the officer has first made reasonable inquiries to locate the defendant in an attempt to serve the summons personally.

ORDER

An officer who elects to serve a summons by means of substituted service is not to serve a summons on another person unless the other person is:

(i) 16 years of age or over;

(ii) at the last known place of residence or business of the defendant;

(iii) willing to accept the summons; and

(iv) in a position and willing to later give the summons to the defendant in reasonable time before the return date of the summons.

When these conditions are met, the officer is to ensure the summons is served on the person in the same manner as indicated for personal service. When completing the oath/memorandum of service, the officer is to ensure the full name of the person accepting the summons is included, as well as any comments made in reference to the acceptance of the summons.

Service of summonses and subpoenas for interstate agencies

Interstate police and other government agencies may request Service members to serve summonses and subpoenas on witnesses and accused persons who reside in Queensland.

Members should assist interstate agencies by serving summonses and subpoenas where service can only be effected via personal service.

The use of Service resources to serve summonses and subpoenas for other jurisdictions where postal service is an option is not supported.

If a member receives a summons or subpoena for service and postal service is an option, the member should forward a report regarding the matter to their OIC who will assess the request and determine the appropriate action.

For service of NSW Court Attendance Notices, see s. 14.29.5: 'Service of NSW court attendance notices' of this Manual.

3.5.6 Responsibilities after serving a summons

ORDER

An officer who serves a summons is to:

(i) complete the appropriate oath/memorandum of service on the summons without signing;

(ii) insert the defendant's address for service in the appropriate space;

(iii) attend before a justice of the peace or commissioner of declarations and sign and swear out the oath/memorandum of service;

(iv) complete a QP 0076: 'Summons report' showing the summons has been served;

(v) update QPRIME; and

(vi) submit the QP 0076 and the endorsed summons to their OIC.

OPM Issue 113 Public Edition

3.5.7 Unserved summons

ORDER

An officer who attempts to serve a summons and:

(i) is unable to locate the defendant after all avenues of inquiry have been exhausted; or

(ii) locates information to suggest the defendant is residing in another division;

is to complete a QP 0076: 'Summons report' briefly indicating the inquiries made and the results of those inquiries and submit a report with the unserved summons to their OIC.

A flag indicating a 'Warrant or document service req'd' entry against the defendant should be made in QPRIME. The flag should have an expiry date of the same day as the defendant is due to appear in court.

Summonses eligible for input in QPRIME are those which originate from within the Service and:

(i) which are meant for personal service;

(ii) which are not the result of an unpaid traffic offence notice; or

(iii) where the whereabouts of the defendant is unknown.

An officer who has the responsibility for the service of a summons, but has been unable to locate the defendant, should flag the defendant's details in QPRIME, if:

(i) a genuine effort has been made to effect service;

(ii) all avenues for ascertaining a positive forwarding address of the person named have been exhausted; and

(iii) the seriousness of the matter, or the likelihood of eventual service justifies inclusion of the summons on the system.

ORDER

Where all inquiries to locate a defendant have been exhausted, the arresting officer is to seek a direction from their OIC as to whether:

(i) the complaint should be withdrawn on a 'public interest' basis (see s. 3.4.3: 'Factors to consider when deciding to prosecute' of this chapter); or

(ii) an arrest warrant should be obtained and a full brief of evidence compiled.

3.5.8 Responsibilities of officers in charge of stations or establishments in respect of summonses

An OIC of a station or establishment who receives a summons and a QP 0076: 'Summons report' from officers attached to their station or establishment should ensure:

(i) the QP 0076 is properly completed;

(ii) a genuine effort has been made to effect service where appropriate; and

(iii) where appropriate the endorsement of service has been made correctly.

The OIC is to then:

(i) where the summons has been served, forward the original QP 0076 and the endorsed summons to the appropriate clerk of the court;

(ii) where the return date on the summons requires extending, arrange for such extension;

(iii) where the summons has not been served, and the last known address of the defendant is outside the division, forward the summons and the QP 0076 to the divisional OIC; or

(iv) where the summons has not been served, and the current address of the defendant is unknown, forward the QP 0076 and the summons back to the station or establishment where the arresting officer is stationed.

An OIC of a station or establishment who receives a summons and a summons report from another station or establishment should check the return date on the summons. Where there is sufficient time for the summons to be served, the OIC should try to arrange for the service of the summons on the defendant.

3.5.9 Justification for arrest

Prior to arresting a person in relation to an offence, officers are to consider whether another means of commencing proceedings may be more appropriate. For example, proceeding by way of:

(i) notice to appear (see s. 3.5.3: 'Proceedings by way of notice to appear' of this chapter);

(ii) an infringement notice (see ss. 8.6 'Manner of issuing infringement notices' of the TM and 13.15 'Issue of infringement notices generally' of this Manual); or

OPM Issue 113 Public Edition

(iii) as a last resort, complaint and summons.

Officers should not commence proceedings against a person by way of arrest if an appropriate alternative exists.

Further, if a person is arrested, where appropriate, officers should consider releasing the person under Chapter 14, Part 4: 'Discontinuing arrest' of the PPRA (see s. 16.6: 'Discontinuing arrest' of this Manual).

3.5.10 Making an arrest

An officer is to clearly advise the person they are under arrest. Physical contact with a compliant person is not required to validate the arrest.

Where the arrested person may not understand English or may suffer from an impairment (e.g. deafness), the arresting officer should take all reasonable actions to inform the person they are under arrest (e.g. in writing, using an electronic translation program).

ORDER

As soon as reasonably practicable officers are to inform a person arrested of:

(i) the officer's name, rank and station. If the officer is not in uniform they are to advise they are a police officer and produce for inspection their identity card (see s. 637: 'Supplying police officer's details' of the PPRA; and

(ii) the nature of the offence or warrant, and before release from custody, give the person in writing the name rank and station of the arresting or instructing officer (see s. 391: 'Information to be given to arrested person' of the PPRA).

If the person arrested is a child, see s. 5.9.6: 'Parent and other notification requirements' of this Manual.

The term 'as soon as reasonably practicable' will depend on the circumstances at the time of arrest e.g. multiple offenders, violence or an offender's capacity to understand. An officer in any proceeding may be required to justify their decision to apply this provision.

Instructing another officer to make arrest

When:

(i) an officer (the instructing officer) decides to make an arrest but cannot personally arrest the person; and

(ii) there is insufficient time for the other officer (the arresting officer) to form the required suspicion,

s. 365A: 'Arrest without warrant upon instruction of another police officer' of the PPRA allows the instructing officer to direct an officer to arrest a person on their behalf.

ORDER

The instructing officer is to:

(i) make a record in the relevant QPRIME occurrence of the:

(a) instruction to the arresting officer to arrest the person;

(b) reasons under s. 365A of the PPRA for instructing the arrest of the person; and

(c) reason why the person could not be personally arrested by the instructing officer,

(ii) take reasonable steps to inform the arresting officer of the instruction and the reasons for the request; and

(iii) inform the arresting officer if the instructing officer no longer reasonably suspects the person has committed or is committing an offence.

Prior to the release of the arrested person from custody, the name, rank and station of the arresting and instructing officers are to be provided to the person in writing.

The instructing officer may inform the arresting officer of the record required under s. 365A(3) of the PPRA by email, text message or any other electronic means (e.g. text the QPRIME number where the record is contained).

3.5.11 Use of force in effecting arrest

When making an arrest officers are to comply with the provisions of ss. 615: 'Power to use force against individuals' and 616: 'Power to use force against individuals in critical situations' of the PPRA.

Officers should also refer to s. 14.3: 'Use of force' of this Manual.

A protective services officer may use reasonably necessary force to exercise a power under Chapter 19, Part 1: 'State Buildings' of the PPRA. This force does not include force likely to cause grievous bodily harm to an individual or the individual's death (see s. 615A: 'Power to use force against individuals—protective services officers' of the PPRA).

3.5.12 Calling for assistance in making an arrest

No criminal offence exists for a person who fails to assist a police officer in arresting a person.

OPM Issue 113 Public Edition

ORDER

Section 612: 'Assistance in exercising powers' of the PPRA permits a police officer to seek the assistance of another person when making an arrest. An officer utilising this section is to, if practicable, tell the assistant of the:

(i) action the assistant is authorised to take; and

(ii) assistant's powers under s. 612.

An assistant cannot be authorised to arrest a person or demand a person's name and address.

3.5.13 Proceedings by way of an arrest warrant

An officer may apply to a justice for an arrest warrant for any offence (see s. 370: 'Arrest warrant application' of the PPRA). An arrest warrant may be issued by a justice, subject to the provisions of s. 371: 'Issue of arrest warrant' of the PPRA.

Obtaining an arrest warrant is appropriate when a notice to appear or complaint and summons cannot be served, and it is not possible to proceed by way of arrest.

Any justice has the authority to issue an arrest warrant. However, if time permits, arresting officers seeking the issue of such a warrant should do so by laying the complaint before a magistrate or a justice who is employed at a courthouse.

An officer seeking the issue of an arrest warrant should refer to s. 13.18.9: 'Obtaining and activating arrest warrants' of this Manual and:

(i) complete a QP 0724: 'Arrest Warrant Application' (available in QPRIME);

(ii) complete a QP 0725: 'Arrest Warrant' (available in QPRIME); and

(iii) take the QP 0724 and QP 0725 forms before a justice or a magistrate and swear out the grounds.

(See s. 3.9.15: 'Use of justices of the peace and commissioners for declarations' of this chapter.)

For information on execution and other processes associated with arrest warrants see s. 13.18: 'Warrants' of this Manual.

3.5.14 Deleted

3.5.15 Deleted

3.5.16 Proceedings against solicitors and barristers (incidents in precincts of a court)

When an officer is of the opinion proceedings should be commenced against a solicitor or barrister for an offence committed in the precincts of a court, the officer is to furnish a detailed report of the circumstances of the incident to their OIC, who will decide what action is to be taken in the matter and then forward a copy of the report to the relevant assistant commissioner.

If the relevant assistant commissioner authorises the commencement of proceedings, such proceedings should be initiated by way of notice to appear.

3.5.17 Commencement of proceedings against Members of Parliament

Where proceedings are commenced against a member of Parliament, the regional duty officer or district duty officer, who is notified in compliance with s. 2.4.2: 'Evaluation of incident' of this Manual, should ensure the relevant significant event message (see s. 1.18: 'Significant events' of this Manual) includes:

(i) the member's name and the title of the House in which they sit;

(ii) the time, date and place of the arrest, interview or service of the notice to appear;

(iii) a brief description of the charge(s) preferred or allegations made;

(iv) the time, date, name and place of the court where the Member is to appear; and

(v) in the case of arrest on a warrant:

(a) brief particulars of the warrant; and

(b) the name of the correctional centre or watch-house in which the member has been detained.

3.5.18 Notices alleging previous criminal and traffic histories and circumstances of aggravation

Officers should select the appropriate specimen charge from QPRIME or the Specimen Charge Lookup System on the Service Intranet to ensure the correct legislation, section reference and charge wording is used (see s. 47(1): 'What is sufficient description of offence' of the *Justices Act*).

Where a defendant is liable to a greater penalty upon conviction for a simple offence with a circumstance of aggravation, the circumstance of aggravation is to be expressly stated within the charge (see s. 47(4) of the *Justices Act*). However,

OPM Issue 113 Public Edition

if the circumstance to be alleged is a previous conviction, it should not be included in the charge wording. If the defendant has one or more previous convictions which will render the defendant liable, upon conviction, to a greater penalty, the previous convictions are to be alleged in a QP 0041A: 'Notice of Intention to Allege Previous Convictions' (available in QPRIME), a copy of which is to be served on the defendant.

Where a matter before a Magistrates Court may be dealt with ex parte, the court may receive a copy of, and take into account, a defendant's history for the purpose of determining penalty, if:

(i) a QP 0041A has been served upon the defendant;

(ii) the QP 0041A is suitably endorsed to prove service; and

(iii) the original or a certified copy of the QP 0041A is tendered to the court,

(see s. 47(2) and (3) of the *Justices Act*).

ORDER

Arresting officers are to complete and serve a QP 0041A upon a defendant where:

(i) the defendant has previous criminal and traffic history:

(a) of a similar nature to charges for which proceedings are being commenced; and

(b) which is likely to render the defendant liable to a greater penalty upon conviction;

(ii) the defendant is charged with a simple offence and the defendant has a previous offence which is intended to be relied upon as a circumstance of aggravation; or

(iii) the defendant is charged with an indictable offence against s. 177: 'Contravention of domestic violence order' of the DFVPA,

in the same way as is provided for the service and documenting service of a notice to appear under s. 382: 'Notice to appear may be issued for offence' of the PPRA.

Where practicable the QP 0041A should be served at the time of commencement of the prosecution, or a reasonable time before the defendant's first court appearance. The endorsed copy of the notice is to be attached to the Court Brief (QP9). The prosecutor is to tender the notice and any attachments to the court upon sentencing of the defendant.

Where it is not possible to serve the notice at the time, or a reasonable time before the defendant's first court appearance, officers should attach three copies of the QP 0041A to the Court Brief (QP9) to allow the prosecutor to:

(i) give a copy to the defendant on the day appointed for the defendant's appearance; and

(ii) tender the notice to the court.

Offences where notices should be served in appropriate circumstances under s. 47 of the *Justices Act* include:

(i) *Transport Operations (Road Use Management) Act*, ss. 78: 'Driving of motor vehicle without a driver licence prohibited' and 79: 'Vehicle offences involving liquor or other drugs';

(ii) DFVPA, s. 177: 'Contravention of domestic violence order';

(iii) *Racing Integrity Act*, ss. 221: 'Unlawful bookmaking other than by racing bookmakers etc.' and 223: 'Prohibition on opening, keeping, using or promoting an illegal betting place';

(iv) *Tobacco and Other Smoking Products Act*, ss. 66: 'Supplier must not supply smoking products to children', 69: 'When employee of supplier liable', 77: 'Supply of tobacco products from vending machines' and 79: 'Persons in charge of tobacco product vending machines may be prohibited from possessing tobacco product vending machines';

(v) *Liquor Act*, ss. 169: 'Authority required for sale' and 171: 'Carrying or exposing liquor for sale';

(vi) Criminal Code, ss. 328A(1) and (2)(c): 'Dangerous operation of a motor vehicle', 398: 'Punishment of stealing' and punishment in special cases 11: 'Stealing after previous conviction' and 425(1) and (2): 'Possession of things used in connection with unlawful entry'; and

(vii) *Weapons Act*, s. 51(1) and (2): 'Possession of a knife in a public place or school'.

3.6 Status of charges

3.6.1 Introduction

Information concerning the status of charges before a magistrate or childrens court is available to members in QPRIME in the notes linked to a charge.

Information concerning the status of charges before superior courts is available to members via the above method where a Superior Court Liaison Officer has access to QPRIME. Otherwise, court results will not be captured in QPRIME until

OPM Issue 113 Public Edition

the final court result is entered by Police Information Centre. In such cases the arresting officer may be advised of the status of the charges by the Office of the Director of Public Prosecution by other means in accordance with s. 3.7.9: 'District/Supreme Court hearings' of this chapter.

Any member may query information about any such charge.

The QPRIME Case Diary Log is used by officers and prosecutors to collate a record of information relevant to the progress and finalisation of a court matter.

Where a brief of evidence (BOE) is required, prosecutors will commence a 'QPS BOE required' workflow to the arresting officer's station or establishment.

The OIC of a station or establishment receiving a 'QPS BOE required' task from a prosecution corps is to forward the task to the arresting officer for completion of the BOE by the due date on the case file. The completion of required BOE is to be monitored by the OIC of the station or establishment to ensure the timely provision of all material for court.

All officers are able to access the 'QPS court list (defendant—charges)' to assist in the ongoing management of BOE and court appearances on an individual or station level.

3.6.2 Responsibilities of prosecutors

ORDER

Prosecutors are to, as soon as possible after a charge has been presented in court, ensure:

(i) QPRIME is updated with the outcome of the court appearance;

(ii) if a brief of evidence is required, ensure a 'QPS BOE Required' workflow is commenced;

(iii) if evidentiary material (other than a brief of evidence) is required for disclosure, ensure a 'QPS PROS Disclosure Required' workflow is commenced;

(iv) if a response to a defence submission is required from an investigating officer, ensure a 'QPS PROS Submission Response Required' workflow is commenced;

(v) if a drug exhibit requires scientific analysis, ensure a 'QPS PROS Drug Exhibit Analysis Required' workflow is commenced;

(vi) if there was an order of the court relating to property, ensure an 'Expired Exhibit Disposal' workflow is initiated;

(vii) if the ODPP takes carriage of the matter, ensure the case file is updated accordingly; and

(viii) once a decision has been made regarding whether a charge will proceed summarily or by way of committal proceedings, ensure the relevant case diary log in QPRIME is updated to reflect this decision.

In relation to arresting officers who do not have access to QPRIME (e.g. school based officers and officers attached to a PCYC), prosecutors are to advise arresting officers in writing or electronically, including by way of email, when charges are set for hearing, the date on which a brief of evidence is required to be delivered to either the relevant prosecution corps or the ODPP, when defendants fail to appear or any other relevant information.

Where a defendant has been committed to a superior court for trial or sentence, the relevant case diary log in QPRIME is to be updated advising the arresting officer the court matter has been committed to a superior court for trial or sentence and any other relevant details appropriate to the court matter.

3.6.3 Role of Superior Court Liaison Officer

Arresting officers will be advised of the ongoing status of charges presented to a superior court by modification of the court results in QPRIME, where a Superior Court Liaison Officer has access. Where the Superior Court Liaison Officer does not have this access, other notification will be forwarded to the arresting officer via the local office of the ODPP.

3.6.4 Responsibilities of officers in charge

ORDER

The OIC of a station or establishment should ensure arresting officers regularly monitor QPRIME, respond to QPRIME tasks and meet court commitments. It is the responsibility of the OIC to ensure arresting officers are provided sufficient time to prepare a brief of evidence, conduct other inquiries as are necessary for court and be rostered to attend court on the nominated court date.

3.6.5 Responsibilities of arresting officers

ORDER

The arresting officer is to monitor QPRIME and for matters being prosecuted by the ODPP, their email address for messages from the ODPP to ascertain the current status of charges instituted.

OPM Issue 113 Public Edition

When an arresting officer is advised to prepare a full brief of evidence (see s. 3.8: 'Preparation and submission of briefs of evidence' of this chapter) or that other information or investigation is required, as far as reasonably practicable, such material is to be provided within the allocated period by that officer.

In cases where officers are stationed at, or transferred to, stations or establishments without access to QPRIME, it is the responsibility of that officer to ensure the relevant Office of the Director of Public Prosecutions (State) is advised of that fact.

3.6.6 Deleted

3.6.7 Deleted

3.6.8 Responsibilities of district or command brief managers

District or command brief mangers' responsibilities include:

(i) providing advice to the relevant district officer on the development and review of district instructions for the management of briefs of evidence and Court Briefs (QP9);

(ii) the development of organisational improvement strategies relating to the matters for which district instructions have been developed in (i);

(iii) liaising with local prosecution corps and where applicable, the ODPP to identify and resolve issues affecting the quality and timely delivery of briefs of evidence and Court Briefs (QP9);

(iv) the development and maintenance of a district or command brief checker network to maintain high quality briefs of evidence and Court Briefs (QP9) including, in consultation with education and training officers, assisting with the initial and ongoing training of brief checkers and ensuring sufficient numbers of brief checkers are maintained within the district or command;

(v) in conjunction with education and training officers, the development and provision of training to officers within the district or command to maintain high quality briefs of evidence and Court Briefs (QP9);

(vi) liaising with station and establishment OICs, to support effective supervision of the quality and timely delivery of materials to prosecution corps;

(vii) undertaking duties as provided for in s. 3.12: 'Prosecution Review Committee' of this chapter.

Brief managers should not ordinarily be used in a manner likely to interpose an additional step in the brief submission process by requiring all briefs to be handled or checked by a brief manager.

Where no district or command brief manager is appointed, the district officer, in consultation with the OIC of the relevant prosecutions corps, is to assign brief management responsibilities to a suitably qualified officer having regard to the officer's current capacity.

OPM Issue 113 Public Edition

3.7 Court processes

3.7.1 Introduction

All court proceedings will initially be mentioned in a magistrates or a childrens court. The jurisdiction in which a proceeding will be determined is dependent on whether the charge(s) is to be heard and decided:

(i) summarily, in which case the magistrates or childrens court; or

(ii) upon indictment, in which case the district, supreme or childrens court of Queensland.

Summary proceedings

Matters to be heard and decided summarily include:

(i) simple and regulatory offences (see s. 3: 'Division of offences' of the CC); and

(ii) certain indictable offences (see ss. 552A: 'Charges of indictable offences that must be heard and decided summarily on prosecution election', 552B: 'Charges of indictable offences that must be heard and decided summarily unless defendant elects for jury trial', 552BA: 'Charges of indictable offences that must be heard and decided summarily' and 552D: 'When Magistrates Court must abstain from jurisdiction' of the CC).

Summary matters may proceed by way of:

(i) a plea of guilty and sentence on the first or any subsequent court appearance;

(ii) in certain circumstances, an ex parte hearing (see ss. 142: 'Proceedings in absence of defendant', 142A: 'Permissible procedure in absence of defendant in certain cases' and 146A: 'Proceeding at the hearing on defendant's confession in absentia' of the *Justices Act*);

(iii) case conferencing (see s. 3.16: 'Case conferencing' of this chapter); or

(iv) a summary trial.

Proceedings upon indictment

Matters to be heard and decided upon indictment will proceed by way of a committal proceeding in a magistrates or childrens court, unless an ex officio indictment is presented in a higher court (see s. 3.4.21: 'Ex officio indictment' of this chapter).

A committal proceeding is a preliminary examination of the prosecution case to determine if the defendant has a case to answer, and depending on the type of offence and plea entered, whether a defendant is to be committed for trial or sentence to either the district or supreme court or the childrens court of Queensland (see Part 5, Division 5: 'Examination of witnesses' and Division 6: 'Defendant admitting guilt' of the *Justices Act*).

3.7.2 Documentation at first appearance

As soon as practicable after commencing proceedings and prior to the first appearance, an arresting officer is to supply the Court Brief (QP9) to prosecution and defence with copies of all necessary documentation, including relevant criminal and traffic histories to the relevant prosecution corps. The arresting officer is to include a summary of facts and complete the evidence fields for each charge listed in the QP9. Where multiple QP9s are produced for a defendant, a summary of facts for each charge listed is to be included in the QP9.

For childrens court matters, arresting officers are to refer to Chapter 5: 'Children' of this Manual.

The arresting officer is to complete a QP9 and associated documentation, and:

(i) ensure when completing the QP9:

(a) it is fully and professionally completed, including the defendant's antecedents and identifier provisions;

(b) all charges preferred are correctly worded and are appropriate (see s. 3.5.2: 'Responsibility to prefer all charges' of this chapter);

(c) all material facts are accurately and logically set out in the QP9 and support all elements of the charge(s). All of the elements are to be substantiated by:

- admissible witness testimony;
- physical exhibits, such as video recordings (including body worn camera footage), field recorded conversations, record of interviews, CCTV footage, analyst certificates, photographs, documents, weapons; and
- a facilitation of proof provision, such as averments, certificates, definitions, deeming provisions;

(d) a summary of the substantial evidence is presented within the facts section of the QP9, including:

- direct evidence of any person (including an officer) who observed the actions of the defendant in the commission of the offence;
- any admission or confession of the defendant;
- medical evidence of a complainant or victim's injuries;
- monetary value of the loss or damage relating to the offence (e.g. theft, fraud, damage, etc.);
- any defence or exculpation raised by the defendant or known to investigating police; and
- any evidence available to negate any exculpations or defences raised or apparent;

(e) the evidence fields include details of the available evidence to prove the charge;

(f) all charges that can be lawfully joined are joined (see s. 3.9.10: 'Joinder of charges' of this chapter);

(g) separate QP9s are to be prepared when:

- a defendant is charged with both State and Commonwealth offences. The offences on each QP9 are to be cross referenced so the prosecutor can make suitable arrangements for a joint hearing if the defendant pleads not guilty;
- a defendant is charged with a number of offences involving different complainants; or
- charges cannot be lawfully joined;

(h) defendants are conjointly charged in accordance with s. 3.9.11: 'Charging conjointly' of this chapter. The QP9 for each defendant and associated charges are to be cross referenced so all matters are dealt with together;

(i) all necessary documentary exhibits, which may be required for a plea of guilty, including victim impact statements (see s. 2.12.1: 'Victims' Commissioner and Sexual Violence Review Board Act and Victims of

OPM Issue 113 Public Edition

Crime Assistance Act' of this Manual), restitution quotations and breath, blood or drug analysis certificates, are uploaded to the relevant QPRIME case file under the documents tab;

(j) all necessary documentary exhibits, which may be required for a plea of guilty, including traffic and offender history reports, certificates and quotations, are attached to the QP9;

(k) the defendant's identification particulars (e.g. date of birth, scars, tattoos) are relevant and current at the date the prosecution is commenced; and

(l) all police and civilian witness non-availability dates are recorded in QPRIME; and

(ii) if QPRIME is unavailable, complete a QP 0009: 'Court brief', available on Forms Select;

(iii) arrange for the completed QP9 to be forwarded to the shift supervisor or brief checker for review/approval:

(a) as soon as practicable and prior to the initial appearance of the defendant; and

(b) in any case, prior to the end of the arresting officer's next three shifts after proceedings have been commenced;

(iv) attach copies of the following documentation to the original and each copy of the QP9:

(a) all bench charge sheets or summonses relating to the defendant;

(b) where relevant, the defendant's:

- offender history report (Queensland Court outcomes);
- traffic record;
- non-TORUM history;
- QP 0041A: 'Notice of Intention to allege previous convictions';
- for charges constituted as domestic violence offences, the defendant's:
  - domestic violence history, as defined in the Schedule: 'Dictionary' of the DFVPA;
  - copy of the relevant domestic violence order; and
  - any other relevant documentation related to the domestic violence offence; and
- if the defendant has no domestic violence history, the court must be informed of that fact;

(c) where available, written estimates to support claims for compensation or restitution (see s. 3.7.3: 'Restitution/Compensation' and Appendix 3.1: 'Factors for consideration in restitution/compensation' of this chapter);

(d) where bail was refused by the prescribed police officer (PPO) on charging and where not otherwise directed by the PPO (see s. 16.20.1: 'Arresting officer's responsibilities' of this Manual), one original and two copies of a completed QP 0215: 'Bail affidavit' and QP 0215A: 'Bail affidavit annexure (adult)' (or, where relevant, a QP 0215B: 'Bail affidavit annexure (child)'). Each page of the affidavit and annexure is to be sworn or affirmed;

(e) any certificates relating to the matter where these are available;

(f) a 'not for production' criminal history attached to each copy of the bail affidavit; and

(g) where a QP 0041A: 'Notice of intention to allege previous convictions' has been completed and served upon the defendant, an endorsed copy of the notice (see s. 3.5.18: 'Notices alleging previous criminal and traffic histories and circumstances of aggravation' of this chapter).

ORDER

The arresting officer is to ensure that the QP9 or any associated documentation (submitted with the QP9) does not contain personal particulars such as the address, telephone, or next of kin details relating to a victim or witness unless the information is required to prove the particulars of the offence. See also section titled 'Copies of statements and documentary exhibits' in s. 3.4.13: 'Supply of copies of court brief (QP9), particulars, statements and reports' of this chapter.

In circumstances where a QP 0343: 'Field arrest sheet' is completed and submitted it replaces a QP9 (see s. 3.7.14: 'Field arrest sheet' of this chapter).

When preparing the documentation for first appearances, officers are to check whether defendants are wanted in relation to other matters.

OICs are to provide sufficient time for officers under their control to complete QP9s within the required time frames. Where arresting officers are unable to complete and deliver the QP9 to the prosecution corps as soon as practicable after commencing proceedings and prior to the first appearance, the arresting officer and the arresting officer's supervisor are to advise the relevant prosecution corps why the QP9 cannot be delivered within the required time frame.

OPM Issue 113 Public Edition

Requesting interstate or New Zealand criminal histories

Officers requesting copies of interstate or New Zealand criminal histories are to send a QPRIME task to Release Unit Police (RUP) [ORG Unit 3272]. The QPRIME task to RUP is to include:

(i) the date and place of the defendant's court appearance;

(ii) the full name and date of birth of the defendant;

(iii) the defendant's National Automated Fingerprint Identification System (NAFIS) database reference number (CNI), which is to be obtained from QPRIME;

(iv) the corresponding state or country from which the criminal history is sought;

(v) the name, rank and registration number of the arresting officer;

(vi) in the case of a request for a New Zealand criminal history, a brief reason why a history is needed from New Zealand for that particular person; and

(vii) the email address of the officer or email group where the interstate criminal history is to be sent.

On receipt of the New Zealand criminal history, the receiving member of RUP is to forward a copy via email to PIC [PIC.OffenderHistory@police.qld.gov.au]. The member of PIC receiving the email from RUP is to:

(i) attach the criminal history to the relevant QPRIME Person Record;

(ii) add a flag indicating the person has international criminal history; and

(iii) inform the PIC team responsible for Blue Card Services that the history has been added.

Requesting other international criminal histories

Officers requesting criminal histories from international jurisdictions, apart from New Zealand, are to refer to s. 7.3.1: 'International inquiries through Interpol' of the MSM.

Disposal of property

Officers are to ensure they include on the QP9 an instruction to prosecutor about the disposal of property. This will allow prosecutors to make submissions to the court, especially when a defendant makes application under s. 701: 'Disposal of seized things at end of proceeding' of the PPRA.

For property containing high risk data, see s. 4.6.12: 'Disposal of electronic devices and storage media' of this Manual.

OPM Issue 113 Public Edition

3.7.3 Restitution/compensation

When restitution or compensation is sought the relevant information is to be attached to or included on the QP9 prior to the first appearance of the defendant(s). If this information is not available at the first appearance of the defendant(s) the reason for this and details of when the information will be available is to be included on the QP9.

In instances where restitution or compensation is claimed on behalf of multiple complainants or from multiple defendants, a schedule of restitution/compensation is to be prepared (see Appendix 3.5: 'Schedule for restitution/compensation' of this chapter).

In calculating the amount of compensation or restitution to be claimed, officers are to calculate the loss incurred for each offence and divide equally among each defendant. When restitution/compensation is to be made to an insurance company the information is to be noted on the schedule.

A restitution/compensation schedule report can be generated in QPRIME against the person record, by setting the parameters of the restitution/compensation schedule report through completing the court result date field (this is the scheduled court appearance at which the restitution/compensation schedule report is to be presented).

In any case where restitution/compensation is to be sought, the prosecutor is to ensure the court has appropriate jurisdiction to deal with the matter. Consideration is to be given to the limitations of time, locality, and amount of restitution/compensation with reference to property stolen, damaged or destroyed, or to injury inflicted.

The *Victims of Crime Assistance Act* allows financial assistance to be paid to certain victims of acts of violence. See s. 5.6.25: 'Release of information under the Victims of Crime Assistance Act' of the MSM and s. 2.12.1: 'Victims' Commissioner and Sexual Violence Review Board Act and Victims of Crime Assistance Act' of this Manual. Officers are to familiarise themselves with the provisions of these sections and advise complainants accordingly. Even if restitution or compensation is awarded by the court, complainants may still be eligible for further assistance under this Act depending on the circumstances.

ORDER

Arresting officers are to ensure, in relation to cases involving an application for restitution/compensation, the prosecutor is advised of all the relevant circumstances as outlined in Appendix 3.1: 'Factors for consideration in restitution/compensation' of this chapter.

Prosecutors are to seek from the court on behalf of the complainant the amount of restitution/compensation nominated by the arresting officer. The prosecutor is not to reduce the amount of restitution/compensation requested to enable the matter to be dealt with summarily or alternately increase the amount to ensure the matter is dealt with in a superior court.

Arresting officers are not to apply for a moiety to be awarded.

Prosecutors are to:

(i) apply for an order for compensation rather than a moiety; and

(ii) advise the court of information concerning orders for compensation in respect to similar cases.

3.7.4 Suppressing child identifying information

Child identifying information

In certain court proceedings, the publication of information likely to identify a child who is a witness, victim or defendant is prohibited.

In a proceeding for an offence of a sexual or violent nature where a child is, or is likely to be, a witness s. 193(1): 'Restrictions on reporting certain court proceedings' of the *Child Protection Act* (CPA) prohibits the publication of identifying information about the child. In all other proceedings, where a child is a witness s. 193(2): Restriction on reporting certain court proceedings' of the CPA provides a court may make an order prohibiting the release of information other than stipulated in the order.

In cases involving indictable offences committed against children, other than offence of a sexual nature, arresting officers are to request the prosecutor to apply to the court for an order under s 193(2) of the CPA to prohibit the reporting of prescribed matters likely to lead to the identification of the child witness.

Arresting officers are to include any request to the prosecutor to apply for an order under s. 193 of the CPA in the relevant QP9.

Prosecutors receiving such a request are to make a verbal application for such an order on the first occasion the matter is before a court.

Where a child is a complainant in relation to a sexual offence and a person has been charged with the offence, s. 103ZZN: 'Offence to publish identifying matter in relation to complainant' of the *Evidence Act* (EA) prohibits the publication of identifying matter relating to the complainant.

Where a child is being, or has been, dealt with under the *Youth Justice Act*, s. 301: 'Prohibition of publication of identifying information about a child' of the YJA prohibits the publication of identifying information about the child. Section 301 of the YJA does not apply where publication is authorised by a court order.

For information on the disclosure of witness contact details in a relevant proceeding see s. 3.14.7: 'Disclosure of witness contact details in a relevant proceeding' of this chapter.

OPM Issue 113 Public Edition

3.7.5 Checking of court briefs (QP9)

ORDER

Unless exceptional circumstances exist, an officer performing duty as a shift supervisor or brief checker is to review/approve a QP9 prior to the defendant's first appearance, or within two days of receiving the QP9 for review/approval.

Prior to approving a QP9, the shift supervisor or brief checker is to:

(i) read all parts of the QP9 and the bench charge sheet;

(ii) ensure the prosecution of each charge satisfies the 'sufficiency of evidence' test and the 'public interest' test. If either test does not appear to be satisfied, a QP 0626: 'Request for authority to withdraw charges' is to be completed in the relevant QPRIME case file as soon as practicable (see ss. 3.4.3: 'Factors to consider when deciding to prosecute' and 3.4.4: 'Withdrawal of charges' of this chapter);

(iii) ensure as far as can be established and with reference to the QP 801A: 'Court brief aide-mémoire', that the provisions of s. 3.7.2: 'Documentation at first appearance' of this chapter and relevant Service policy have been complied with and appropriate action is taken to rectify any defects or errors identified;

(iv) ensure that the QP9 or any associated documentation (submitted with the QP9) does not contain personal particulars such as the address, telephone, or next of kin details relating to a victim or witness unless the information is required to prove the particulars of the offence. See also section titled 'Copies of statements and documentary exhibits' in s. 3.4.13: 'Supply of copies of Court Brief (QP9), particulars, statements and reports' in this chapter;

(v) if applicable, complete a QP 801: 'Court brief exception report' and attach it to the QP9 for information of the prosecutor noting:

(a) any defects or errors (including if the matter does not satisfy the 'sufficiency of evidence' test or the 'public interest' test) unable to be rectified in a timely manner prior to the initial appearance of the defendant;

(b) action being taken, or that will be taken, to rectify any defects or errors identified; and

(c) any other information which is to be brought to the attention of the prosecutor; and

(vi) sign/approve the QP9 in QPRIME and where reasonably practicable, sign the hardcopy. Where practicable, the QP9 is to be reviewed and signed together with the QPRIME charge sequencing report (CSR) prior to validating and transferring the charges to Department of Justice.

Where the shift supervisor or brief checker has received a QP9 for checking but is unable to inspect the QP9 the shift supervisor or brief checker is to arrange for a senior non-commissioned officer to review.

The shift supervisor or brief checker is to, prior to the initial appearance, deliver or cause to be delivered to the relevant prosecution corps the original QP9, plus a QP9 (defendant copy).

When a QP9 is received after inspection by a brief checker, the OIC of the prosecution corps responsible for prosecuting the matter is to ensure, prior to the first mention of the matter in a court, a prosecutor:

(i) reads all parts of the QP9; and

(ii) checks the provisions of s. 3.7.2: 'Documentation at first appearance' of this chapter have been complied with.

Where the provisions of s. 3.7.2 have not been complied with, the prosecutor checking the QP9 is to take appropriate action to rectify any defects or errors.

3.7.6 Rectification order

Where officers have commenced proceedings for an intimate image offence and there is no evidence that the image has been removed, retracted, recovered, deleted or destroyed, they are to consider requesting that the prosecutor make a submission for the issue of a rectification order (see s. 229AA: 'Rectification order—offence against s 223, 227A, 227B or 229A' of the CC).

To request an order, officers are to add a note to the end of the Facts of Charge tab in the Offence/Charge window of the QPRIME Charge Sequencing Report for any relevant charge using the following wording:

Request for rectification order on conviction

"The Order of the Court is that the offender is to:

Take reasonable action to remove, retract, recover, delete or destroy an intimate image or prohibited visual recording involved in the offence within a <stated period>".

Where the matter is to be determined by a district court or higher, officers are to complete a Form 12: 'General form of order' under the Criminal Practice Rules (available on the Queensland Courts website) using the wording above and attaching it to the brief of evidence.

Where an application for a rectification order is requested by the investigating officer, the prosecutor is to inform the court as soon as practicable after the offender has entered a plea of guilty or the court has made a finding of guilt.

When a rectification order is made in a magistrate's court, the OIC of the prosecution corps hearing the matter is to make suitable arrangements for:

(i) the QPRIME occurrence to be updated, including uploading the relevant order into the occurrence; and

(ii) flagging the offender in QPRIME,

on the same day the order is issued.

3.7.7 Deleted

3.7.8 Deleted

3.7.9 District/Supreme Court hearings

The ODPP is responsible for matters which have been committed to the district or Supreme Court or the Childrens Court of Queensland. In relation to charges under Commonwealth legislation, the Director of Public Prosecutions (Cwlth) is the responsible authority.

Where further input or investigation is required, ODPP officers will normally liaise directly with the investigating officer in person, depending on the urgency and nature of the matter. Investigating officers are to ensure requests for further input or investigation are complied with and the relevant ODPP officer is provided with a response as soon as practicable, and prior to the relevant due date.

If difficulties are experienced in complying with a request, the ODPP officer is to be advised as soon as practicable of the issue and the reason for the delay.

OPM Issue 113 Public Edition

In cases where the ODPP has provided such request by email, officers are to print and file the hard copy of the message in accordance with s. 5.3: 'Use of Service email' of the MSM.

Information and documentation relating to an ex officio indictment are to be provided to the ODPP in accordance with s. 3.4.21: 'Ex officio indictment' of this chapter.

The scheduling of district/supreme court hearings will be influenced by the:

(i) availability of trial sitting periods;

(ii) length of preceding trials within the sittings period; and

(iii) availability of witnesses.

Trials which do not proceed during the scheduled sittings will be rescheduled to another sittings.

Notification of hearing

Once a trial or sittings date is known, the Superior Court liaison officer (where available), the crown prosecutor, or ODPP staff, will:

(i) advise the arresting officer of the relevant sitting dates;

(ii) contact the arresting officer approximately three weeks prior to the trial or sittings date (this procedure will be repeated if a trial is rescheduled to a later trial or sittings date);

(iii) request the arresting officer to:

(a) contact all witnesses within the two weeks preceding the trial or sittings date;

(b) provide an updated QP 0323: 'List/non-availability of witness (including police officers)' showing the availability of witnesses to give evidence at the forthcoming trial, and other required information; and

(c) provide details of all actions taken to contact a witness in instances where contact cannot be made; and

(iv) advise the arresting officer prior to the week in which the case is to be heard of the witnesses to be called by the prosecution to give evidence at the trial.

Availability of witnesses and other related matters

ORDER

In every case where a defendant has been committed for trial, arresting officers are to complete and submit a QP 0323 in QPRIME and forward to:

(i) the prosecutor on the date a committal proceeding concludes; and

(ii) the ODPP as requested.

Prosecutors appearing at committal proceedings at which a defendant is committed for trial or sentence are to complete a QP 1012: 'Prosecutor's checklist' form and forward it, with the brief of evidence and the QP 0323 (if completed and provided by the arresting officer), to the ODPP.

Once the trial or sittings date is known, arresting officers are to advise all witnesses of this information. At this time, arresting officers are to ascertain the current availability of witnesses, and a new QP 0323 is to be completed. This completed form is to be provided to the ODPP not less than eight working days before the first day of the sittings or the week in which the trial is set for hearing or upon request.

Where contact cannot be made with a witness, the arresting officer is to provide full details of all attempts made to contact the witness to the ODPP upon request.

Where an arresting officer is aware a witness in a superior court trial becomes unavailable due to unforeseen circumstances, the officer is to advise the ODPP in writing (report or email).

To enable the ODPP to issue notices of trials, obtain victim impact statements and contact witnesses for further information, the QP 0323 is to accurately record the full addresses and contact telephone numbers of all witnesses, unless there are genuine security concerns, in which case the entry is to be 'address known to arresting officer'.

The Service telephone number and email address of the investigating officer and the investigating officer's supervisor is to be included on the form.

Where practicable, arresting officers are to maintain contact with witnesses during the time between the conclusion of the committal proceedings and the trial or sittings date. This will ensure the arresting officer is kept informed of witness availability and the witness is provided with any relevant information concerning the trial or sittings date.

For other issues relating to witnesses, see s. 3.10: 'Witnesses' of this chapter and Finance and Procurement Division policies and procedures on the 'Witness travel' SharePoint page. Further information can be found on the Financial Management Practice Manual SharePoint page.

OPM Issue 113 Public Edition

Criminal histories

ORDER

Where a written request for the supply of a current criminal history is received from an officer of the ODPP or the Director of Public Prosecutions (Cwlth), the Manager, PIC, is to ensure the relevant QPRIME offender history report (Queensland Court outcomes) is sent directly to the requesting officer.

3.7.10 Victim impact statements

A victim impact statement (VIS) is a statement which details the impact an offence has had on a victim. The usual application of a VIS is on a plea of guilty and subsequent sentence of a defendant.

ORDER

Investigating officers are to advise victims of violence or domestic violence offences they are eligible to provide a VIS, through a Police Referral.

For procedures relating to preparing a VIS, see also ss. 6.3.14: 'Police Referrals' and 7.12: 'Impact Statements' of this Manual. It is important to note that all VIS in the district and supreme courts are prepared by the ODPP.

A victim may submit a victim impact statement if they have suffered harm:

(i) because a crime against the person was committed against them;

(ii) because the person is a family member or dependant of a person who has died or suffered harm because a crime is committed against that person; or

(iii) as a direct result of intervening to help a person who has died or suffered harm because a crime is committed against that person.

In accordance with Schedule 1 of the *Victims' Commissioner and Sexual Violence Review Board Act* (VCSVRBA), a victim of violence or domestic violence offences may prepare a statement providing details of the:

(i) physical;

(ii) psychological;

(iii) social; and

(iv) financial,

harm they have suffered as a result of the offence, for the prosecutor to inform the sentencing court. The victim may elect to read their victim impact statement to the court.

Investigating officers are to ensure the prosecutor is fully informed of the effect of a crime on the victim. In compiling details of the harm caused to a victim, investigating officers are to refer to the provisions of s. 3.7.3: 'Restitution/compensation' of this chapter to allow the court to consider the full extent of the crime. Depending on the nature of the crime and its impact on the victim, this may be reflected in:

(i) relevant details on the back of the QP9;

(ii) the statement of the victim (see s. 2.13: 'Statements' of this Manual);

(iii) a VIS; or

(iv) the statement of an expert witness (e.g. a doctor's evidence regarding injuries caused to a victim).

Where a victim advises the investigating officer that they do not wish to provide a VIS at that time, the investigating officer is to notify the prosecution corps with carriage of the matter via an entry in the relevant QPRIME case diary log to that effect. This decision does not prevent a victim from providing a VIS in the future to assist with the sentencing process.

Prosecutors are to assist the court in the sentencing process by making appropriate submissions in relation to penalty.

For a matter appearing before a magistrates court, and the victim of crime advises:

(i) a prosecutor that they wish to prepare a VIS, the prosecutor will send a QPRIME task to the investigating officer; or

(ii) the investigating officer that they wish to prepare a VIS,

the investigating officer is to:

(i) advise the victim that Department of Justice has a 'Guide on how to prepare a VIS' on the 'Court support for victims of crime' section of their website; and

(ii) where the victim requires further assistance and has provided consent, offer the victim a Police Referral (see s. 6.3.14: 'Police Referrals' of this Manual). Officers are to ensure the Police Referral includes the date the VIS is to be provided to the prosecutor.

OPM Issue 113 Public Edition

A VIS may be provided to the prosecutor electronically. Prior to providing the VIS to the prosecutor (electronically or otherwise), the investigating officer is to upload a copy of the VIS to the documents tab of the relevant QPRIME case file.

For a matter appearing before a district or Supreme Court, officers from the ODPP will assist the victim in the process of preparing a VIS.

3.7.11 Investigation and contact with members of Judiciary and Magistracy

Prior to and during the course of any hearing:

(i) members are not to discuss with a magistrate or judge any matter relevant to the proceedings about to or have commenced in any court;

(ii) members are to ensure they are not alone, whether in chambers or elsewhere, with a magistrate or judge hearing the matter; and

(iii) except with the prior consent of the defendant's legal representative, if it is necessary to discuss any matter with a magistrate or judge, such discussions are to only be in the company of the defendant's legal representative. If unrepresented, the defendant is to be present at any such discussion.

ORDER

Officers are not to contact, or attempt to contact, magistrates, judges of the district court or judges of the supreme court for the purpose of obtaining legal advice.

Officers who wish to make contact with the chief magistrate, a judge of the district court or chief justice is to forward a report to the OIC of their region, command or division, which identifies the magistrate or judge whom they seek to interview and outline the reason and need for an interview. This report may be attached to the relevant QPRIME occurrence.

OICs of regions or commands who consider such an interview is appropriate are to refer the request to the relevant chief magistrate, judge of the district court or chief justice.

If an officer needs to interview a magistrate or a judge of the supreme court during an investigation, either as a witness or suspect in relation to any matter arising from a finalised case in which the magistrate or judge presided, the officer is to, prior to interviewing the judge of the supreme court or magistrate, contact the chief magistrate or the chief justice (supreme court), as the case may be, explaining:

(i) the nature and purpose of the inquiry; and

(ii) the necessity to interview the particular magistrate or judge.

Officers who need to interview a judge of the district court during an investigation are to contact the judge, prior to any interview, to explain the necessity and purpose of the inquiry.

The officer is to request advice as to whether the magistrate or judge would be prepared to speak to the officer.

This policy does not inhibit the right of judges or magistrates to make contact with members of the Service as necessary.

OPM Issue 113 Public Edition

3.7.12 Attendance of arresting officer during court proceedings

For the purposes of this section, court proceedings include applications, committals, summary trials and superior court trials and sentencing proceedings.

Unless excused by a prosecutor (including a crown prosecutor) appearing for the prosecution, arresting officers are to be present and remain at court for the duration of the court proceedings. Where overtime may be incurred, officers are to immediately notify the prosecutor and seek a direction whether they are to attend and remain at the court.

OICs are to make all necessary arrangements to ensure arresting officers attend and remain at court for the duration of the court proceedings. Where this is not possible, the OIC is to advise the prosecutor.

3.7.13 Comments by Magistracy concerning members of the Service

Where a magistrate or coroner makes comment, either adverse or favourable, concerning any member, the prosecutor is to:

(i) request a transcript of the relevant court proceedings in accordance with s. 3.7.17: Transcripts of court proceedings' of this chapter; and

(ii) furnish a report of the occurrence, with a copy of the transcript, to the member's OIC.

Where required the OIC is to ensure the completed report is referred to the Prosecution Review Committee (PRC) in accordance with s. 3.12.1: 'Introduction—Prosecution Review Committee' of this chapter.

Where such report contains allegations of grounds for disciplinary action, the OIC is to ensure the reporting requirements contained in the Complaint Resolution Guidelines available on the ESC SharePoint page are complied with.

3.7.14 Field Arrest Sheet

The resolution of an incident may require a large numbers of arrests. To facilitate dealing with this type of incident, processing of persons arrested and first court appearances, the following forms may be approved for use:

(i) QP 0343: 'Field Arrest Sheet' (available from Supply Services);

(ii) QP 0343A: 'Watch-house Receival Sheet'; and

(iii) QP 0343B: 'Receival Sheet'.

Approving officers (RDO, patrol group inspectors or other officers authorised by the district officer) may approve the use of the QP 0343, QP 0343A and QP 0343B in appropriate situations. When approval is given to use the QP 0343, approving officers are to ensure sufficient quantities of forms and appropriate numbers of personnel and other equipment are available.

Whenever a QP 0343 is used, it is to be treated as and replaces the QP9.

Appendix 3.7: 'Field arrest sheet—process flow chart' of this chapter is a flow chart outlining the process when a QP 0343 is approved and used.

In arresting and processing, the following procedure is to be followed subject to specific directions issued for the particular incident:

(i) at least two officers are to be involved in making an arrest. The prisoner is to be taken to a designated receiving area and handed over into the custody of the officers responsible for receiving prisoners, at a receiving area prior to their transport to a watch-house, station or establishment (the receiving officers);

(ii) prior to handing over the prisoner, the arresting officer is to:

(a) search the prisoner; and

(b) be photographed with the prisoner (see s. 467(3): 'Taking identifying particulars of person in custody' of the PPRA);

(iii) the arresting officer is to:

(a) at the receiving area:

- ensure the custody status issues, including search and seizure issues are recorded on the QP 0343 prior to accepting a prisoner; and
- sign the rear of the watch-house cardboard copy of the QP 0343; and

(b) resume designated duties;

(iv) the receiving officers are to ensure they have the following:

(a) QP 0343, QP 0343B and QP 0343A;

(b) a stapler;

(c) clip seal plastic bags (property bags);

(d) a marker or permanent ink pen; and

(e) a digital camera;

(v) the receiving officers are to:

(a) complete the front of the QP 0343, including the relevant information required for the QPRIME custody report, the medical assessment on the rear and give the yellow copy of the QP 0343 to the arresting officer;

(b) capture an image of the arresting officer with the prisoner, which is to be retained for subsequent identification purposes. A previously prepared card showing in bold printing the name of the arresting officer and station and the name of the prisoner is to be held in front of the arresting officer for the photograph;

(c) take possession of things belonging to the prisoner found during the arresting officer's search and place them in a property bag, which is to be properly marked. All property taken is to be listed on the front of the QP 0343;

(d) place the watch-house cardboard copy of the QP 0343 inside the prisoner's property bag, which is to be secured in the van/vehicle in which the prisoner is placed;

(e) give the prosecutions' white copy of the QP 0343, which includes a summary of facts section on its reverse side, and the collation officer's blue copy of the QP 0343 to the van coordinator;

(f) complete a QP 0343B. When completing the QP 0343B, receiving officers are to allocate a number to each prisoner. This number is to be transcribed into the watch-house cardboard copy of the QP 0343 for the prisoner and the prisoner's property bag. (e.g. van crew A, allocates the first prisoner the number A1 on the receiving sheet. Further prisoners are allocated consecutive numbers (A2, A3, A4 and so on). A

OPM Issue 113 Public Edition

similar process is to be used by other van crews such as van crew B, C etc.). The completed van receiving sheet is delivered to the van coordinator;

(g) when advised by the van coordinator, transport the prisoner and the person's property to a watch-house. On arrival at the watch-house relinquish custody of the prisoner(s) and hand over the prisoner's property and the watch-house cardboard copy of the QP 0343. The watch-house cardboard copy of the FAS is to be used by the processing officers and placed in the custody register in the relevant entry for the prisoner;

(vi) the van coordinator, in accordance with instructions for a particular incident, is to remain at the incident scene to coordinate the movement of Service vehicles and ensure at least one Service vehicle is present at the incident scene at all times. Where practicable, a Service vehicle is to be dedicated for the isolation of prisoners who are violent, female or youth. The van coordinator is to deliver the:

(a) prosecutions' white copy of the QP 0343 to the arresting officer for completion of the summary of facts section. When completed it is collected by the van coordinator and delivered to a collation officer; and

(b) collation officer's blue copy of the QP 0343 to the collation officer;

(vii) processing officers are designated officers who perform the duties ordinarily performed by an arresting officer at the watch-house. These officers are to perform duties as directed, which may include searching the prisoner, making computer inquiries, entering data into the QPRIME custody report, obtaining an occurrence number in QPRIME, checking for and requesting traffic and offender history reports, preparing bench charge sheets (BCS) and fingerprint forms. Processing officers are also responsible for ensuring the BCS is/are electronically forwarded to a brief checker;

(viii) processing officers are to use the QP 0343A to record the arrival of prisoners. A paper copy of the BCS for tendering at the first court appearance is to be attached to a watch-house receiving sheet and delivered to a collation officer by processing officers.

The signature of the arresting officer on the watch-house cardboard copy of the QP 0343 is sufficient and is to replace the required arresting officer's signature on the custody register.

The provisions of the *Bail Act* are to be considered with respect to each prisoner;

(ix) the collation officer is to:

(a) verify the prisoners' records on the QP 0343 with the QP 0343A sheet;

(b) transcribe the QPRIME occurrence number assigned to each prisoner's name on the QP 0343A to the respective prosecution copies of the QP 0343 before photocopying. The prosecutions white copy of the QP 0343 is to be photocopied and distributed as if it is a QP9. The BCS and any traffic/offender history reports are to be attached to relevant copies of the QP 0343 for distribution by a brief checker; and

(c) deliver the original prosecutions white copy, other copies of the QP 0343 and attachments to a brief checker, who will check the contents of the QP 0343 in accordance with s. 3.7.2: 'Documentation at first appearance' of this chapter and record the QPRIME occurrence number on the FAS. The brief checker is to distribute the QP 0343 in accordance with s. 3.7.5: 'Checking of Court Briefs (QP9)' of this chapter;

(x) receiving and processing officers are to note the time and sign the rear of each watch-house cardboard copy of the QP 0343; and

(xi) at the conclusion of the incident, all completed QP 0343s and QP 343As are to be attached to the station occurrence sheet for the division where the incident occurred or as directed by the OIC resolving the incident.

Completing the summary of facts for a Field Arrest Sheet

When completing the summary of facts on the reverse side of the prosecutions' white copy of the QP 0343, arresting officers are to print in point form, using a felt tip or ink pen the elements of the offence(s) and ensure facts under each point are sufficient to prove each element.

The following format may be applied (by way of example):

(i) time, date and place:

'1.30 p.m., 23/06/16 Port Drive, Lytton';

(ii) the task the arresting officer was performing:

'Crowd control at demonstration involving union members';

(iii) essential evidence and identification of the prisoner:

'Defendant was amongst a group of persons protesting against the dismissal of union labour and blocking Port Drive, Lytton';

'The defendant was situated at the front of this group'; and

(iv) police action:

OPM Issue 113 Public Edition

'A direction was given by Inspector Jones for the crowd of people to remove themselves from the roadway. The direction was not obeyed and the defendant was arrested and charged'.

Arresting officers are to ensure that the field arrest sheet or any associated documentation (submitted with the field arrest sheet) does not to contain personal particulars such as address, telephone, or next of kin details relating to a victim or witness unless the information is required to prove the particulars of the offence. See also section titled 'Copies of statements and documentary exhibits' in s. 3.4.13: 'Supply of copies of court brief (QP9), particulars, statements and reports' of this chapter.

3.7.15 Breach of suspended sentence

A defendant breaches a suspended sentence ordered by a magistrates, district or Supreme Court if convicted of committing any other offence during the operational period of the suspended sentence, for which a term of imprisonment may be imposed. The conviction may activate the suspended sentence.

When an arresting officer is aware a defendant will breach a suspended sentence if convicted of an offence committed during the operational period of a suspended sentence, this information is to be included on the QP9. When a defendant is convicted of an offence, such conviction activating a suspended sentence, the prosecutor is to take appropriate action to advise the relevant court of the breach of the suspended sentence.

Magistrates, district or Supreme Court

If a suspended sentence was ordered by a:

(i) magistrates court, any magistrates court may deal with the breach of the suspended sentence in accordance with s. 147: 'Power of court mentioned in s 146' of the *Penalties and Sentences Act* (PSA); or

(ii) district or supreme court, the prosecutor is to request the magistrate to commit the defendant to the next available sittings of the relevant court in accordance with s. 146(4): 'Consequences of committing offence during operational period' of the PSA. The prosecutor is to forward a copy of the QP9 which incurs the breach and a copy of the defendant's Offender History Report (Queensland Court Outcomes) to the relevant ODPP.

An officer who becomes aware a person has breached a suspended sentence ordered by a magistrates, district or Supreme court, by being convicted of either a Commonwealth or State offence in another state or territory, may apply to a magistrate to issue a summons or warrant pursuant to s. 146A: 'Summons or warrant for offender whose sentence of imprisonment has been suspended' of the PSA.

Childrens court

A childrens court magistrate, childrens court judge, or district or Supreme court, may order a conditional release order, including participation as directed by the chief executive in a program for a period not longer than three months. The order is to require the child abstain from violations of the law.

If, at any time while a condition imposed on a child under a conditional release order has effect, and the chief executive is satisfied the child has failed to comply with the condition, the chief executive may obtain a warrant for the arrest of the child. In this case the child, in accordance with the provisions of s. 238: 'Chief executive's application on contravention' of the YJA, is to be taken directly to a court of the same or higher jurisdiction which imposed the immediate release order.

If a child subject to a conditional release order is in breach of the order through being found guilty of an indictable offence then the court before which the child is appearing may commence action in relation to the breach. If an immediate release order was ordered by a childrens court magistrate, any childrens court magistrate may deal with the breach of the suspended sentence in accordance with s. 240(2): 'General options available on breach of order' of the YJA.

If a conditional release order was ordered by a district, supreme or childrens court judge, the prosecutor is to request the childrens court magistrate to commit the child to the next available sittings of the relevant court in accordance with s. 240(3) of the YJA. The prosecutor is to forward a copy of the QP9 which incurs the breach and a copy of the child's Offender History Report (Queensland Court Outcomes) to the ODDP.

An officer who becomes aware a child has breached a conditional release order issued by a childrens court magistrate, childrens court judge, or district or Supreme court, by being convicted of either a Commonwealth or state offence in another state or territory, or by breaching any other condition of the order, may apply to the Chief Executive, Department of Justice (see SMCD) for a warrant pursuant to s. 238 of the YJA.

Federal suspended sentences

A court, exercising federal jurisdiction, sentencing a defendant charged with a Commonwealth offence, may order the defendant be sentenced to imprisonment but be released immediately (see s. 19B(1): 'Discharge of offenders without proceeding to conviction' of the *Crimes Act* (Cwlth). Where a person has been discharged or released pursuant to s. 19B(1) of the *Crimes Act* (Cwlth) and information is brought before a magistrate alleging that the person, has without reasonable cause or excuse, failed to comply with a condition of the order, the magistrate may issue a summons or warrant requiring the person to appear before the original sentencing court, pursuant to s. 20A: 'Failure to comply with condition of discharge or release' of the *Crimes Act* (Cwlth).

OPM Issue 113 Public Edition

On becoming aware of a conviction during the period the person was required to be of good behaviour, contravening a federal suspended sentence, the prosecutor is to forward a copy of the QP9 for the offence constituting the breach and a copy of the person's offender history report (Queensland Court outcomes) to the Commonwealth Director of Public Prosecutions (CDPP) (see SMCD). Action in relation to such matters will be commenced by the office of the CDPP.

3.7.16 Presentence custody certificates (Penalties and Sentences Act 1992)

Section 159A(1) of the *Penalties and Sentences Act* (PSA) provides if an offender is sentenced to a term of imprisonment for an offence, any time the offender was held in custody in relation to proceedings for the offence and for no other reason, this time is to be taken to be time already served under the sentence, unless the sentencing court otherwise orders.

Section 159A(2) of the PSA provides subsection (1) does not apply to:

(i) a period of custody of less than 1 day;

(ii) imprisonment of less than 1 day;

(iii) imprisonment wholly suspended; or

(iv) the suspended part of imprisonment partly suspended.

Section 159A(4A): 'Time held in presentence custody to be deducted' of the PSA requires the prosecuting authority to help the sentencing court in making declarations relating to presentence custody by giving the sentencing court a presentence custody certificate (PCC).

The provisions of s. 159A of the PSA do not apply to children (see s. 149: 'Jurisdiction to sentence child exclusive' of the *Youth Justice Act*).

A PCC is signed by an authorised Queensland Corrective Services (QCS) officer.

Presentence custody certificates issued by police

ORDER

Where an offender is in police custody for a period of 24 hours or more in relation to an offence, the completion of a Form 67: 'Presentence custody certificate' is to be arranged and signed by:

(i) the watch-house manager, where the offender was held in a watch-house in relation to the offence (including where the offender has failed to appear in relation to the offence):

(a) on release of the offender from custody (not including where the offender is transferred to QCS custody); or

(b) when requested by a prosecutor; or

(ii) in other cases, the arresting officer's OIC:

(a) on release of the offender from custody; or

(b) when requested by a prosecutor or the ODPP.

OPM Issue 113 Public Edition

The member arranging for completion of the certificate is to ensure the completed certificate is forwarded directly to the relevant prosecutor responsible for prosecuting the matter.

Responsibility of prosecutors

When an offender is sentenced to a term of imprisonment for an offence by a magistrates court, the prosecutor responsible for prosecuting the matter is to give the sentencing court a completed Form 67 if the offender was held in presentence custody in circumstances to which s. 159A(1) of the PSA applies.

Where a current Form 67 is not available, and a prosecutor believes or has been advised by a sentencing court a PCC is or is likely to be required for the purposes of ss. 159A(3) or 159A(3B) of the PSA, the prosecutor is to, depending on where the offender has been held, request the watch-house manager or the OIC to arrange for the completion of a PCC for any period of Service custody of 24 hours or more.

In cases of Corrective Services custody section titled 'Presentence Custody Certificates issued by Queensland Corrective Services' of this section.

Prosecutors are to ensure:

(i) any PCCs received in relation to outstanding matters are retained with the relevant prosecution file and given to a court when required; and

(ii) an appropriate application under s. 159A subsections (3), (3B) or (5) of the PSA is made as the need arises (see s. 159A(6) of the PSA).

Additional responsibilities of watch-house managers

Where an offender has been remanded in custody by a court for an offence, the watch-house manager is to forward details of Service custody in relation to the offence to the relevant correctional facility upon transfer of the offender from the watch-house. Such details are to include the dates and times between which the offender was held in police custody. The details are to be forwarded by noting them in the person report (custody) prepared for the correctional facility.

Presentence custody certificates issued by Queensland Corrective Services

QCS have agreed to prepare a PCC:

(i) in relation to offenders held in QCS custody including offenders who have been received from Service custody;

(ii) in cases where offenders are released from QCS custody prior to the date when the offender's appearance is required in court; and

(iii) in relation to superior court matters, for the ODPP.

If the offender is in QCS custody, the correctional facility where the offender is held will routinely issue the PCC for the offender's appearance in a magistrates court. Where applicable, a copy of the certificate will be provided with the offender's transfer documentation (i.e. transfer/transport authority and remand warrant) accompanying the offender to court. The correctional facility will also forward a copy of the certificate to the relevant prosecution corps responsible for prosecution of the matter via facsimile at least one working day before the court or transfer date.

QCS will also provide a PCC when requested for offenders not in custody at the time of sentencing.

Where an offender is transferred to Service custody from QCS custody, the watch-house manager responsible for the custody of the offender in the area where the offender is appearing in court is to ensure a copy of any PCC received in relation to the offender is forwarded directly to the prosecutor responsible for prosecuting the matter.

In cases where the offender appearing in court is in QCS custody and a PCC has not otherwise been provided, the prosecutor is to in the first instance request a PCC from the QCS officers who have custody of the offender.

Where a current PCC is required or likely to be required but has not been received from QCS or is not available, the prosecutor responsible for prosecuting the matter is to, where the offender is in QCS custody, make a request for a PCC to the relevant correctional facility.

Where the offender is no longer in QCS custody, the prosecutor responsible for prosecuting the matter is to make a request, via email, for a PCC to Sentence Management Services (SMS), QCS (see SMCD).

The request is to include:

(i) the offender's name and any aliases;

(ii) the offender's date of birth;

(iii) offence details including the offence date and short title;

(iv) magistrates court file numbers (if known); and

(v) details of police custody, including the date of arrest and date of transfer to QCS custody.

Where applicable, the request is to be made at least 3 days before the date of the offender's appearance in court.

It is to be noted SMS do not retain offender files on site and cannot always provide PCCs on the same day as requested.

Any inquiries regarding PCCs required to be issued by QCS, or an offender's custody details may be directed to SMS, where the offender is not in custody, or the relevant correctional facility at which the offender is accommodated if the offender is still in custody.

Requirements of presentence custody certificates

Members required to complete PCCs are to ensure such certificates comply with the relevant provisions of s. 159A of the PSA and ensure PCCs, or in cases where information is provided to QCS, details of presentence custody state the:

(i) offence or offences for which the offender was held in custody;

(ii) dates between which the offender was held in custody for each of those offences; and

(iii) times the offender was held in custody.

Generally, this information is to be available in the relevant entry of the custody report or occurrence in QPRIME.

Effect of changes to existing charges on presentence custody

Where:

(i) an existing charge of an offence has been withdrawn or substituted for another charge of an offence during proceedings; or

(ii) the ODPP prefers a different charge on indictment originally preferred against an offender;

OPM Issue 113 Public Edition

the period of time in the PCC is to include the time from the arrest relating to the same, or same set of, circumstances as those giving rise to the charging of the original offence (see s. 159A(1) of the PSA).

Multiple arrests

Where an offender is to be sentenced in a magistrates court for a number of offences for which there are multiple arrest dates and a PCC is required, one certificate is to be prepared in relation to all the offences for which the offender was held in custody. In the case of multiple arresting officers, the prosecutor is to determine which member will arrange for the completion of the certificate consistent with the policy contained within this section.

Presentence custody certificates provided by the Office of the Director of Public Prosecutions

By virtue of s. 159A(4A) of the PSA, the ODPP is responsible for giving a PCC to sentencing courts for all matters for which they are the prosecuting authority.

Members receiving requests from the ODPP for PCCs where the offender has been in police custody for more than 24 hours are to refer such requests to the arresting officer's OIC for preparation of such certificates.

3.7.17 Transcripts of court proceedings

The fees for transcripts of court proceedings are prescribed in Queensland Courts: Transcripts and recordings webpage.

Where the request for a transcript of court proceedings is required for official purposes, or a court has ordered the provision of the document to the Service, the prescribed fee may be waived.

The requesting officer's region or command to which the requesting officer was attached at the time of request is responsible for the payment of costs if the prescribed fee is not waived.

Requests for transcripts of court proceedings required for official purposes (e.g. to prepare an appeal, to assist the prosecutor with part heard matters, confirm a magistrate's adverse comments, etc.), are to be made via the QTranscripts portal.

Where an officer seeks a transcript of court proceedings for non-official purposes (e.g. to obtain a record of a favourable quote for use in a job application), the request is to be made as a private party via the QTranscripts portal with the prescribed fee. The individual officer is responsible for the payment of the prescribed fee in such circumstances.

3.7.18 Cooperation in an investigation

The willingness of the offender to cooperate in the investigation or prosecution of others, or the extent to which the offender has done so, is a matter which impacts on sentencing and other prosecution processes. In accordance with ss. 9(2)(h): 'Sentencing guidelines', 13A: 'Cooperation with law enforcement authorities to be taken into account—undertaking to cooperate' and 13B: 'Cooperation with law enforcement authorities to be taken into account—cooperation given' of the *Penalties and Sentences Act* (PSA), an offender's sentence at the end of a hearing may be reduced to recognise any assistance provided to investigators (see also s. 3.9.14: 'Indemnities against prosecution' of this Manual).

ORDER

Where the offender or their legal representative raises cooperation with law enforcement authorities during case conferencing or otherwise, a prosecutor is to seek an adjournment where necessary and make contact with the arresting officer for instructions as to the extent of any cooperation and determine the appropriate course of action.

Service recognition of assistance in an investigation

At times, officers may determine an offender's assistance in an investigation is to be considered as part of the sentencing process under s. 9(2)(h) of the PSA. Where an affidavit of assistance is submitted to a court, in accordance with ss. 13A and 13B of the PSA, evidence in relation to the affidavit is heard in a closed court.

Where the offender is a registered human source, officers are to comply with s. 12.2: 'Affidavit of assistance' of the Human Source Management Policy (HSMP) (available on the State Intelligence Group, Crime Command SharePoint page).

Where an offender, who is a witness in a criminal matter, is not a registered human source, officers are to:

(i) complete a

(a) draft affidavit, including the information in point 14 (a)–(j) (as appropriate) of s. 12.2 of the HSMP; a

(b) report outlining all relevant information to support the approval of an affidavit of assistance;

(ii) submit the draft affidavit and supporting report to the officer's regional crime coordinator (RCC), or within Crime Command, the detective superintendent through the chain of command;

(iii) where the affidavit of assistance is supported by the RCC or detective superintendent, the officer is to swear the affidavit; and

(iv) deliver the sworn affidavit of assistance to the prosecutor or the relevant officer at the ODPP at least five working days before the date of sentencing. The sworn affidavit is to be in an unsealed envelope addressed to the sentencing judge or magistrate.

OPM Issue 113 Public Edition

Wherever practicable and relevant, officers are to comply with processes and timelines outlined in s. 12.2 of the HSMP.

3.7.19 Banning orders

Section 43J: 'Making a banning order' of the *Penalties and Sentences Act* provides a sentencing court with the authority to issue a banning order against the defendant in certain circumstances (see s. 13.7.6: 'Court-issued banning orders' of this Manual).

3.7.20 Making of control orders

Part 9D: 'Serious and organised crime' of *the Penalties and Sentences Act* (PSA) provides a sentencing court with the authority to make mandatory and discretionary control orders (see s. 2.31.7: 'Control orders' of this Manual).

Where an application for a discretionary control order is to be made because the offender was a participant in a criminal organisation (see s. 161N: 'Definitions for part' of the PSA), the prosecutor is to inform the court as soon as practicable after the offender has entered a plea of guilty or the court has made a finding of guilt, but before the sentencing process is complete (see s. 161W(4): 'When court may make order—offender who was participant in criminal organisation' of the PSA).

3.7.21 Restriction on the arrest of persons in a magistrates court precinct

Section 21: 'General power to enter to arrest or detain someone or enforce a warrant' of the PPRA provides the power for a police officer to enter and stay on a place to arrest a person.

The Chief Magistrate however has issued a protocol restricting instances where an offender or suspect can be arrested by officers within the confines of a magistrates court precinct.

A magistrates court precinct is any part of the land (property boundary) or building used for the purposes of the court. Where the building is also used by a higher court the precinct includes the space occupied by that court. It does not include:

(i) a police station or watch-house that is part of a magistrate court precinct;

(ii) instances when a magistrate is not sitting e.g. the registry is operating in regional areas;

(iii) rented facilities occupied by a third party e.g. café within a magistrates court precinct; and

(iv) another government entity within a precinct e.g. Transport and Main Roads.

When there is doubt as to the exact boundary location of land or a third party premises within a magistrates court precinct officers are to exercise s. 21 of the PPRA.

An offender or suspect can only be arrested in a court precinct where:

(i) an offence has or is about to be committed in the vicinity of or in a precinct; or

(ii) there are reasonable grounds a person in the precinct is at risk of being harmed; or

(iii) consent has been obtained from a magistrate.

Officers who identify a wanted person is within a court precinct, including a person wanted for life imprisonment offences, and that person has not committed an offence in the court precinct and there is no risk of harm to any person, are not to arrest the person and are to notify the registrar of the court who will make application to a magistrate.

Officers are to:

(i) advise the registrar of the details of the wanted person including the offences for which they are wanted for and any escape risk posed;

(ii) advise if the wanted person is due to appear in court; and

(iii) only commence an arrest within a court precinct once approval has been granted by a magistrate.

Warrants

If an arrest or other warrant is in existence for a person identified to be within a court precinct, even though the warrant commands or directs an officer to forthwith arrest a person, including warrants issued by Federal or the supreme and district courts, officers are not to arrest the person.

The person is to be given the opportunity to surrender into the custody of the court. Officers are to direct the person to the registrar but not escort the person or give rise to the impression that the person is detained or in police custody. A warrant is to only be executed in the court precinct if the person refuses to surrender to the court or attempts to leave the court precinct.

In all other instances officers are to arrest a wanted person outside the court precinct. As a magistrate court precinct includes any land or building, the first opportunity to arrest a person will occur on the public footpath outside of a court precinct.

In such circumstances officers are to be cognisant of the greater risk of:

OPM Issue 113 Public Edition

(i) opportunity for escape by the wanted person;

(ii) injury to members of the public if the wanted person takes flight through crowded pedestrians; and

(iii) serious injury to officers or the wanted person if flight occurs into busy vehicular traffic.

Such risks are higher in major provincial magistrates court precincts e.g. Brisbane Magistrates Court.

If a person re-enters a court precinct they may be pursued and arrested.

3.8 Preparation and submission of briefs of evidence

3.8.1 Introduction

ORDER

When preparing a brief of evidence, arresting officers are to ensure all admissible and relevant information, including information which might be considered advantageous to the defence case, is compiled and provided to the relevant prosecution corps to allow for full disclosure.

Arresting officers are to ensure statements and other materials in the brief of evidence do not contain personal particulars (e.g. address, telephone, next of kin details) relating to a victim or witness unless the information is a material particular of the offence. Where necessary, arresting officers are to remove (e.g. black out) this information from documents in the brief of evidence to avoid inadvertent disclosure of the information to the defendant or the defendant's legal representative.

3.8.2 Format of briefs of evidence

For criminal and traffic matters, members are to supply to the relevant police prosecutions corps briefs of evidence in the following format:

(i) a QP 0541: 'Index to brief' (available in QPRIME), appearing as the first page of the brief of evidence;

(ii) a QP 0323: 'List/non-availability of witnesses (including police officers)' (available in QPRIME) attached to the original (prosecution copy) only;

(iii) a QP 0324: 'FBOE comment sheet' (available in QPRIME) attached to the original (prosecution copy) only;

(iv) where required, a precis (see s. 3.8.4: 'Precis' of this chapter);

(v) original signed statements taken from every witness;

(vi) copies of relevant documentary exhibits, including certificates and photographs;

(vii) download three copies of BWC footage on to appropriate media for presentation in court (see s. 3.8.9: 'Number of copies to be supplied' of this chapter);

(viii) original signed QP 0880: 'Section 95 certificate' for each body worn camera footage available;

(ix) copies of any:

(a) search warrants; and

(b) crime scene warrants;

(x) a copy of any records of interview (see s. 3.8.8: 'Records of interview and transcripts' of this chapter); a copy of any electronically recorded evidence (see also s. 3.8.13: 'Video/audio recordings in relation to sexual abuse investigations' of this chapter). Where evidence consists of audio, video or picture data files or other electronic media, the investigating officer is to ensure the format is of a type able to be presented at the relevant court by prosecutions; and

(xi) where required, the written report of an appropriately qualified expert to confirm a child witness under the age of five years of age is competent to give evidence (see Guideline 7: 'Competency of a child witness' of the Director of Public Prosecutions (State) Guidelines).

For domestic and family violence matters (other than criminal breach offences), see s. 9.9.7: 'Preparation of briefs of evidence' of this Manual).

3.8.3 Deleted

3.8.4 Precis

A precis is a brief summary of the evidence to be adduced by the prosecution. A precis includes a brief summary of all witness statements and an explanation of all exhibits to be produced.

OPM Issue 113 Public Edition

ORDER

All briefs of evidence which contain more than five statements are to include a precis, completed by the officer compiling the brief of evidence.

3.8.5 Presentation of statements

Generally, witness statements should be placed in the brief in the order evidence is likely to be given. This should reflect the events surrounding the offence charged, in a chronological or otherwise logical order.

ORDER

Officers compiling briefs of evidence are to ensure:

(i) when more than one statement is taken from any witness, all subsequent statements are included in the brief and are clearly marked 'Addendum' and dated to show each subsequent statement is an addendum to the original statement;

(ii) any exhibits are to be clearly identified and referred to so there can be no doubt as to which exhibit the witness is referring. The words 'I am able to produce the (...exhibit to be produced...) which I have referred to in my evidence', are to be used;

(iii) where difficulties have been or are expected to be encountered in respect of any witness, a notation to this effect is attached to the brief of evidence. This notation is to be provided on a separate page headed 'Notes for Prosecutor' and should contain all relevant information and reasons. Difficulties include criminal histories of witnesses (if any), any hostile reaction which may be anticipated from any witness and the reasons therefore, any facts believed to be within the knowledge of a witness which have not been disclosed, or any witness refusing to sign or provide a statement;

(iv) when a scenes of crime officer or other scientific officer makes an examination or test in relation to an investigation, their statement is included in the brief of evidence. Such a statement is to be included whether or not the results of the investigation by the scenes of crime/scientific officer are positive or negative;

(v) where an incomplete brief of evidence is forwarded to the prosecutor, a notation to this effect is attached to the brief of evidence outlining the reason(s) why the brief of evidence is not complete. Details of when the complete brief of evidence can reasonably be expected to be available for the prosecutor and a precis of the anticipated evidence are also to be included; and

(vi) that statements do not to contain personal particulars such as address, telephone, or next of kin details relating to a victim or witness unless the information is required to prove the particulars of the offence. See also section titled 'Copies of statements and documentary exhibits' in s. 3.4.13: 'Supply of copies of Court Brief (QP9), particulars, statements and reports' of this chapter.

Statements obtained for the purposes of compiling a brief of evidence are to be typed on a QP 0125: 'Statement of Witness' (available in QPRIME) (see s. 2.13.1: 'Introduction' of this Manual).

OPM Issue 113 Public Edition

3.8.6 Hand-up statements

Section 110A: 'Use of tendered statements in lieu of oral testimony in committal proceedings' of the *Justices Act* provides the process by which written statements of witnesses are admitted as evidence during committal proceedings without the need for witnesses to give oral evidence.

However, witnesses may still be required to attend court to give evidence or be cross-examined if the prosecution and defence agree or if ordered by the court (see ss. 83A(5AA) and 110A(5) of the *Justices Act*).

Before any statement may be tendered, the following conditions are to be met:

(i) each original statement is to be prepared in accordance with s. 110A(6C) of the *Justices Act*;

(ii) the defendant is to be represented by a legal practitioner, unless the justices are satisfied the criteria in s. 110A(4) of the *Justices Act* have been met; and

(iii) the defence is to be supplied with a copy of the statement.

Officers who prepare a 'hand-up' brief of evidence are to prepare a brief in the normal manner and ensure statements are signed in accordance with 'Declarations on statements' of s. 2.13.2: 'Information to be included in a statement' of this Manual.

The declaration or acknowledgement is to be placed on the last page of the statement. Where there is insufficient room on the final page, the declaration or acknowledgement is to be entered on the reverse of the final page.

Where prosecutors have provided statements to the defence in this process, the defence legal representatives are entitled to retain all such copies, in all circumstances.

Officers involved in matters covered by this process should refer to and comply with the provisions as outlined in s. 3.4.5: 'Director of Public Prosecutions (State) Guidelines' of this chapter.

3.8.7 Copies of certificates

Originals of certificates should be retained by the arresting officer and produced in evidence by the relevant witness.

ORDER

Officers compiling a brief of evidence are to ensure where certificates are to be produced, copies of such certificates are attached to the brief of evidence.

3.8.8 Records of interview and transcripts

Officers compiling a brief of evidence are to ensure:

(i) where a written record of interview has been taken in relation to a matter, a copy is attached to the brief of evidence;

(ii) where a full transcript of a recorded interview:

(a) is required, it is prepared in accordance with s. 7.7: 'Transcription' of the DERIE Manual; and

(b) has been obtained, the transcription is attached to the brief of evidence and a label is affixed to the relevant recording indicating the:

- interview has already been transcribed by the Police Service; and
- name, registered number and station of the arresting officer; and

(iii) where an electronically recorded record of interview has been conducted with the accused person, but the accused has stated in effect they decline to take part in the interview, then;

(a) a statement to such effect should be included in the witness statement of the arresting officer; and

(b) the electronic recording should not form part of the brief of evidence, and in any event, should not be tendered at the committal proceedings (see Guideline 29: 'Disclosure: Sections 590AB to 590AX of the Criminal Code' subsection (ix): 'Committal Hearings' of the DPP Guidelines); and

(iv) in all cases where a transcript of an audio recording made during an investigation has been prepared, a copy of the transcript is attached to the brief of evidence.

Prosecutors are to, in respect of multiple offences of a sexual nature:

(i) endorse on the appropriate copy of the transcript which questions relate to what charges;

(ii) forward the copy of the transcript to the ODPP or Director of Public Prosecutions (Cwlth), as the case may be, with the complete brief of evidence following committal proceedings.

OPM Issue 113 Public Edition

3.8.9 Number of copies to be supplied

ORDER

Arresting officers are to ensure:

(i) for summary trials and committal proceedings, the relevant prosecutor is supplied with the original plus two copies of the complete brief of evidence, as well as one copy for each additional defendant;

(ii) in every case, one original witness statement, relevant documentary exhibit(s) or all physical exhibit(s) are retained by the arresting officer;

(iii) each brief of evidence is compiled according to whether the statements are originals or copies; and

(iv) the completed QP 0323: 'List/non-availability of witnesses (including police officers)' (see s. 3.8.2: 'Format of briefs of evidence' of this chapter) is only attached to the prosecutor's copy of the brief of evidence.

3.8.10 Collation of briefs

ORDER

Officers compiling a hard copy brief of evidence are to ensure it is compiled in such a way so as to not hinder the copying of statements or exhibits. Originals of statements and documents are not to be bound in a manner which will prevent them being tendered as individual exhibits.

3.8.11 Deleted

3.8.12 Supply of prints and other prescribed articles to defence

Conditional authority for the defendant, or a lawyer acting for the defendant, to possess prints (including photographs and copies of audio records of interview), video recordings and transcripts of audio and video recordings is contained in s. 10.21A: 'Unlawful possession of prescribed articles' of the PSAA.

Agreement between the Commissioner and the ODPP has been reached concerning the supply of three sets of photographic exhibits at committal proceedings (one as the court exhibit, one for the prosecutor and the third set for the defence lawyer).

However, agreement does not apply to:

(i) requests by defence lawyers for replacement/additional sets of photographic exhibits; or

(ii) marked photographic exhibits supplied by the Scientific Section and Fingerprint Bureau.

Replacement or additional sets of photographic exhibits may be obtained in accordance with the provisions of the Financial and Performance Management Standard 2019 and the QPS schedule of fees and charges on the Finance and Procurement Division SharePoint page.

ORDER

Where photographs are intended for production as exhibits at committal proceedings, officers are to arrange for three sets of photographs for court. Prints or other prescribed articles are only to be supplied to a defendant, or a defendant's lawyer, by a prosecutor or an ODPP prosecutor.

Where any photograph taken possession of as an exhibit which, in the opinion of the arresting officer may be 'sensitive evidence' (see s. 590AF of the Criminal Code), reference is to be made to s. 3.14.6: 'Disclosure of sensitive evidence for a relevant proceeding' of this chapter.

ORDER

Photographs tendered as exhibits are to be sequentially marked with numbers or letters. A description is to be included in the statement of a witness who produces or refers to photographs in their evidence, briefly explaining what is depicted in each photograph to which the witness refers.

3.8.13 Video/audio recordings in relation to sexual abuse investigations

Refer to Chapter 7: 'Child Harm' of this Manual (ss. 7.6.7 to 7.6.9).

ORDER

Police prosecutors are to make application to the court at the conclusion of committal proceedings for the return of the relevant video recording to the custody of the arresting officer pending use at any subsequent proceedings.

The arresting officer is to make arrangements to recover the original video recording and any edited version of the recording after proceedings in the Supreme or District Courts have been finalised. The Crown prosecutor is to be requested to seek an order from the presiding justice in this regard.

OPM Issue 113 Public Edition

3.8.14 Comment sheet

ORDER

Upon the completion of a brief of evidence for a criminal or traffic offence, officers are to complete a QP 0324: 'Full Brief of Evidence Comment Sheet' and submit it with the brief of evidence.

Upon the completion of a brief of evidence for a contested domestic violence application (civil proceeding), officers are to complete a QP 0324B: 'Domestic violence application full brief of evidence comment sheet' and submit it with the brief of evidence.

Refer to Appendix 3.2: 'Procedure to be adopted when checking briefs of evidence' of this chapter in respect of the procedure to be followed when checking briefs of evidence.

3.8.15 Checking briefs of evidence

ORDER

All briefs of evidence are to be checked by a shift supervisor or brief checker prior to being delivered to a police prosecution corps.

When submitting a brief of evidence for checking, the investigating officer is to also submit any visual or audio recordings (including recordings of a suspect/offender interview) for checking.

A shift supervisor or a brief checker to whom a brief of evidence is delivered is to:

(i) open the brief of evidence required task in the relevant QPRIME occurrence and where necessary, create an entry into the case diary log to record receipt of the brief of evidence;

(ii) review the hard copy of the brief of evidence, ensuring the brief of evidence complies with the provisions of this chapter;

(iii) consider whether the facts contained on the Court Brief (QP9) are consistent with those contained in the full brief of evidence, and ensure the:

(a) wording of all charges is correct and appropriate; and

(b) applicable current legislation and the wording of charges is verified by reference to legislation and the specimen charge system on the Service Intranet;

(iv) check samples of audio/visual recordings to be tendered as evidence. If the quality of the recordings made by Service owned recording equipment is substandard, action is to be taken to ensure any recording equipment faults are rectified. Additionally, if the quality of the recordings is so poor it will affect its value as evidence, consideration is to be given to the enhancement of the recording or sufficiency of evidence test as contained in s. 3.4.3: 'Factors to consider when deciding to prosecute' of this chapter and whether further investigation is required; and

(v) check evidence consisting of audio, video or picture data files or other electronic media is in a format capable of being presented to the relevant court. (See also s. 2.4.11: 'Video and photographic evidence recorded during the commission of offences' of this Manual.)

(vi) check each statement and exhibit (including audio and video recordings) to ensure they do not contain personal particulars such as the address, telephone, or next of kin details of a victim or witness unless the information is required to prove the particulars of the offence. (See also s. 3.8.5: 'Presentation of statements' of this chapter).

If the brief of evidence is either incomplete or requires further work, the shift supervisor or brief checker is to:

(i) click on the rework button within the 'QPS BOE required' task; and

(ii) enter any remarks in the task log and close it (where necessary create an entry into the case diary log to record the physical movement of the documents).

Where the brief of evidence requires further work prior to delivery to the relevant prosecution corps, return the brief of evidence to the investigating officer advising of the additional work to be completed prior to resubmission for checking.

Where charges cannot be substantiated with further investigation, a report is to be immediately furnished through the appropriate channels to an officer who is authorised to withdraw charges or offer no evidence in relation thereto (see s. 3.4.4: 'Withdrawal of charges' of this chapter). Such reports are to clearly indicate, with a firm recommendation, what charge(s) cannot be substantiated and whether any charge(s) should be substituted.

If the brief of evidence is both complete and in compliance with the provisions of this chapter, the shift supervisor or brief checker is to:

(i) complete the QP 0324: 'Full brief of evidence comment sheet', with any notations as relevant;

(ii) approve the 'QPS BOE required' task;

(iii) close the brief of evidence task window (where necessary create an entry in the case dairy log to record the brief of evidence has been forwarded to the relevant police prosecutions corps); and

(iv) return the brief of evidence to the investigating officer for delivery to the relevant prosecution corps where required.

OPM Issue 113 Public Edition

3.8.16 Delivery of briefs of evidence to prosecutor

Arresting officers are to:

(i) complete briefs of evidence so briefs can be checked and delivered to the prosecution corps responsible for the presentation of the matter or, if the matter is to be prosecuted by the ODPP, no later than the date set by the relevant prosecutor (see s. 3.6.5: 'Responsibilities of arresting officers' of this chapter); and

(ii) comply with any reasonable instruction of the prosecutor to attend court to provide an explanation through the prosecutor to the court in cases where an adjournment of the matter is necessitated because the brief of evidence is late, not done or incomplete.

Where a brief of evidence is delayed, the arresting is officer is to provide timely advice to the relevant prosecution corps, specifically where:

(i) a witness statement is not available, the arresting officer is to advise the prosecuting authority of:

(a) the witness' name;

(b) a precis of anticipated evidence;

(c) the reason it is not available;

(d) what attempts have been made to obtain the statement;

(e) when these efforts commenced; and

(f) what date prosecutions will have the statement; or

(ii) exhibits are not available, the arresting officer is to advise the prosecuting authority of:

(a) the nature of the evidence;

(b) what action has been taken to obtain it;

(c) when this action commenced; and

(d) the date prosecutions should expect to receive it.

Notification of the date on which the delivery of the brief is required may be provided via the QPRIME task (see also s. 3.6.2: 'Responsibilities of prosecutors' of this chapter).

OICs of stations or establishments are to:

(i) ensure local arrangements are put in place to ensure officers under their control deliver completed and checked briefs of evidence to the relevant prosecution corps or the ODPP, as appropriate, no later than the date set by the relevant prosecutor; and

(ii) investigate or cause to be investigated any failure of delivery of a brief of evidence by the date set and ensure appropriate action is taken to address such failure; and

(iii) notify or cause to be notified, the outcome of action taken to address such failure, to the relevant prosecution corps or ODPP office.

OICs of prosecution corps, in relation to matters for which they have responsibility for prosecution, are to ensure:

(i) the ex officio or partial brief of evidence is made available to the defence within 14 days of the defence advising the court at a committal call-over;

(a) it will be a committal for sentence; or

(b) the ODPP consents to an ex officio proceeding pursuant to s. 23EB: 'Management by clerk of the court of charge pending finalisation of proceeding under ex officio indictment' of the *Justices Act*;

(ii) the full brief of evidence is made available to the defence within 35 days of the matter being set for trial and in any event at least 14 days prior to the date set for hearing of the trial, if at a summary call-over the defence enters no plea or pleads not guilty;

(iii) the defence are advised:

(a) the brief of evidence is available for collection no later than the timeframe referred to in (i) or (ii) above; or

(b) if it is impracticable to have the brief completed in the timeframes referred to in (i) or (ii) above, the brief will not be available in the relevant timeframe and a date the brief can be expected to be ready for collection; and

(iv) if required by the court, ensure the arresting officer attends court to provide an explanation as to why the brief of evidence is late, not done or incomplete.

When a brief of evidence is received at a prosecution corps, the OIC of the prosecution corps is to ensure:

(i) depending on the level of completion of the brief of evidence, the 'status field' in the QPRIME case file is changed to indicate either 'BOE received (complete)' or 'BOE received (partial)'; and

(ii) at the earliest opportunity and prior to the commencement of the trial or hearing a prosecutor:

(a) reads all parts of the brief of evidence; and

(b) checks the brief of evidence complies with the provisions of this Manual.

Where a prosecutor finds errors or defects, and the provisions of this chapter have not been complied with, the prosecutor is to request the arresting officer address the defect or error if possible or to consider discontinuing the charge.

3.8.17 Computer records (Evidence Act)

A brief of evidence may include a copy of computer records, which are to be relied upon as evidence in a proceeding (see s. 95: 'Admissibility of statements in documents or things produced by processes or devices' of the *Evidence Act*).

Computer records are to be accompanied by a QP 0880: 'Section 95 certificate', completed by a person who has been responsible for the device or process by which the records are wholly or partly produced.

3.8.18 Committals conducted by the Office of the Director of Public Prosecutions (State)

In a number of locations responsibility for committal proceedings rests with the ODPP. In such locations protocols exist in relation to preparation of full briefs of evidence. In some situations these protocols may be inconsistent with the provisions of this chapter.

Where there is an inconsistency between this Manual and the protocols in place for committals prosecuted by the ODPP, the requirements of the ODPP are to take precedence.

OPM Issue 113 Public Edition

Duty of disclosure to the Office of the Director of Public Prosecutions (State)

Investigating officers have a duty to disclose to the ODPP all relevant information, documents or other things obtained during the investigation assisting the case for the prosecution or the defence (see s. 24C: 'Disclosures by police officers' of the *Director of Public Prosecutions Act*).

The duty of officers to disclose required information continues until the director decides the defendant will not be prosecuted or the prosecution is finalised.

Where the ODPP is deciding whether to institute a proceeding or deciding whether to consent to the institution of a proceeding or is conducting a proceeding, officers are to disclose all relevant information, documents or other things obtained during the investigation.

3.8.19 Action where defendant fails to appear

Where a defendant fails to appear at a magistrates or children's court, and an arrest warrant is issued, the OIC of the relevant prosecution corps is to ensure:

(i) the prosecution files and all court related documentation for each matter is retained for a period of 28 days;

(ii) once the 28 days has lapsed:

(a) all associated documentation is uploaded into the QPRIME case file documents tab, including:

- QP 0584: 'Court brief—cover sheet';
- defence correspondence;
- evidentiary certificates; and
- restitution details.

(b) any exhibits are returned to the arresting officer;

(c) the court brief (QP9) is destroyed; and

(d) any completed full brief of evidence (FBOE) is forwarded to the Warrant Section, Police Information Centre (PIC),

(iii) where a FBOE has not been completed, a QPRIME task is to be forwarded to the arresting officer, directing the officer to complete and forward to the Warrant Section, PIC, a full brief of evidence, within 60 days of the warrant being issued.

The OIC of the relevant prosecution corps is to ensure an appropriate system is in place for the handling, retention and disposal of court briefs (QP9).

Other than copies of photographs, officers are to ensure:

(i) no physical evidence; or

(ii) electronic media (e.g. CD, DVDR, etc.), is forwarded to the PIC.

Physical exhibits are to be returned to the arresting officer to be dealt with in accordance with this manual and the DERIE Manual.

Responsibilities of Police Information Centre

The team leader responsible for warrants at PIC is to ensure:

(i) upon receipt of the warrant from a court, a flag 'Wanted on warrant' is entered against the person's details in QPRIME; and

(ii) an appropriate system is in place for the retention of FBOE.

3.8.20 Delivery of documentary exhibits to the Office of the Director of Public Prosecutions

ORDER

Arresting officers are to ensure:

(i) when documentary exhibits are delivered to the ODPP, all exhibits are to be clearly marked with:

(a) the defendant's name; and

(b) the QPRIME case file Id number;

(ii) on delivery of documentary exhibits to the ODPP a receipt listing all documentary exhibits received is obtained from the receiving person; and

(iii) if the documentary exhibit is removed from a property point, the ODPP exhibit receipt is scanned and uploaded to the relevant QPRIME occurrence.

OPM Issue 113 Public Edition

Also see s. 3.6.5: 'Responsibilities of arresting officers' of this chapter, and Chapter 4: 'Property' of this Manual.

Non-documentary exhibits

The ODPP does not have the facilities to securely store non-documentary exhibits. Secondary evidence should be delivered in lieu of the exhibit, unless specifically requested otherwise by the ODPP. These exhibits are to be retained and dealt with in accordance with Chapter 4: 'Property' of this Manual (see Guideline 53: 'Exhibits' of the Director of Public Prosecutions (State) Guidelines).

3.8.21 Supplying the Office of the Director of Public Prosecutions (State) with the names of persons involved in the investigation process

Section 4(3): 'Qualification to serve as a juror' of the *Jury Act* lists people who are not eligible for jury service.

This list does not currently exclude from jury service persons who have been involved in the investigation process of a matter before a court (such as the issuing justice of a search warrant).

In these cases, it is clearly inappropriate for such a person to be permitted to act as a jury member.

Officers are to attach to a brief of evidence required to be delivered to the ODPP the name or names of any justice or other person who has been involved in the subject investigation and who is eligible to perform jury service.

3.9 Evidence

3.9.1 Introduction

This section provides a broad outline of the more common rules of evidence. Courts will admit or exclude evidence sought to be presented based on these rules. Officers should therefore consider the rules of evidence. Officers can access Legal Guide (Library Services) that may assist in investigations.

3.9.2 Relevance and admissibility

The principal test to be applied for the admissibility of any potential evidence is whether it is relevant to the matter before the court. If the fact tends to the proof or otherwise of the subject matter, or some part of it, then the fact is relevant and hence prima facie admissible.

3.9.3 Proof

The term 'proof' refers to the methods by which the existence or otherwise of a particular fact may be established to the satisfaction of the court. The term does not necessarily mean conclusive proof, but rather the evidence by which a court may find that the fact was proved.

3.9.4 Onus of proof

The term 'onus of proof' (sometimes termed 'burden of proof') refers to the obligation to prove the matter under consideration. In all criminal matters the onus of proof rests with the prosecution.

In respect to some offences, the onus shifts to the defence to prove some elements. This, however, occurs only in a limited number of instances, and does not affect the obligation on the prosecution to prove its case first.

3.9.5 Standard of proof

The standard of proof required in criminal cases in respect of the prosecution is 'beyond a reasonable doubt'. This means that the prosecution must prove its case to the point that there can be no reasonable doubt in the mind of the justice or jury, as the case may be.

This standard of proof differs from that required in civil matters where the proof required is the lesser standard of 'on the balance of probabilities'. This lesser standard is also applicable in certain criminal matters when the onus of proof rests with the defence. For example, in matters such as possession of property suspected of being stolen, it falls on the defence to prove that the possession of the property was not unlawful, but the standard to which this needs to be proved is only 'on the balance of probabilities'.

3.9.6 Circumstantial evidence

Circumstantial evidence has been defined as a fact from which the court may infer the existence of a fact in issue. Circumstantial evidence is admissible, subject to the rules of evidence.

3.9.7 Competence and compellability

A witness may be said to be competent if that person may lawfully be called to give evidence. A witness is compellable if that person may lawfully be obliged to give evidence. Generally, any person who has knowledge pertaining to the

OPM Issue 113 Public Edition

matter under investigation is competent and therefore, compellable. There are however, certain statutory and common law exceptions to this rule.

The *Evidence Act* deals with competence and compellability of witnesses. Officers should seek advice from the prosecutor assigned to a case if any doubt exists as to the competence or compellability of a witness intended to be called by the prosecution.

3.9.8 Dying declarations

A dying declaration is the oral or written declaration of a deceased person made shortly before death. The declaration may be admissible evidence of the cause of death at a subsequent trial for the murder or manslaughter of the person making the declaration.

The following conditions must be met before a court will allow the admission of a dying declaration:

(i) the declarant must have died;

(ii) the trial in which it is sought to admit the declaration must be for the murder or manslaughter of the declarant;

(iii) the statement must relate to the cause of death of the declarant;

(iv) the declarant must have a settled and hopeless expectation of death at the time of making the statement. This is of extreme importance and must extend beyond a grave concern, or even a knowledge of the possibility of death; and

(v) the declarant must have been a competent witness at the time of making the declaration.

When an officer intends to take a dying declaration from a victim of an unlawful killing, that officer should frame questions to the dying person which will support the conditions outlined above. An electronically recorded declaration is the best method of obtaining a dying declaration. Where an electronic recording is not possible, the chances of having the declaration admitted are improved by having an independent witness present, particularly a justice of peace or commissioner of declarations.

Dying depositions

A deposition is the evidence of a witness examined upon oath or in such other manner as prescribed or allowed by the Acts in force. Such evidence is reduced in writing, read to or by the witness, and signed by the witness and the justice or justices constituting the court taking the examination. See ss. 73: 'Evidence how taken' and 77: 'Taking of evidence' of the *Justices Act*.

The object of taking depositions out of court is to ensure that if any of the witnesses whose evidence is given before the justice or justices constituting the court should be unable to attend at the relevant trial or die, there should not be reason for this be a failure of justice.

Section 111: 'Depositions of persons dead, absent etc.' of the *Justices Act* contains conditions which must be met for the deposition to be read as evidence at the trial by indictment of the accused person. The evidence must relate to the offence for which the person has been committed for trial or to any other offence for which an indictment shall be presented, arising out of the same transactions or set of circumstances as the offence for which the person has been committed for trial.

To satisfy the conditions in s. 111 of the *Justices Act*, the deposition must:

(i) be the deposition of a witness who is proved at the trial by a credible witness to be dead, or so ill as not to be able to travel;

(ii) have been taken in the presence of the accused accept in circumstances specifically prescribed in s. 111(3)(b) of the *Justices Act*; and

(iii) purport to be signed by the justices before whom it purports to have been taken.

Officers should immediately advise the relevant prosecutor in circumstances where a matter is one for which a defendant may be committed by justices to be tried by indictment, and it is considered that a witness may:

(i) die prior to initial court proceedings; or

(ii) be so ill as not to be able to travel to initial court proceedings.

Prosecutors who receive advice in accordance with the above policy are to determine whether the matter is one to which the provisions of s. 111 of the *Justices Act* apply. In circumstances where it is considered necessary and appropriate to obtain a deposition from a witness out of court, the Prosecutor is to contact the relevant clerk of the court and request that arrangements be made for a deposition to be obtained from the witness.

3.9.9 Expert evidence

The opinion of an expert on a particular matter is often used in evidence, even though the expert may have no knowledge of the case under consideration by the court. Generally, whether a person will be accepted as an expert witness is a matter for the court and is a decision which will be made on the basis that the:

OPM Issue 113 Public Edition

(i) field of knowledge in which the witness intends to give evidence is outside the ordinary experience of the general population; and

(ii) the witness has sufficient expertise in the field to be considered as an expert.

For a person to be considered an expert on the subject of domestic violence, the person will need to demonstrate specialised knowledge, gained by training, study or experience, on a matter that may constitute evidence of domestic violence, in accordance with s. 103CB of the *Evidence Act* (EA).

When preparing statements for a witness intended to be called as an expert, officers should include information which will support the above tests, including the experience and all educational and professional qualifications of the witness.

Where an expert witness is required to give evidence in a proceeding, they are to give the evidence to the court by audio visual link or audio link, unless the court has directed otherwise in accordance with s. 39PB: 'Expert witnesses to give evidence by audio visual link or audio link' of the EA.

3.9.10 Joinder of charges

Charges can either be joined by virtue of a statutory provision or common law. Section 43 'Matter of complaint' of the *Justices Act* and ss. 567: 'Joinder of charges' and 568: 'Cases in which several charges may be joined' of the CC are such statutory provisions. Subject to the provisions of those sections:

(i) indictable offences can be joined to other indictable offences;

(ii) simple offences can be joined to either other simple offences or breaches of duty; and

(iii) breaches of duty can be joined to other breaches of duty or simple offences.

However, simple offences or breaches of duty cannot be joined to indictable offences. An example of a breach of duty is a regulatory offence.

If charges are to be joined by virtue of a statutory provision, those charges must be joined when a defendant is charged, summonsed, or issued with a notice to appear (see s. 3.5.3: 'Proceedings by way of notice to appear' of this chapter).

Charges cannot be joined by virtue of a statutory provision after a defendant appears before a court. At that stage, the prosecution can only rely on the common law.

ORDER

When charges can be joined in cases where the defendant has been arrested, arresting officers are to:

(i) prepare a separate bench charge sheet for each count;

(ii) number each count consecutively by inserting the words 'Charge one', 'Charge two', and so forth on each bench charge sheet above the wording of the charge; and

(iii) with the exception of the final charge, insert the words 'and further' or 'or alternatively' on each bench charge sheet below the wording of the charge depending on the charges.

In cases where it is proposed to summons an offender, it is not necessary to complete a separate complaint and summons form for each charge. Provided, however, that the charges are typed into the complaint prior to the words 'contrary to the Acts in such case made and provided' appearing at the bottom of the complaint. Charges are not to be typed onto a blank sheet of paper and attached to the complaint and summons form. Complaint and summons forms are to be used. Charges are to be numbered and the words 'and further' or 'or alternatively' are to be typed immediately below, but separate to the wording of the charge.

In cases where it is proposed to issue a NTA, it is only necessary to provide general particulars of the offences to be joined on the notice. Each matter need not be set out in a separate paragraph.

3.9.11 Charging conjointly

Where more than one defendant is to be charged with the same offence or offences arising from the same facts, each defendant normally retains the right to a separate hearing. In the interests of justice, and to save the time of the court, s. 568(12) of the CC allows the defendants to be charged conjointly in relation to specific indictable offences. In respect of simple offences, the prosecution must rely on the common law. When defendants are charged conjointly, only one hearing is held subject to the discretion of the court.

ORDER

When an arresting officer elects to charge more than one defendant conjointly under the provisions of s. 568 of the CC, that officer is to enter immediately below, but separate to the wording of the charge, enter the words 'Charged conjointly with (name or names of other defendants)'.

3.9.12 Principal offenders

Section 7: 'Principal offenders' of the CC defines a number of classes of persons, against whom criminal liability attaches when an offence is committed. These persons are referred to as principal offenders.

OPM Issue 113 Public Edition

ORDER

Officers are to ensure that when investigating an offence, if it is revealed that there is more than one principal offender in relation to an offence, the decision to lay charges, and the discretion to continue or discontinue a prosecution in relation to each of them is exercised individually.

3.9.13 Use of regression therapy (hypnosis) and eye movement desensitisation and reprocessing in evidence

Regression therapy (hypnosis) and eye movement desensitisation and reprocessing (EMDR) to 'refresh' the memories of witnesses or victims of crime, particularly alleged victims of sexual abuse within the family, has been the focus of attention by scientific, professional and legal personnel.

The Office of the Director of Public Prosecutions (State) has provided the criteria which should be applied by the prosecution in determining whether a case dependent on a memory said to be revived by regression therapy or EMDR should go forward. The criteria treat regression therapy and EMDR as being analogous with hypnosis and apply the same rules to evidence obtained or enhanced through any of these methods equally. Officers should adopt the following guidelines:

(i) the hypnotically induced evidence must be limited to matters which the witness has recalled and related prior to the hypnosis—referred to as 'the original recollection'. In other words evidence will not be tendered by the Crown where its subject matter was recalled for the first time under hypnosis or thereafter. Essentially, hypnosis can be used only to enhance or clarify a recollection made and related prior to hypnosis and nothing else. The effect of that restriction is that no detail recalled for the first time under hypnosis or thereafter will be advanced as evidence;

(ii) the substance of the original recollection must have been preserved in written, audio or video recorded form; and

(iii) the hypnosis must be conducted in accordance with the following procedure;

(a) the witness must give informed consent to the hypnosis;

(b) the hypnosis is to be performed by a person who is experienced in its use and who is independent of the police, the prosecution and the accused;

(c) the original recollection of the witness and other information supplied to the hypnotist concerning the subject matter of the hypnosis is to be recorded in writing in advance of the hypnosis; and

(d) the hypnosis is to be performed in the absence of police, the prosecution and the accused, but is to be video recorded.

The fact that a witness has been hypnotised is to be disclosed by the prosecution to the defence, and all relevant transcripts and information provided to the defence well in advance of the trial. This will enable the defence, if it so chooses, to obtain expert witnesses in relation to that material.

See Guideline 27: 'Hypnosis and regression therapy' of the DPP Guidelines.

OPM Issue 113 Public Edition

3.9.14 Indemnities against prosecution

The general rule is that an accomplice should be prosecuted regardless of whether he or she is to be called as a Crown witness. An accomplice who pleads guilty and agrees to testify against a co-offender may receive a sentencing discount for that co-operation. There will be cases, however, where the accomplice cannot be prosecuted. The issue of immunity most commonly arises where there is no evidence admissible against the accomplice, but he or she has provided an induced statement against the accused.

The Attorney-General has the prerogative power to grant immunity from prosecution. This will usually be in the form of a 'use-derivative-use undertaking' (an undertaking not to use the witness's evidence in a nominated prosecution against the witness, either directly or indirectly, to obtain other evidence), but may also be an indemnity (complete protection for nominated offences). Protection in either form will be dependent upon the witness giving truthful evidence. Any application to the Attorney-General should be through the Director or Deputy Director of Public Prosecutions (State). It is a last resort only to be pursued when the interests of justice require it.

An indemnity can only be considered in respect of completed criminal conduct. It cannot operate to cover future conduct.

The witness's statement must exist in some form before an application for an undertaking is made.

When, during an investigation, or subsequent to a person being charged with an offence(s), officers who identify a participant in the criminal activity under investigation as a person who is likely to be of more value as a prosecution witness than as a defendant, should at the earliest opportunity seek advice, through their regional crime coordinator, from the ODPP (State) as to the appropriateness of such a course, unless for some reason this is not practicable.

Officers intending to make application for the granting of an indemnity against prosecution in favour of a defendant/suspect are to furnish a report through their officer in charge to their Assistant Commissioner, who will, if

considered appropriate, refer the application to the ODPP (State). Additionally, Guideline 35: 'Immunities' of the DPP Guidelines provides that the report should summarise:

(i) the witness's attitude to testifying without immunity;

(ii) the existing prosecution case against the accused (without immunity for the witness);

(iii) the evidence which the witness is capable of giving (including the significance of that evidence and independent support for its reliability);

(iv) the involvement and culpability of the proposed witness; and

(v) public interest issues including:

(a) the comparative seriousness of the offending as between the accused and the witness; and

(b) whether the witness could and should be prosecuted (i.e. what is the quality of the evidence admissible against the witness and what is the likely sentence).

In cases involving Commonwealth offences, a similar procedure should be followed except that the Director of Public Prosecutions (Cwlth) is involved.

3.9.15 Use of justices of the peace and commissioners for declarations

OICs of stations and establishments should ensure a list containing the names and addresses of justices of the peace (JPs) and commissioners for declarations (Cdec) within their area is made available to members under their control.

Members should utilise JPs and Cdec within their area in accordance with the provisions of s. 38(5): 'Publication of office holders' of the *Justices of the Peace and Commissioners for Declarations Act*. Selection should be on a rotational basis where possible.

Electronic list of JPs and Cdec

A list of JPs and Cdec for the State is available via the Queensland Government (QG) 'Justices of the Peace' webpage.

ORDER

Members are not to use the services of JPs or Cdec who may have close associations with the Service or in circumstances where bias or a conflict of interest may arise.

3.9.16 Use of justices of the peace and commissioners for declarations who are members of the Service

Members of the Service who are justices of the peace (JPs) or commissioners for declarations (Cdec) may exercise the powers and functions outlined in s. 29(1): 'Powers of justices of the peace and commissioners for declarations' of the *Justices of the Peace and Commissioners for Declarations Act* in limited circumstances.

ORDER

Members are to disqualify themselves from acting if they are faced by a conflict of interest situation as identified by the 'Justice of the Peace and Commissioners for Declarations Code of Conduct' (available on the QG website). Members are not to authorise a power or authority such as:

(i) the issue of any summons or subpoena;

(ii) the issue of any warrant;

(iii) acting as an independent person at interviews of suspects;

(iv) authorising searches; or

(v) authorising extensions of time,

except for:

(i) traffic adjudication matters; and

(ii) witnessing declarations, oaths of service and affidavits.

3.9.17 Senior police officers as witnesses for affidavits and declarations made by police officers in the course of duty

Senior police officers (SPO) as defined under the Oaths Regulation (OR) are authorised to witness any affidavit or any declaration made by a police officer in the course of their duty (see ss. 2: 'Definitions' and 6: 'Persons prescribed as witness—Act, s 16C' of the OR). The SPO must not be directly involved in the matter to which the contents of the affidavit or declaration relates (see s. 7A: 'Prescribed condition—Act, s 16C' of the OR).

This power does not permit an SPO to witness affidavits or statutory declarations made by members of the public under any circumstance. For example, affidavits by aggrieved persons or civilian witnesses are to continue being witnessed by a Justice of the Peace or a Commissioner for Declarations.

OPM Issue 113 Public Edition

An SPO:

(i) means:

(a) an OIC of a police station, police establishment or watch-house (or an officer nominated in their absence);

(b) a watch-house manager; or

(c) a police officer of or above the rank of sergeant,

(see s. 2 of the OR);

(ii) is to witness the document by:

(a) witnessing the signing of the document;

(b) for an affidavit—administering an oath or affirmation for the affidavit; and

(c) for a declaration—administering the declaration,

(see s. 31B: 'Definitions for part' of the OA under meaning of witness and administer).

An affidavit or declaration signed in the physical presence of a witness may be in the form of an electronic document and may be electronically signed (see s. 16C: 'Affidavit or declaration electronically signed in physical presence of witness' of the OA); and

(iii) is to include their full name, rank and position (see s. 13E: 'Information to be included about witness' of the OA).

Witnessing documents by audio visual link

A relevant affidavit or declaration may be witnessed by audio visual link, but only where it is not reasonably practicable to sign in the physical presence of an SPO (see s. 10: 'Prescribed condition—Act, s 31S' of the OR), which is more likely for regional or remote policing.

Relevant affidavit means an affidavit made by a police officer in the course of the police officer's duty.

Relevant declaration means a declaration made by a police officer in the course of the police officer's duty (see s. 2 of the OR).

An SPO:

(i) may witness a document by audio visual link if the SPO is satisfied, by the sounds and images made by the link, that the deponent is signing the document in real time (see s. 31T: 'General requirement for witnessing documents' of the OA);

(ii) must sign the document as soon as practicable after witnessing it, which may or may not be on the day on which the document is witnessed (see s. 31U: 'Confirmation of signed document by witness' of the OA).

Signing includes by:

(a) electronic signing of an electronic document (see s. 31F: 'Affidavit may be in form of electronic document and electronically signed' of the OA); or

(b) physical signing of a hard copy printout; and

(iii) must give the signed document to the police officer, which includes by electronic means, in person or by post (see s. 31V: 'Action after witness confirms document' of the OA).

ORDER

SPOs who are likely to witness documents are to complete the relevant Service training: 5MILE Video 'Witnessing Affidavits and Declarations'.

Officers are to comply with all safeguards namely:

(i) the SPO witnessing the affidavit or declaration is not to be directly involved in the matters to which the contents of the affidavit or declaration relates;

(ii) SPOs are required to state their rank or role on the document; and

(iii) the witnessing of documents must occur in person (or by audio visual link where personal witnessing is not reasonably practicable).

To avoid conflicts of interest, SPOs should not witness documents completed by an officer who is a friend, neighbour or relative or relating to an event they attended, even if that attendance was in a supervisory capacity.

Officers are to familiarise themselves with the requirements for witnessing affidavits or declarations, available on the Witnessing Affidavits and Declarations webpage on the Service Intranet.

OPM Issue 113 Public Edition

OICs of stations and establishments, including watch-houses are to ensure they have a Bible available for use in the administering of Christian oaths.

3.9.18 Protection of methodologies

Members should be aware of the provisions of s. 803: 'Protection of methodologies' of the PPRA and s. 120: 'Source of information not to be disclosed' of the *Drugs Misuse Act*.

3.10 Witnesses

3.10.1 Introduction

The Service is responsible for the costs in respect to civilian witnesses attending magistrates, childrens and Coroners Courts and for costs of police officers attending magistrates, Childrens, coroners, district and Supreme courts.

The investigating officer or the officer delegated the responsibility is to arrange and facilitate the appearance of all witnesses who are required to give evidence in a matter. In so doing, all officers are to be mindful of the disruption caused to witnesses and are to make all arrangements in a manner designed to minimise that disruption, including considering the use of audio visual and audio links for witnesses to give evidence without travelling to the court.

Officers responsible for arranging the attendance of any witness in respect to any court should, whenever reasonably practicable, give the witness reasonable notification of the date and time the witness is required to appear.

ORDER

If a witness is unavailable, the investigating officer or the officer delegated the responsibility is to immediately advise the OIC of the relevant police prosecutions corps which has carriage of the matter, or the Office of the Director of Public Prosecutions (State) or Director of Public Prosecutions (Cwlth), as the case may be.

OICs of stations and establishments are to monitor the receipt and service of summonses/subpoenas to witnesses to ensure that such documents are served as soon as reasonably practicable.

Witnesses other than civilians

For policy in relation to:

(i) prisoners who attend court as witnesses, see s. 2.5.6: 'Removal of prisoners/children from corrective services facilities and youth detention centres' of this Manual and Persons in Custody SharePoint page;

(ii) police officers who attend court as witnesses, see 'Attendance at court' within Leave Standard: Police Officers of the HR Policies and Procedures SharePoint page;

(iii) staff members who attend court as witnesses, see 'Court attendance and jury service' within Leave Policy: Staff Members of the HR Policies and Procedures SharePoint page.

For allowances and travel arrangements see '5.9.1 Travel Arrangement Practice' within the Financial Management Practice Manual SharePoint page.

All travel arrangements for members attending court as a result of the performance of their official duties are to be made with the Queensland Government Air (QGAir), where available, or alternatively see the QPS Travel SharePoint page.

3.10.2 Civilian witness arrangements and expenses for magistrates, childrens and coroners courts

All costs associated with travelling, including loss of income, accommodation and meals for witnesses to attend Magistrates, Childrens and Coroner's Court are paid through Finance and Procurement Division. Procedural guidelines: Witnesses attending Magistrates, Childrens or Coroners Courts may assist members seeking witness expenses.

Where a witness is required to give evidence at a Magistrates, Childrens or Coroners Court, and would be required to undertake long distance travel or circumstances make personal attendance of the witness difficult, the investigating officer should consider making an application to the court under s. 83A: 'Direction hearing' of the *Justices Act* (JA) for the witness to give evidence by audio visual or audio link pursuant to s. 39R: 'Queensland courts may take evidence and submissions from external location' of the *Evidence Act* (EA). Under these provisions and at the discretion of the court, evidence may be received by telephone, video link or other form of communication. The investigating officer, or the officer delegated the responsibility, is to seek the advice of the relevant prosecutor to help determine whether such an application should be made.

Additionally, consideration should be given to the comparison of costs associated with the witness's personal attendance as opposed to the witness giving evidence by telephone, video link, etc. The investigating officer should make inquiries as to the availability of audio visual or audio link equipment to the witness and the court. When an order allowing evidence of a witness by telephone is sought, see also Magistrates Court Practice Directions No. 3 of 2000.

All costs incurred by the Service as a result of such an application are to be met by the region or command to which the investigating officer was attached when the prosecution was commenced.

OPM Issue 113 Public Edition

Where a prosecution witness would require an interpreter or translator during court proceedings, the investigating officer, or the officer delegated the responsibility, is to arrange and facilitate the service of the interpreter or translator (see s. 6.3.7: 'Interpreters' of this Manual). All costs incurred by the Service as a result of an application for the use of interpreters or translators are to be met by the region or command to which the investigating officer was attached when the prosecution was commenced.

Responsibilities of investigating officers

For all civilian witnesses who are required to give evidence or attend Magistrates, Childrens or Coroners Court, the investigating officer or the officer delegated the responsibility is to ensure:

(i) the witnesses are summonsed. However, not in the case of coronial inquests, as the Coroner's Office will issue summonses to required witnesses (members who are required as witnesses are to be appropriately notified, but not necessarily summonsed unless particular circumstances dictate that a summons is to be issued);

(ii) a QP 0314: 'Witness Expenses' is completed and submitted, including the witness's 'Declaration in support of claim for expenses as Crown witness' section of the form. Witness expenses are paid or submitted for payment as soon as the witness's obligation to the court has been fulfilled. (In circumstances where a witness requires immediate payment of some or all expenses, contact Finance and Procurement Division for details);

(iii) all witnesses who are required to travel, have appropriate travel and accommodation arrangements made for them through regional booking officers (see the booking officer list available from the Travel Management SharePoint page);

(iv) all witnesses who are required to travel are advised of their travel and accommodation arrangements as soon as reasonably practicable; and

(v) the relevant police prosecutions corps or prosecuting authority is immediately informed of any witness who is unable to physically attend, or is required to travel to, the court, so the prosecution can consider making application to the court for the witness to give evidence by audio visual or audio link pursuant to s. 39R: 'Queensland courts may take evidence and submissions from external location' of the EA.

Responsibilities of prosecutors

When witnesses are required to attend a coronial inquest, the OIC of the relevant police prosecutions corps or the assistant to the Coroner who has been advised of the matter by the Coroner's Office is to ensure the investigating officer or the officer delegated the responsibility is informed of the names, addresses and date required for court of all witnesses who have been or will be summonsed to appear at the inquest.

When a witness has attended Magistrates, Children's or Coroner's Court and the investigating officer or officer delegated the responsibility is not present at court, the relevant prosecutor or assistant to the coroner is to ensure the requirements of paragraph (ii) under the heading 'Responsibilities of investigating officers' are fulfilled.

When any witness is not required for a proceeding, the prosecutor responsible for prosecuting the matter or appearing as the assistant to the coroner is to advise the investigating officer or the officer delegated the responsibility for arranging and facilitating the appearance of witnesses. However, if those officers cannot be contacted, the prosecutor is to contact their relevant OIC.

Intrastate and interstate witnesses

Where an intrastate or interstate witness is required to undertake long distance travel to give evidence at a Magistrates, Childrens or Coroner's Court, consideration should be given to making an application to the court for a direction under s. 83A: 'Direction hearing' of the JA for the witness to give evidence by audio visual or audio link pursuant to s. 39R: 'Queensland courts may take evidence and submissions from external location' of the EA. This should be done in consultation with the relevant prosecutor.

Where a witness is required to undertake long distance travel to attend to give evidence at a Magistrates, Childrens or Coroner's Court, all travel and accommodation arrangements are to be made in accordance with the information available on the Witness travel SharePoint page.

Section 78: 'Power to issue summons to witness' of the JA provides the power to issue a summons to witness. Officers seeking to summons a witness resident in Queensland are to:

(i) complete a Form 010: 'Summons of a witness' (available in QPRIME) in original and three copies;

(ii) attend before a justice and seek the issue of the summons;

(iii) serve, or arrange for the service of a copy of the summons on the witness;

(iv) complete the oath/memorandum of service on the summons without signing it when the summons has been served;

(v) attend before a justice or commissioner of declarations, sign and swear out the oath/memorandum of service; and

OPM Issue 113 Public Edition

(vi) register the summons by delivering a copy thereof to the clerk of the court at the courthouse at which the matter is to be heard.

The *Service and Execution of Process Act* (Cwlth) (SEPA(C)) enables a witness from interstate to be compelled to attend court, otherwise a warrant can be issued. Under SEPA(C), the process requiring that a person give oral evidence or produce a document before a court is referred to as a 'subpoena'.

In addition to relevant points above, officers seeking to subpoena an interstate witness are to:

(i) arrange for any witness allowances to be paid and ensure travel and accommodation arrangements are made in order to comply with s. 32: 'Expenses' of SEPA(C);

(ii) if the period between service and the date of hearing is less than 14 days, the court may approve such a period of service. When a court grants a period of less than 14 days for service, ensure a copy of the order granting the application is also attached to the subpoena;

(iii) ensure a Form 002: 'Notice to witness' is also served with the subpoena, irrespective of the period of service;

(iv) ensure any travel and accommodation arrangements necessary are made through the relevant regional booking officer; and

(v) ensure the witnesses are advised of the travel and accommodation arrangements as soon as reasonably practicable.

In respect of a subpoena that only requires the production of a document or thing, such a subpoena may be complied with by the delivery of the document or thing not less than 24 hours prior to the date of hearing to the clerk of the court who issued the subpoena. However, witness expenses must still be paid.

In relation to a person who is under restraint and who is served with a subpoena to attend a court interstate, s. 36: 'Persons under restraint' of SEPA(C), imposes certain obligations on that person (the person under restraint) to ensure subsequent action is not taken against that person for failure to comply with the subpoena. The term 'a person under restraint' is defined in s. 3. 'Interpretation' SEPA(C).

Overseas witnesses

As there is no legislative provision that can compel a witness from overseas to attend court, consideration should be given to making an application to the court for a direction under s. 83A: 'Direction hearing' of the JA for the witness to give evidence by audio visual or audio link pursuant to s. 39R: 'Queensland courts may take evidence and submissions from external location' of the EA. This should be done in consultation with the relevant prosecutor.

Travel and accommodation arrangements for witnesses from overseas to attend to give evidence at a Magistrates, Childrens or Coroner's Courts are made in accordance with the information on the Witness travel SharePoint page.

3.10.3 Officers travelling from interstate appearing as witnesses at Queensland Magistrates Courts

Travel costs for officers travelling from interstate to appear as witnesses at Queensland Magistrates Courts are the responsibility of the Service. Arrangements are to be made by the arresting officer or delegated officer in the same manner as travel arrangements are made for interstate civilian witnesses (see s. 3.10.2: 'Civilian witness arrangements and expenses for Magistrates, Childrens and Coroners Courts' of this chapter).

Officers travelling from interstate to appear as witnesses at Queensland Magistrates and Childrens Courts are not entitled to any allowances for loss of earnings, meals or accommodation. These allowances are the responsibility of the officer's home state or territory.

3.10.4 Officers travelling interstate or overseas appearing as witnesses at courts in other states or countries

Travel costs and arrangements for Service members travelling interstate to appear as witnesses at a court are the responsibility of the police service of the relevant state.

Allowances for Service members travelling interstate to appear as witnesses at a court will be met by the Service.

Travel costs and allowances for Service members travelling to another country to appear as witnesses are to be considered by the OIC of the region, command or corporate services division in consultation with the other country's representatives, prior to approving travel.

3.10.5 Civilian witness arrangements and expenses for the District, Supreme Courts and the Court of Appeal

All costs incurred in respect to civilian witnesses attending to give evidence at a Queensland district, Supreme Court or the Court of Appeal are met by the Office of the Director of Public Prosecutions (State) (see SMCD) for State matters and the Director of Public Prosecutions (Cwlth) (see SMCD) for Commonwealth matters. All payments to Crown witnesses appearing in Queensland superior courts are processed by the Witness Coordinator Office of the Director Public Prosecutions (State).

OPM Issue 113 Public Edition

The Crown Prosecutor who has carriage of the matter normally:

(i) advises the arresting officer of the details of witnesses required;

(ii) arranges for those witnesses to be subpoenaed; and

(iii) in respect to interstate witnesses, arranges any witnesses entitlements to ensure compliance with s. 32: 'Expenses' of *Service and Execution of Process Act* (Cwlth).

For matters before the Queensland jurisdictions, all travel and accommodation arrangements and any other witness allowances payable for civilian witnesses are overviewed and processed by the Office of the Director of Public Prosecutions (State) Witness Travel Team (State), and for Commonwealth matters are overviewed by the individual Crown prosecutor.

After receiving confirmation from the Office of the Director of Public Prosecutions (State) to organise the attendance of their witnesses, investigating officers are required to contact the Office of the Director of Public Prosecutions (State) Witness Travel Team if travel or accommodation bookings are required for civilian witnesses attending superior courts. The investigating officers are to liaise with the Office of the Director of Public Prosecutions (State) Witness Travel Team (State) and make suitable travel and accommodation requirements for these witnesses.

The investigating officer is, however, required to make travel and accommodation bookings through their respective booking officer for witnesses who are members of the Service. This includes serving police officers, those seconded to other agencies and other members who are required to attend and give evidence in their official capacity.

Travel bookings for interstate or Commonwealth police officers will be arranged through the Office of the Director of Public Prosecutions (State) Witness Travel Team. However, in accordance with the reciprocal arrangements between the State and Commonwealth police commissioners, interstate or Commonwealth police officers are required to arrange and pay for accommodation and meals in line with their own travelling allowance entitlements.

Any problems relating to travel, accommodation arrangements or other witness allowances payable may be referred to the Office of the Director of Public Prosecutions (State) Witness Travel Team or the relevant Crown prosecutor (Cwlth).

Responsibilities of officers notifying witnesses

Officers responsible for notifying a witness on behalf of the Office of the Director of Public Prosecutions (State) or the Director of Public Prosecutions (Cwlth) are to:

(i) notify the witness as soon as reasonably possible; and

(ii) advise the Crown Prosecutor (State), or the Crown Prosecutor (Cwlth), handling the matter by email or facsimile message of:

(a) the name of each witness notified;

(b) the date and time notified;

(c) the address at which notification was given;

(d) whether the witness is willing to attend or should be subpoenaed;

(e) whether a witness could not be notified/located and reasons why; and

(f) any foreseeable problem associated with the witness or the trial.

Responsibilities of investigating officers

In relation to State matters before superior courts, investigating officers or officers delegated the responsibility when required by the Crown Prosecutor (State) are to:

(i) serve or arrange for the service of the subpoena;

(ii) ensure any necessary travel and accommodation arrangements are made for any civilian witnesses through the Office of the Director of Public Prosecutions (State) Witness Travel Team using DPP form 'Witness travel and accommodation request';

(iii) ensure any necessary travel and accommodation arrangements are made for witnesses who are members of the Service through the relevant Service booking officer; and

(iv) ensure a 'Witness expenses claim form' (including the 'Declaration in support of claim for expenses as a Crown witness' on page 2) is correctly completed and signed as soon as possible after the witness has attended a superior court and forwarded to the Witness Coordinator, Office of the Director of Public Prosecutions (State) together with any relevant receipts.

In relation to Commonwealth matters, investigating officers or officers delegated the responsibility when required by the Crown Prosecutor are to:

(i) serve or arrange for the service of the subpoena; and

(ii) provide any other reasonable assistance.

OPM Issue 113 Public Edition

Intrastate and interstate witnesses

The Office of the Director of Public Prosecutions Witness Travel Team will make the necessary travel and accommodation booking upon request from the investigating officer where a civilian intrastate or interstate witness is required.

Investigating officers are to liaise with the Office of the Director of Public Prosecutions (State) Witness Travel Team and arrange suitable travel and accommodation for civilian witnesses. Once advised of the details of the bookings, the investigating officer is to inform the civilian witnesses of these details.

Any problems relating to travel or accommodation arrangements (e.g. changes, cancellations, refunds, lost tickets or account inquiries, etc.) are to be referred to the Office of the Director of Public Prosecutions (State) Witness Travel Team. In cases of emergency (e.g. outside normal office hours) where the Witness Travel Team cannot be contacted, the investigating officer may effect necessary changes to travel or accommodation bookings. The investigating officer must however advise the Witness Travel Team as soon as possible of the changes and any additional costs involved.

In relation to matters prosecuted by the Office of the Director of Public Prosecutions (Cwlth), investigating officers or officers delegated the responsibility are to contact the prosecutor handling the matter. The relevant prosecutor will make any necessary travel and accommodation arrangements.

Overseas witnesses

Overseas travel for a civilian witness required to give evidence in a superior court must be approved by the Executive Director, Office of the Director of Public Prosecutions (State) and requires a formal submission by the Crown prosecutor (State). After the Crown prosecutor (State) has obtained the requisite approval, the Witness Coordinator, Office of the Director of Public Prosecutions (State) will liaise with the investigating officer and coordinate suitable travel and accommodation bookings for the overseas witness. Finalised booking details will be supplied to the investigating officer (State) for delivery to the overseas witness.

In relation to overseas travel and accommodation arrangements for witnesses in matters prosecuted by the Director of Public Prosecutions (Cwlth), investigating officers or officers delegated the responsibility are to contact the prosecutor handling the matter. The relevant Commonwealth prosecutor will make any necessary travel and accommodation arrangements.

OPM Issue 113 Public Edition

3.10.6 Special witnesses

Special witnesses

Section 21A: 'Evidence of special witnesses' of the *Evidence Act* provides that a court in any proceeding may make certain orders that are intended to decrease the trauma associated with giving evidence in the proceeding. A special witness is defined in s. 21A of the *Evidence Act* and includes victims of domestic and family violence and victims of offences of a sexual nature.

Orders made by a court affect special witnesses when giving evidence as well as allowing persons approved by the court to be present while a special witness is giving evidence or is required to appear in court for any other purpose to provide emotional support to the special witness. In some situations, video recorded evidence by a special witness may be viewed instead of providing direct testimony in court.

Court support officers are persons who attend law courts on a voluntary basis to assist persons who may be appearing in court including, with the approval of the court, to support a special witness. Court support for victims and their families can be requested through Police Referrals (see s. 6.3.14: 'Police Referrals' of this Manual).

In addition to the provisions of s. 7.13: 'Preparation of child witnesses for court' of this Manual, arresting officers are to ensure that appropriate arrangements are made for special witnesses when attending court and giving evidence.

Where required, arrangements are to include the attendance at court of a suitable support person to accompany and support the special witness.

Additionally, the fact that a special witness is involved in the particular matter should be brought to the attention of the relevant prosecutor prior to the proceedings, with a view to making an application under s. 21A of the *Evidence Act*.

Affected child witnesses

Part 2, Division 4A: 'Evidence of affected children' of the *Evidence Act* (s. 21AA to s. 21AX) provides for a witness to be classed as an affected child in a proceeding for a relevant offence.

An affected child witness is:

(i) an individual who is under sixteen years when the first of the following happens:

(a) the defendant in the proceeding is arrested;

(b) a complaint is made under s. 42 'Commencement of proceedings' of the *Justices Act* in relation to the defendant in the proceeding;

(c) a notice to appear is served on the defendant in the proceeding under s. 382 'Notice to appear may be issued for offence' of the PPRA; or

(ii) an individual who is sixteen or seventeen years when the first of the matters mentioned in subparagraph (i) happens and who is a special witness (see s. 21A of the *Evidence Act*); and

(iii) who is a witness in a proceeding for a relevant offence and who is not a defendant in the proceeding (see s. 21AC of the *Evidence Act*).

A proceeding for a relevant offence is:

(i) an offence of a sexual nature; or

(ii) an offence involving violence, if there is a prescribed relationship between a child who is a witness in the proceeding and a defendant in the proceeding.

The term 'prescribed relationship' as it relates to an affected child witness is defined in s. 21AC of the *Evidence Act*.

The purpose of classifying a witness as an 'affected child' is to preserve the integrity of an affected child's evidence and to reduce the distress and trauma that might be suffered by the child in giving evidence. This purpose is to be achieved through the use of pre-recording of a child's evidence and audio-visual links that will limit the circumstances under which a child can be required to attend at and be cross-examined as a witness at a committal proceeding for a relevant offence (see Part 2, Division 4A: 'Evidence of affected children' s. 21AA to s. 21AX of the *Evidence Act*).

Where a prosecutor is determining whether a witness in a relevant proceeding is, or may be an 'affected child', the prosecutor should consult with the arresting officer.

Refer to s. 3.14.4: 'Mandatory disclosure' of this chapter for information on disclosure by the prosecution to the defendant or lawyer acting for the defendant for each proposed witness for the prosecution who is or may be an affected child.

ORDER

In accordance with s. 21AS of the *Evidence Act*, where an 'affected child' may give evidence in a relevant proceeding the prosecutor responsible for the matter is to inform the court of this fact before the proceeding for a relevant offence starts.

Witness in child sexual offences with communication difficulties

Intermediaries may be engaged by an officer at any time during the investigation phase in a child sexual offence matter (see s. 207A: 'Definition for this chapter' of the CC). The intermediary will assess the witness and provide recommendations to police on how best to communicate with the witness during the police interview. Interactions between a witness and an intermediary will be electronically recorded and disclosable in a court of law. An intermediary may also be requested by the prosecution to assist the witness in giving evidence during a court proceeding.

For policy in relation to Queensland Intermediary Scheme (QIS) eligibility and requesting process see s. 7.6.3: 'Procedure for interviewing a child' of this Manual.

OPM Issue 113 Public Edition

3.10.7 Witnesses on stand-by

In some cases the evidence of a witness may not be required in a proceeding, so it will only be necessary to have the witness on standby. Having a witness on stand-by means that arrangements are in place which ensure that the witness:

(i) will be at a specific place or places;

(ii) may be contacted at that place;

(iii) has no other commitments of an urgent nature; and

(iv) has reliable transport to the court and is able to attend the court within a reasonable time after notification.

These conditions apply to ordinary witnesses as well as to professional witnesses.

ORDER

Arresting officers are not to arrange a witness to be on standby, unless directed to do so by a prosecutor.

3.10.8 Prosecutor as a witness

ORDER

An officer who is required to appear as a witness in any matter is not to act as the prosecutor for that matter.

3.10.9 Witnesses not to discuss evidence and to remain outside of court

Discussing or communicating evidence to be given in judicial proceedings or at a trial between witnesses may diminish a witness' credibility and influence their memory of events. The evidence could be construed as the witness' recollection of what was agreed upon prior to a trial, rather than the witness' actual recollection of the events. If evidence given by a witness becomes discredited, its probative value is decreased.

Prior to or during the course of judicial proceedings and especially during a trial, officers should ensure that witnesses, including police witnesses, who:

(i) are required to give evidence in those proceedings or trial;

(ii) have not completed giving evidence; or

(iii) have given evidence and are excused from further attendance;

do not discuss the evidence given or to be given, or questions asked in cross examination or re-examination with other witnesses required to give evidence in those proceedings or trial.

Officers should ensure that witnesses, including police witnesses, remain outside the precincts of the court and are not so situated that they may hear the court's proceedings, unless otherwise directed by the prosecutor.

3.10.10 Returning witnesses to crime scenes

Witnesses should, where necessary, be returned to a crime scene in order to refresh their memory prior to the obtaining of a statement and the giving of evidence to a court (see s. 2.5: 'Investigations' of this Manual).

3.10.11 Property in witnesses

There is no property in witnesses because a court has the primary duty to ascertain the truth. Therefore, neither the prosecution nor the defence are entitled to prevent the other party from ascertaining the truth by communicating with a witness before court. However, witnesses are not required to speak to that other party.

In relation to the disclosure of a witness contact detail in a relevant proceeding refer to s. 3.14.7: 'Disclosure of witness contact details in a relevant proceeding' of this chapter.

ORDER

Officers are not to disclose the address of a witness to a third party without the prior approval of that witness.

3.10.12 Disclosure of prosecution witnesses' previous convictions to the defence

Subject to legislative provisions, in relation to a summary matter that is not a relevant proceeding as defined by s. 590AD: 'Definitions for ch div 3' of the Criminal Code, prosecutors are to advise the defence of any previous convictions of prosecution witnesses provided such disclosure is:

(i) relevant to an issue in the proceedings; or

(ii) ordered by a court.

ORDER

In all court matters, members are not to disclose an expired conviction of a witness in contravention of the *Criminal Law (Rehabilitation of Offenders) Act.*

In relation to the disclosure of a prosecution witnesses' previous criminal history for a relevant proceeding refer to s. 3.14.5: 'Disclosure that must be made on request' of this chapter.

OPM Issue 113 Public Edition

3.10.13 Obtaining medical records for presentation in court

Officers who subpoena medical records should:

(i) address the subpoena to the medical superintendent of the hospital concerned; and

(ii) advise such medical superintendent that the responsibility of attending the relevant court proceedings may be delegated to an officer of the medical records department of the hospital.

Officers should follow this procedure unless other advice is received from a prosecutor or a Crown prosecutor.

3.10.14 Members as witness for the defence

Members who are called to give evidence for the defence in criminal proceedings on any matter which has arisen from the member's performance of duty should notify, in writing, the prosecuting authority for the proceedings. Notification should be made as soon as practicable once members are advised by the defence that they are to be called as a defence witness.

In any such case the member called to give evidence for the defence is to inform the prosecuting authority of the evidence that member is to give in the proceedings and should supply the prosecuting authority with a copy of any statement, affidavit or materials supplied to the defence.

3.10.15 Person in witness protection program to appear in court

For the purposes of this policy:

Relevant person

means a person who is in or has been in a witness protection program.

The Crime and Corruption Commission (CCC) run the witness protection program to provide witness protection to relevant persons under the *Witness Protection Act*. This includes where the CCC runs a program for persons protected under a complimentary witness protection law.

Section 36: 'Offence of disclosure about particular person or program' of the *Witness Protection Act* makes it an offence to directly or indirectly disclose or record information regarding a relevant person or a witness protection program.

The following protocols apply where a relevant person is to appear in a magistrates court:

(i) When the CCC becomes aware a relevant person is to appear in court, they will conduct an assessment and where they consider it appropriate they will inform the Service by contacting the Superintendent, Prosecution Services.

(ii) Where a member of the Service becomes aware that a relevant person is to appear in a magistrate's court, the member as soon as reasonably possible is to contact:

(a) the Superintendent, Prosecution Services;

(b) the relevant regional crime coordinator (or equivalent); and

(c) one of the following Crime and Corruption Commission (CCC) officers:

- official solicitor;
- deputy official solicitor; or
- operations coordinator, operations support.

Where a member of the Service becomes aware during magistrate's court proceedings that an accused or a witness is a relevant person, the member is to seek an adjournment to allow the CCC to be informed.

In all situations the relevant Service prosecutor and the CCC officer will liaise to determine how the matter will be presented to the court.

3.11 Appeals

There are three main types of appeal concerning convictions, dismissals and sentences that may be lodged in relation to criminal matters. These are:

(i) appeal to the Court of Appeal for indictable offences or appeal to the Court of Appeal by a person convicted of a summary offence under s. 651: 'Court may decide summary offences if a person is charged on indictment' of the Criminal Code (Chapter 67: 'Appeal—pardon', ss. 668–677 of the CC);

(ii) appeal to a district court for simple offences (s. 222: 'Appeal to a single judge' of the *Justices Act*). (In relation to indictable offences dealt with summarily, the person convicted has a right to the district court under s. 222 of the *Justices Act* however the complainant in these cases only has a right of appeal against the sentence and costs. Subsequent appeals from the decision of the district court may be made to the Court of Appeal with the leave of that court pursuant to s. 118: 'Appeal to the Court of Appeal in certain cases' of the *District Court of Queensland Act*. Although there is no avenue under s. 222 of the *Justices Act* for the complainant to appeal against dismissal of an indictable offence dealt with summarily, a review of the magistrate's decision may be made in the Supreme Court if there are sufficient grounds for judicial review under the Judicial Review Act (see s. 20: 'Application for review of decision' of the *Judicial Review Act*); and

(iii) sentence review by a Childrens Court judge of a sentence order made by a Childrens Court magistrate (s. 117: 'Appeals under Justices Act 1886, pt 9, div 1' of the *Youth Justice Act*) (see s. 3.11.3: 'Review of sentence order by a Childrens Court judge' of this chapter).

Appeals to the Court of Appeal

Only the Attorney-General, a person convicted on indictment, or a person convicted of a summary offence by a court under s. 651: 'Court may decide summary offences if a person is charged on indictment' of the Criminal Code has the right of appeal to the Court of Appeal in accordance with the provisions of Part 8: 'Procedure', Chapter 67: 'Appeal–Pardon' of the CC.

The ODPP will represent the Attorney-General for appeals to the Court of Appeal.

There is no direct access to the Court of Appeal for persons dealt with before magistrates. The avenue of appeal from a magistrates court is to a district court judge pursuant to s. 222 of the *Justices Act* and a subsequent appeal to the Court of Appeal is by leave under s. 118 of the *District Court of Queensland Act*. If leave is obtained the appeal is against the order of the district court, not that of the magistrate.

Appeals to the district court

Generally, appeals on behalf of the Service are conducted by the ODPP (State), however the ODPP (State) will usually only represent the Service on appeals to the district court involving a prosecution under the:

OPM Issue 113 Public Edition

(i) *Corrective Services Act*;

(ii) *Criminal Proceeds Confiscation Act*;

(iii) *Criminal Code*;

(iv) *Domestic and Family Violence Protection Act*;

(v) *Drugs Misuse Act*;

(vi) *Peace and Good Behaviour Act*;

(vii) *Regulatory Offences Act*;

(viii) *Transport Operations (Road Use Management) Act* and related legislation;

(ix) *Summary Offences Act*; or

(x) *Weapons Act*.

The ODPP (State) may decline to accept the brief if it involves any issues of constitutional law. The ODPP (State) will not appear in respect of any other district court appeals (see Guideline 52: 'District Court Appeals' of the DPP Guidelines).

QPS Legal Services, Office of the General Counsel (OGC) will act in those appeals in which the ODPP (State) has determined do not fall within its core business functions.

Arresting officers, prosecutors and other members are to liaise and cooperate with OGC and ODPP (State) Appeals Section in matters involving appeals.

3.11.1 Appeals by the defence

Appeals for offences dealt with in the district or Supreme Court

The convicted person or the person's representative may file the Notice of Appeal with the Registry of the Court of Appeal and serve a copy of the notice upon the Office of the Director of Public Prosecutions (ODPP) (State) in the first instance. There would be no liaison between the ODPP and QPS Legal Services, Office of the General Counsel (OGC) in these matters. The ODPP will contact arresting officers direct if further information is required.

Appeals for offences dealt with in the magistrates court

The convicted person or the person's representative may file the notice of appeal in the registry of the district court. The district court registry must then provide the respondent with the notice of appeal, pursuant to s. 222 of the *Justices Act* and where the respondent is a police officer, may serve the notice of appeal on the respondent who is the arresting officer or alternatively on the Commissioner.

ORDER

Where a member has been served with a notice of appeal, the member is to immediately provide a copy of the notice of appeal to OGC by email or hand delivery. OGC will then liaise with the relevant office of the ODPP (State) to determine whether OGC or the ODPP (State) will have carriage of the appeal. Where it is determined that the ODPP (State) will take carriage, OGC is to provide the ODPP (State) with written instructions to act on behalf of the Service.

OGC or the ODPP (State) will forward any request for a report, and if required, an affidavit, of the:

(i) arresting officer; or

(ii) prosecutor,

direct to the OIC of the station or establishment at which the arresting officer or police prosecutor concerned is stationed.

OICs receiving such requests are to ensure that the required report or affidavit are promptly provided directly to the relevant party. A copy of the report or affidavit should also be forwarded to the OIC of the relevant region, command or directorate.

Form 046: 'Affidavit' is available on Forms Select.

3.11.2 Appeals by the prosecution

It should be noted that the Court of Appeal or district court will not intervene in a prosecution appeal against sentence unless there is:

(i) a material error of fact;

(ii) a material error of law; or

(iii) the sentence is manifestly inadequate.

Additionally, the court will be reluctant to:

OPM Issue 113 Public Edition

(i) replace a non-custodial sentence with a term of actual imprisonment, particularly if the offender is young or if the proper period of imprisonment is short;

(ii) interfere where the judge was led into error by the prosecutor, or the judge was unassisted by the prosecutor; and

(iii) interfere with a finding of fact if it was reasonably open to the judge to find as he or she did.

See Guideline 50: 'Appeals against sentence' of the DPP Guidelines.

A police request to commence an appeal against a summary hearing must be in writing and forwarded to the ODPP (State) by Legal Services, LD. Direct requests from police officers to the ODPP (State) will not be considered.

Legal Services, LD is the liaison point between the Service and the ODPP (State) who will conduct the appeal on behalf of the Service. The appeal from a summary hearing must be made within one (1) month of the magistrate's decision being delivered. In view of these points it is essential that submission of reports, service of documents and any other requests for police action be completed expeditiously.

In most cases, a prosecutor will be in the best position to determine whether an appeal against the decision of a magistrate is appropriate. As such, most appeals will be initiated by a prosecutor. When a decision is made to appeal the decision of a magistrate an application for a copy of the transcript of proceedings should be made by the prosecutor, regardless of whether the application to appeal is initiated by the prosecutor or arresting officer. The furnishing of such reports should not be delayed whilst awaiting the transcriptions and availability of transcripts of the proceedings. Where a transcript of the proceedings is not available, prosecutors should complete a 'Prosecutor's appeal report where a record or transcript of the proceedings is not available' (see Appendix 3.3: 'Prosecutors appeal report where a record or transcript of the proceedings is not available' of this chapter).

Where a prosecutor who has prosecuted a matter is of the opinion that it is appropriate to lodge an appeal against the decision, and a record or transcript of the proceedings is available, that prosecutor is to complete a brief report within one week of the magistrate's decision being delivered.

When lodging a request for an appeal, prosecutors are to follow the procedures outlined in Prosecution Services Instruction 2/2023, 'Procedure for seeking an appeal against the decision of a magistrate' which is available on Prosecution Services Resources on the Service intranet.

3.11.3 Review of sentence order by a Childrens Court Judge

The normal procedure for a sentence review matter arising from a Childrens Court is that the district court registry advises the Office of the Director of Public Prosecutions (ODPP) (State) that an application for a sentence review has been made, and then the ODPP (State) requests the prosecutor who presented the matter, through Legal Services, LD, to furnish the relevant correspondence.

It can also occur, however, that the District Court Registry may notify the arresting officer directly.

In either case, these matters should be dealt with similarly to appeals by the defence to the District Court and consistent with the provisions of s. 3.11.1: 'Appeals by the defence' of this chapter.

3.11.4 Members inappropriately joined as respondents

ORDER

Where members are joined as respondents in an appeal matter and are of the opinion that they have been inappropriately joined (e.g. *Bail Act* offences, s. 87 applications under the *Transport Operations (Road Use Management) Act*), they are to:

(i) comply with the requirements of s. 3.11.2: 'Appeals by the prosecution' of this chapter; and

(ii) in the report specified in s. 3.11.2: 'Appeals by the prosecution' of this chapter, provide QPS Legal Services, Office of the General Counsel (OGC) with any reason(s) as to why they consider they have been inappropriately joined as respondents.

OGC will bring the information to the attention of the ODPP (State) and request that they bring the information to the attention of the Court.

3.11.5 Deleted

3.11.6 Review of bail decisions

In accordance with the *Bail Act* (BA), an application to review a decision about release of, or bail conditions imposed upon, a defendant may be made by the defendant, complainant or prosecutor, or person appearing on behalf of the Crown. Applications to review bail decisions are made under s. 19B: 'Review of particular decisions' of the BA.

Where the original bail decision is made by a police officer or justice who is not a magistrate, the reviewing court is a magistrate's court constituted by a magistrate. In all other cases, the reviewing court is the Supreme Court constituted by a single judge.

OPM Issue 113 Public Edition

An application for bail review should be made when a decision to grant bail does not adequately protect the victim of the offence or other members of the community from further offences, or adequately ensure the defendant will appear in court when required. Applications are to be made in a timely manner.

Where a person in custody is granted bail by a magistrate, and there is no other lawful authority to keep the person in custody, the person is to be released as soon as practicable in compliance with s. 16.20: 'Bail' of this Manual. A person is not to be merely kept in detention whilst a bail review application is being prepared or filed.

Where necessary, an application under s. 19B of the BA may be made following the person's release from custody.

The authority to grant approval for a s. 19B bail review lies with the Manager, Operational Legal Advice and Development (OLAD). Where the Manager, OLAD is not available, approval may be given by the Executive Director, Legal Division (LD), a commissioned officer or a director, LD.

Prosecutors are to comply with any prosecution instruction relating to an application to review bail.

Stay of decision about release

There is no power to stay the magistrate's decision to grant bail unless s. 19CA: 'Stay of release decision relating to relevant domestic violence offence' of the BA applies for a person charged with a domestic violence offence.

An application may be made under s. 19CA: 'Stay of release decision relating to relevant domestic violence offence' of the BA to stay a magistrate's decision to release a defendant on bail when the defendant:

(i) has been charged with a domestic violence offence(s) (see Schedule: 'Dictionary' of the DFVPA); and

(ii) is still in custody at the time the application is submitted.

If an offender has been charged with a domestic violence offence and an application for review under s. 19CA of the BA has been made and filed in the Supreme Court Registry, the offender may be held in custody until:

(i) the reviewing court makes an order under ss. 19B(6) or 19C(5): 'Review by Supreme Court of magistrate's decision on a review' of the BA;

(ii) the application for review of the decision is discontinued; or

(iii) 4pm on the day that is 3 business days after the day on which the decision about release was made,

(see s. 19CA(2) of the BA).

Considerations in making an application for bail review

Every case is to be assessed on its merits by considering the alleged offence(s) and the information, evidence and circumstances known to police at the time, including the defendant's antecedents and criminal history. Without limiting matters where an application may be appropriate, an application to review should be considered if a magistrate granted bail where the defendant:

(i) is charged with:

(a) a domestic violence offence where it is alleged there is substantial, prolonged, or escalating violence against an aggrieved or a number of aggrieved persons; or

(b) an offence under s. 315A: 'Choking, suffocation or strangulation in a domestic setting' of the CC;

(ii) is charged with an offence which is alleged to have involved the use of a weapon, including any item used as a weapon or explosive resulting in any injury to a person;

(iii) is charged with grievous bodily harm, unlawful wounding or any offence involving an attempt to kill or seriously injure a person;

(iv) has threatened witnesses or threatened to attempt to pervert the course of justice; or

(v) is in a show cause position pursuant to s. 16(3): 'Refusal of bail' of the BA.

Application documents for an application for bail review

Bail review application documents are to comprise:

(i) Form 005: 'Originating application to review bail' or 'Originating application (application to review bail—relevant DV offence)';

(ii) QP 0215: 'Bail affidavit';

(iii) QP 0215A: 'Bail affidavit annexure (Adult)' (or, where relevant, a QP 0215B: 'Bail Affidavit Annexure (Child)'); and

(iv) any other supporting affidavits or documents (e.g. the defendant's criminal history, photographs, etc.).

OPM Issue 113 Public Edition

Making an application for bail review—generally

An arresting officer or a prosecutor who considers an application for bail review should be made (see 'Considerations in making an application for bail review' of this section) is to advise the OIC of the relevant police prosecutions corps (PPC) of the defendant's appearance in court. If the OIC PPC is not available, the prosecutor is to advise their Inspector, Prosecution Services.

The OIC PPC (or if unavailable, the prosecutor) is to:

(i) contact the OIC of the arresting officer (or most senior officer at the arresting officer's station or establishment) to seek:

(a) any information that may be relevant to a decision whether to make the application to review; and

(b) if necessary, request an officer with knowledge of the charge/s provide assistance with making the submission and completion of the application documents; and

(ii) determine whether an application for bail review is appropriate and if so, refer the application to a senior legal officer, OLAD. The regional inspector, Prosecution Services for the local PPC should be cc'd into that referral.

If the senior legal officer, OLAD is of the view that the matter is suitable for a s. 19B bail review, approval for such will be sought from the Manager, OLAD. In their absence, approval should be sought from another Prosecution Services commissioned officer/director; or, in the event a Prosecution Services commissioned officer/director is not available, the Executive Director, LD.

Where approval is given, the OIC PPC is to ensure the application documents are physically filed in the closest Supreme Court registry in Brisbane, Townsville, Rockhampton or Cairns as soon as possible, but no later than the first business day after the decision, which is the subject of the review, is made.

If necessary, the OIC PPC may task the police station nearest to the Supreme Court registry to assist in delivering the application documents.

Following filing of the documents, officers are to comply with 'Defendant to be notified' of this section.

Making an application for bail review—domestic violence offence

To have an offender kept in custody for a domestic violence offence (see 'Stay of decision about release' of this section), an application for bail review is to be:

(i) made and signed by the prosecutor (or a person appearing for the Crown); and

(ii) filed with the Supreme Court registry,

prior to the defendant's release for the decision to grant bail to be stayed.

In addition to the procedures detailed above, where a bail decision review relates to a 'relevant domestic violence offence' and the defendant is still in custody, the OIC PPC is to ensure an application under s. 19CA of the BA is prepared and filed as soon as possible.

Where a magistrate releases a defendant on bail and a bail decision review is to be made, the OIC PPC is to ensure the application documents are filed:

(i) on weekdays (between 09:00–16:00 hours): to the closest Supreme Court registry in Brisbane, Townsville, Rockhampton or Cairns;

(ii) if the defendant is still in custody outside of business hours and the application documents have been prepared, to the Supreme Court Registry, Brisbane. Where an 'out of hours' application is made, officers will need to contact the security officers at the Brisbane Supreme Court and request the Registry be opened.

Whenever practicable, an application to review under s. 19CA of the BA should be made by email. The officer submitting the application is to:

(i) state 'URGENT—BAIL ACT 1980 s 19CA APPLICATION FOR REVIEW—DEFT [SURNAME]' in the email subject field and attach a scanned copy of the application documents to the email;

(ii) telephone the registry to confirm receipt and filing of the application (including any application made after hours to the Brisbane Supreme Court registry). A confirmation email, including the registry filing number should be requested; and

(iii) if the defendant is still in custody:

(a) immediately contact the watch-house manager and advise that a bail review application has been filed with the Supreme Court registry and the defendant is to be held in custody. The watch-house manager is to record the confirmation from the Supreme Court registry and hearing notification in the defendant's custody report (full) in QPRIME; and

(b) arrange for a copy of the application documents to be given to the defendant;

OPM Issue 113 Public Edition

(iv) record details of the receipt and filing at the Supreme Court registry in the documents tab of the relevant case file in QPRIME.

(v) ensure the original application documents are delivered to the Supreme Court registry as soon as practicable and prior to the hearing of the application.

If the application documents have been sent to the Supreme Court registry by email, the OIC PPC is to ensure that as soon as practicable and prior to the hearing of the application:

(i) the original application documents are physically filed in the Supreme Court registry; and

(ii) a copy of the application documents is provided to the legal practitioner appearing for the Service at the hearing of the application.

If it is not possible for the OIC PPC to deliver the application documents to the relevant Supreme Court registry (e.g. in another city), then the original documents are to be scanned and sent by email to the PPC closest to the relevant Supreme Court registry for filing. If necessary, the OIC PPC may task the police station nearest to the Supreme Court registry to assist in delivering the application documents.

Documents to be recorded in QPRIME

A member who prepares a document in an application for a bail review is to ensure the document is uploaded into the relevant QPRIME case file documents tab as soon as reasonably practicable after the application is filed.

Defendant to be informed

Section 19B of the BA requires reasonable steps to be taken to inform the defendant of the bail review application including the time and place of the hearing. Where the defendant has been released from custody, reasonable steps may include conducting inquiries at:

(i) the address shown on the bail documents;

(ii) the address supplied by the defendant;

(iii) the address of the next of kin supplied by the defendant to police; or

(iv) contacting the defendant's legal representative.

The hearing may proceed in the defendant's absence, if the reviewing court is satisfied that reasonable steps were taken to advise the defendant of the time and place for the hearing of the application.

The defendant is to be provided with a copy of the application documents as soon as practicable after the application has been filed.

Subsequent assistance to be provided

The OIC PPC is to cause a copy of the transcript of the bail application in the magistrates court to be ordered and forwarded with the application documents to the legal practitioner appearing for the Service.

The OIC of the arresting officer is to ensure all reasonable assistance is provided to the legal practitioner appearing for the Service in preparation of and at the hearing of the application for review of bail in the Supreme Court.

OPM Issue 113 Public Edition

3.12 Prosecution review committee

3.12.1 Introduction—prosecution review committee

The role of the prosecution review committee (PRC) is to thoroughly and professionally examine the processes, policies and procedures involved in each relevant case and to identify areas in which Service or local procedures may be improved. The PRC should review:

(i) cases involving dismissal, withdrawal or offering no evidence (see s. 3.4.4: 'Withdrawal of charges' of this chapter). However, review does not extend to:

(a) sexual offences (see s. 3.15: 'Sexual offence prosecutions' of this chapter); or

(b) matters dealt with by ex officio indictment;

(c) subject to (iii) below, matters dealt with through the case conferencing process (see s. 3.16: 'Case conferencing' of this chapter);

(d) matters dealt with through the administration of an adult caution (see s. 3.2: 'Cautioning adults' of this chapter;

(e) a restorative justice process;

(f) through the Mental Health Court;

(g) the Attorney-General (see subsection 'Responsibilities of officers when proceedings are discontinued or stayed' of s. 6.6.8: 'Effect of mental illness on matter before the court' of this Manual);

(h) matters discontinued because the defendant is deceased; or

(i) where charges have been discontinued due to administrative purposes (i.e. duplicate files/charges);

(ii) cases in which costs are awarded (see s. 3.13: 'Costs' of this chapter);

(iii) successful prosecutions where a member of the Service identifies there are issues which require review;

(iv) cases where a magistrate makes adverse comment concerning any member of the Service (see s. 3.7.13: 'Comments by Magistracy concerning members of the Service' of this chapter);

(v) cases involving dismissal or withdrawal of a DV 0899: 'Police protection notice' (PPN), police-initiated application for a protection order (DV 01: 'Application for a protection order') or police-initiated application for variation of a domestic violence order (DV 04: 'Application to vary a domestic violence order'); and

(vi) a randomly selected sample of successfully prosecuted QP9 court briefs must include domestic and family violence offences (sample size to be determined by PRC chair) to ensure:

(a) the decision to institute proceedings was appropriate, or whether alternative options (see s. 3.1.1: 'Consider all disposition and diversion options' of this chapter) would have been more appropriate in all the circumstances;

(b) court briefs (QP9) have been prepared and submitted in accordance with this chapter; and

(c) where non-compliance or other issues are identified, the chair is to cause details of the non-compliance or other identified issues to be recorded in the QP 0496: 'Prosecution review committee form' (see s. 3.12.3: 'Duties and functions' of this chapter)

In instances whereby a prosecution requiring review was commenced from charges preferred by members of Specialist Services Group, Emergency Response and Coordination Command (e.g. Railway Squad) it is to be referred to the district PRC for the area in which the case was heard.

The PRC is not intended as a forum for assigning blame and is not part of the disciplinary process. Arresting officers need have no fear of censure or castigation if a prosecution case is dismissed, provided the prosecution has been instituted in accordance with prevailing law, policies and procedures.

3.12.2 Responsibilities of district officers

ORDER

District officers or commissioned officers delegated by the district officer ('delegates') are to establish and chair, within their area of control, a Prosecution Review Committee (PRC).

As a minimum this committee is to consist of:

(i) a commissioned officer attached to the district;

(ii) a district brief manager or other member with sufficient policing experience who is prepared to undertake duty as a member of the committee;

(iii) a district or establishment training officer;

(iv) an OIC of the district prosecution corps (or their delegate) and;

(v) if necessary, a representative from Specialist Services Group, Emergency Response and Coordination Command.

It may also include a person nominated as an employee representative.

In appointing a person as an employee representative, the district officer or their delegate should provide an opportunity for the local union branch or branches to nominate such a representative.

ORDER

District officers or commissioned officers in charge or their delegates are to ensure that:

(i) the PRC meets at regular intervals, consistent with local needs but not less than quarterly;

(ii) processes are in place which ensure that all relevant matters are referred to the PRC for evaluation; and

(iii) members who have been involved in the investigation (directly or indirectly, including as a supervisor) of any case under evaluation by the PRC are to declare the nature of their involvement in the case, prior to the committee commencing deliberations relating to that matter.

OPM Issue 113 Public Edition

3.12.3 Duties and functions

ORDER

Members of a prosecution review committee (PRC) are to, on attending meetings of the committee, consider the facts of every case put before them, and in respect to each case:

(i) attempt to identify:

(a) the reason or reasons the prosecution failed. In doing so, they should consider:

- the effectiveness of brief checking management;
- case conference outcomes;
- progressive data on recurring systemic issues or those issues relevant to an investigating officer;
- adherence to policy on delivery of court briefs (QP9) and briefs of evidence to prosecutions (see ss. 3.7.2: 'Documentation at first appearance', 3.7.5: 'Checking of court briefs (QP9)' and 3.8.16: 'Delivery of briefs of evidence to prosecutor' of this Manual); and
- timeliness of making required material available to the defence, including disclosure (see s. 3.4.13: 'Supply of particulars, copies of court brief (QP9), statements and reports' of this Manual); or

(b) in the case of a successful prosecution, any particular issue(s) requiring review;

(ii) consider what action may be necessary to prevent the failure of future cases for the same reason, or to address the particular issue(s) identified;

(iii) complete a Form QP496: 'Prosecution review committee form' for maintaining of records at district level. A copy of the Form QP 0496: 'Prosecution review committee' form is also to be forwarded to the Prosecution Coordination Unit, Prosecution Services

(iv) if an issue identified has or is likely to have statewide implications, requires a change to Service policy or should be brought to the attention of the Executive Director, Legal Division, complete a report outlining the issue with a firm recommendation on suggested actions and containing supporting documents including a copy of the brief of evidence, and forward the report to the Executive Director, Legal Division; and

(v) review actions taken as a result of previous PRC meeting recommendations.

The member of the PRC who is the district brief manager or training officer is to retain a copy of all documentation relating to the PRC functions.

Where a ground for disciplinary action is identified in the process of reviewing an unsuccessful prosecution, not otherwise reported, members are reminded of their obligations under s. 6A.1: 'Duty concerning misconduct and other grounds for disciplinary action' of the PSAA.

OPM Issue 113 Public Edition

3.12.4 Responsibilities of Prosecutors

ORDER

This section is to be read in conjunction with s 3.12.1: 'Introduction—Prosecution Review Committee' of this chapter.

The prosecutor who has withdrawn or offered no evidence in respect of a matter, or has had a matter dismissed by a magistrate at a summary or committal hearing, where no costs were awarded, is to:

(i) in the case of a charge, complete a QP 0625: 'Referral to prosecution review committee report' from the court result window of the offence/charge and ensure that the refer to PRC menu (in the same window) is completed with the appropriate response. Where a QP 0626: 'Request authority to withdraw charge' has been authorised and is attached to the documents tab of the case file, a QP 0625 is not required;

(ii) in the case of a QP 0899: 'Police protection notice (PPN)', DV 01: 'Application for a protection order', DV 04: 'Application to vary a domestic violence order', or DV 04A: 'Application to vary recognised interstate order', complete a QP 0625: 'Referral to prosecution review committee report';

(iii) once completed, cause a copy of the QP 0625: 'Referral to prosecution review committee report' to be uploaded to the documents tab of the relevant QPRIME case file; and

(iv) initiate a QPRIME refer to PRC (no costs) workflow from the case file and assign the task to their OIC.

The OIC, prosecution corps is to review the file and refer the matter to the appropriate prosecution review committee, by re-assigning the task to the Org Unit of the local district PRC chair and forwarding:

(i) in the case of a charge:

(a) a copy of the completed court brief (QP9); and

(b) a copy of the brief of evidence (if completed); and

(ii) in the case of a QP 0899, DV 01, DV 04, or DV 04A:

(a) a copy of the completed application;

(b) a copy of the brief of evidence (if completed); and

(c) a report (or equivalent) under the hand of the officer authorising the withdrawal and outlining the reasons for the withdrawal (if completed).

3.13 Costs

3.13.1 Costs awarded against the Service

Provisions under the *Justices Act* allow for costs to be awarded in the following circumstances:

(i) upon adjournment:

Section 88: 'Adjournment of the hearing' provides that an order as to costs may be made when simple offences or breaches of duty are adjourned.

Upon adjourning a matter, a court may exercise its discretion to award costs incurred by the adjournment against either the defendant or the arresting officer. This decision is generally based on an assessment by the court of who was responsible for the adjournment and what costs appear to be just in the circumstances. No statutory provision enables costs to be awarded in respect to the adjournment of committal proceedings.

The Service will pay costs ordered as a result of an adjournment, unless the adjournment was the result of an act or omission by the arresting officer which constitutes a ground for disciplinary action.

(ii) on summary convictions and orders:

Section 157: 'Costs on conviction or order' provides that justices may in making a summary conviction or order, including a conviction for an indictable offence, order the defendant pay to the complainant such costs that seem just and reasonable.

(iii) on dismissal:

Sections 158: 'Costs on dismissal' and 158A: 'Exercise of discretion in relation to an award of costs' enable orders for costs to be made on dismissal of a complaint.

Section 158(1) provides that an order for costs may be made against a complainant police officer when, instead of convicting or making an order, justices dismiss the complaint.

Section 158(2) provides that when a complaint is before a magistrates court which the court has not jurisdiction to hear and determine the court shall order the complaint to be struck out for want of jurisdiction and may order that the complainant pay to the defendant such costs as to the court seem just and reasonable.

Section 158A provides that any such order under s. 158(1) can be made only if the justices are satisfied that it is proper that the order for costs should be made. Section 158A(2) of the *Justices Act* provides that in deciding whether it is proper to make the order for costs, the justices must take into account all relevant circumstances and a number of examples are included therein.

Section 158A(3) provides that if an order for costs under s. 158 is made against a complainant who is a police officer, the clerk of the court is to give to the defendant a certificate signed by the clerk showing the amount of costs awarded. The defendant is entitled to be paid by the State the amount shown in the certificate within two months after payment is claimed, unless an appeal against an order for costs is made under s. 222 of the *Justices Act*, in which case payment of the amount shown in the certificate is stayed until the appeal is decided and then payment is to be made of the amount, if any, ordered or confirmed by further order made on the appeal.

When costs cannot be awarded

Section 127: 'No costs to be awarded' of the *Drugs Misuse Act* provides that no costs shall be awarded with respect to any proceedings arising out of a charge of having committed an offence defined in the Act.

Section 157: 'Costs' of the DFVPA provides that a court may not award costs on an application for:

(i) a protection order; or

(ii) a revocation or variation of a domestic violence order (including a variation of conditions imposed by the order);

unless the court dismisses the application as malicious, deliberately false, frivolous or vexatious.

3.13.2 Costs awarded to the Service

When the Service incurs costs in respect to witnesses, police prosecutors may make an application for costs.

OPM Issue 113 Public Edition

3.13.3 Responsibilities of prosecutors and arresting officers receiving notice of costs

ORDER

Prosecutor

A prosecutor who has withdrawn or offered no evidence in respect of a matter, has adjourned a matter, or has had a matter dismissed by a magistrate at a summary hearing, where costs were awarded, is to:

(i) obtain a copy of the verdict and judgement record (VJR) from the court registry and cause a copy of the VJR to be uploaded to the documents tab of the relevant case file. The uploaded document is to be labelled VJR with costs;

(ii) in the case of a charge, complete a QP 0625: 'Referral to prosecution review committee report' from the court result window of the offence/charge ensuring that the details of costs, including the reasons for costs being awarded are contained in the report, and ensure that the refer to PRC menu in the court result window of the offence/charge is selected with the appropriate response(s) selected;

(iii) in the case of a withdrawn or dismissed QP 0899: 'Police protection notice (PPN)', DV 01: 'Application for a protection order', DV 04: 'Application to vary a domestic violence order', or DV 04A: 'Application to vary recognised interstate order', complete a QP 0625: 'Referral to prosecution review committee report';

(iv) once completed, cause a copy of the QP 0625: 'Referral to prosecution review committee report' to be uploaded to the documents tab of the relevant QPRIME case file; and

(v) initiate a QPRIME Refer to PRC (with costs) workflow from the case file and assign the task to their OIC.

The OIC, prosecution corps is to:

(i) review the file and reassign the task to:

(a) the district officer responsible for the arresting officer;

(b) the district prosecution review committee; and

(c) the Prosecution Coordination Unit, Prosecution Services, Legal Division; and

(ii) cause a copy of the following material to be forwarded to the local district PRC chair:

(a) in the case of a charge:

- a copy of the completed court brief (QP9); and
- a copy of the brief of evidence (if completed); or

(b) in the case of a withdrawn or dismissed of a QP 0899, DV 01, DV 04, or DV 04A:

- a copy of the completed application;
- copy of the brief of evidence (if completed); and
- a report (or equivalent) under the hand of the officer authorising the withdrawal and outlining the reasons for the withdrawal (if completed).

Arresting officer

In a matter not presented by a prosecutor, an arresting officer receiving notice of costs, is to furnish a report containing:

(i) the defendant's name;

(ii) arresting officer's details;

(iii) the date of the hearing;

(iv) prosecutor's details;

(v) representation for the defence;

(vi) details of the charge(s);

(vii) reason for dismissal; and

(viii) details of costs awarded.

The following documents should be attached to the report:

(i) brief of evidence (if completed);

(ii) relevant court brief (QP9); and

(iii) certificate or order from the clerk of the court.

All reports are to be forwarded to:

OPM Issue 113 Public Edition

(i) the district officer responsible for the arresting officer;

(ii) the district prosecution review committee; and

(iii) the Prosecution Coordination Unit, Prosecution Services, Legal Division.

3.13.4 Responsibilities of district officers

ORDER

A district officer who receives a report in respect of the awarding of costs as a result of an adjournment, the dismissal of charges or for any other reason, is to forward the report to the OIC of the region or command.

See s. 3.12: 'Prosecution review committee' of this chapter.

3.13.5 Responsibilities of officers in charge of regions or commands

ORDER

An OIC of a region or command who receives a report from a district officer, as outlined above, is to:

(i) in relation to costs awarded with respect to dismissals pursuant to s. 158 of the *Justices Act*, arrange payment of the costs awarded; or

(ii) in relation to costs awarded for reasons other than dismissals pursuant to s. 158 of the *Justices Act*:

(a) examine all the circumstances surrounding the case and make a determination as to whether the costs awarded should be paid by the Service; and

(b) where the matter is one in which it is appropriate that the Service pays the costs awarded, arrange for the costs to be paid; or

(c) where the matter is not one in which it is appropriate that the Service pays the costs awarded, advise the officer against whom the costs were awarded, in writing, showing the reasons for the decision; and

as soon as possible thereafter, cause the matter to be investigated in the manner outlined in 'Complaints Management' of the Ethical Standards Command made to pay costs, the OIC of the region or command is to ensure the payment is made in accordance with the following provisions:

(i) where costs are awarded against an officer who commenced proceedings for which the costs were awarded, payment is to be made from the budget of the region, command or division in which the officer was stationed at the time of commencing the relevant proceedings; and

(ii) in all other cases, payment is to be made from the budget of the region, command or division in which the officer subject of the order for costs was stationed at the time of taking the action that resulted in the order for costs being made in respect of the officer.

OPM Issue 113 Public Edition

3.13.6 Deleted

3.13.7 Costs awarded against officers after a magistrate's decision is overturned on appeal

Section 21(3) of the *Appeal Costs Fund Act* (ACFA) states an indemnity certificate shall not be granted in favour of the Crown.

Officers who act as complainants in summary prosecutions do so in their official capacity as police officers and as employees and agents of the Crown and not in their private capacity. In these circumstances, the ACFA prohibits the grant of an indemnity certificate to a police officer.

The Service indemnifies officers who have costs awarded against them in the above situation based on the fact they are acting in the course of their official duties.

ORDER

Officers, acting in the course of their official duties, who have costs awarded against them after a magistrate's decision is overturned on appeal on a question of law are not to apply to the court to grant an indemnity certificate in respect of the appeal.

In situations where officers, acting in the course of their official duties, have costs awarded against them after a magistrate's decision is overturned on appeal, the provisions of ss. 3.13.3: 'Responsibilities of prosecutors and officers receiving notice of costs', 3.13.4: 'Responsibilities of district officers' and 3.13.5: 'Responsibilities of officers in charge of regions or commands' of this chapter apply as if the costs had been awarded in a Magistrates Court.

3.13.8 Costs awarded as a result of proceedings against members of the Service

Where proceedings are commenced against a member of the Service by an officer attached to ESC, any costs associated with the proceedings are to be met by the region or command in which the member against whom the proceedings were commenced was stationed or appointed at the time of commencing such proceedings.

Reports advising of costs awarded against an officer attached to ESC in respect of proceedings against a member of the Service, which are sent to the Assistant Commissioner, ESC in accordance with s. 3.13.5: 'Responsibilities of officers in charge of regions or commands' of this chapter, should be forwarded by the Assistant Commissioner, ESC to the OIC of the relevant region or command for attention.

3.14 Disclosure of information to defence (relevant proceeding)

3.14.1 Introduction

Chapter 62, Chapter division 3: 'Disclosure by the prosecution' of the CC creates a comprehensive disclosure obligation on the prosecution to the defendant or a lawyer acting for the defendant for a relevant proceeding. These provisions provide that it is a fundamental obligation of the prosecution to ensure criminal proceedings are conducted fairly with the single aim of determining and establishing truth.

3.14.2 Definitions

The following terms are defined as below:

Arresting officer

means the officer who arrested or brought the charge against the person.

Evidence Act section 93A device statement

means a statement:

(i) made to a person investigating an alleged offence;

(ii) contained in:

(a) any disc, tape, sound track or other device mentioned in paragraph (e) of the definition 'document' in Schedule 3 of the *Evidence Act* (EA) capable of reproducing sounds (a **'sound device'**); or

(b) any film, negative, tape or other device mentioned in paragraph (f) of the definition 'document' in Schedule 3 of the EA (a **'visual image device'**);

(iii) given in, or in anticipation of, a criminal proceeding about the alleged offence; and

(iv) that is potentially admissible under s. 93A of the EA,

as defined in s. 590AFA: 'Meaning of *Evidence Act section 93A device statement*' of the CC.

Prescribed summary trial

means a summary trial of:

(i) a charge for an indictable offence that is to be heard and decided summarily under s. 552BA;

(ii) a charge for an indictable offence if, under s. 552A, the prosecution has elected that the charge be heard and decided summarily;

(iii) a charge for an indictable offence to which s. 552B applies unless the defendant has informed the magistrates court that he or she wants to be tried by jury;

(iv) a charge for an indictable offence against a provision of the DMA, if:

(a) under that Act, proceedings for the charge may be taken summarily; and

(b) the prosecution has elected that proceedings for the charge be taken summarily; or

(v) a charge for an offence prescribed under a regulation for this definition,

as defined in s. 590AD: 'Definitions for ch div 3' of the CC.

Recorded statement

means a videorecording or audio recording of a statement made by a complainant in relation to an alleged domestic violence offence, as defined in s. 103A: 'Definitions for part' of the EA. In respect to a recorded statement that it is an audio recording, the court hearing a domestic violence offence may admit an audio recorded statement as the complainant's evidence-in-chief if there are exceptional circumstances for the audio recorded statement to be admitted and the defendant would not be unfairly prejudiced, as defined in s. 103H(3)(b): 'Admissibility of recorded statements generally' of the EA.

Example—exceptional circumstances may be a technological error or failure has resulted in only the audio recording being available.

OPM Issue 113 Public Edition

Relevant proceeding

means a committal proceeding, a prescribed summary trial or a trial on indictment, as defined in s. 590AD: 'Definitions for ch div 3' of the CC.

Under the provisions of s. 4.10: 'Delegation' of the PSAA and s. 590AD: 'Definitions for ch div 3' of the CC, an arresting officer's supervising commissioned officer is hereby authorised to, when the arresting officer is unavailable, designate another officer as the arresting officer for the relevant proceeding.

Where it comes to the attention of a member that:

(i) a disclosure is required under s. 590AH of the CC or has been requested under s. 590AJ of the CC; and

(ii) the arresting officer is unavailable,

the member is to refer the matter to the prosecutor responsible for the matter.

If the prosecutor requires contact with an arresting officer who is unavailable, the prosecutor is to contact the arresting officer's OIC. The arresting officer's OIC is to contact the arresting officer's supervising commissioned officer to discuss the designation of another officer as the arresting officer for the relevant proceeding.

ORDER

The OIC is to notify the prosecutor responsible for the matter where another officer has been designated as the arresting officer for the relevant proceeding.

3.14.3 Forms

QP 0541: 'Index to brief/notice for a relevant proceeding' (available in QPRIME). This form is to be used by arresting officers and attached to the brief of evidence. This form is also to be used by prosecutors when providing a copy of a thing or a written notice to the defendant or lawyer acting for the defendant for a relevant proceeding under the mandatory disclosure provisions in s. 590AH of the CC.

QP 0542: 'Supplementary notice for a relevant proceeding'. Prosecutors are to use this form when written notice is required to be given for any subsequent mandatory disclosure under s. 590AH of the CC (see s. 590AL: 'Ongoing obligation to disclose' of the CC).

QP 0543: 'Disclosure on request for a relevant proceeding'. Prosecutors are to use this form when a copy of a thing or notice of a thing in the possession of the prosecution is to be provided to a defendant or lawyer acting for the defendant as requested under s. 590AJ(2) of the CC.

QP 0544: 'Notice of sensitive evidence in a relevant proceeding'. Prosecutors are to use this form when written notice is required to be given to a defendant or lawyer acting for the defendant when evidence in a relevant proceeding has been determined 'sensitive evidence' and a copy is not to be provided to the defendant or lawyer acting for the defendant in accordance with s. 590AO(2) of the CC.

QP 0545: 'Notice of disclosure contrary to the public interest in a relevant proceeding'. Prosecutors are to use this form when written notice is required to be provided to a defendant or lawyer acting for the defendant when it has been determined that disclosure of evidence in a relevant proceeding would be contrary to the public interest in accordance with s. 590AQ of the CC.

QP 0546: 'Document advising written notice/copy of thing for a relevant proceeding'. This document has been developed as a guide for prosecutors when compiling a letter to be sent to a defendant or lawyer acting for the defendant advising that a copy of a thing or written notice under s. 590AH, s. 590AJ, s. 590AO or s. 590AQ of the CC is available for collection from a stated place. This document is required under s. 590AM of the CC.

QP 0547: 'Notice of Evidence Act section 93A device statement in a relevant proceeding'. Prosecutors are to use this form when written notice is required to be provided to an accused person when it is determined that a statement in the prosecution's possession is an *Evidence Act* s. 93A device statement. This form provides the accused with information required by s. 590AOA of the CC.

QP 1207A: 'Notice of Evidence Act Part 6A recorded statement in a domestic violence proceeding for unrepresented defendant'. This form is to be used for an unrepresented defendant when the prosecution consider the statement to be an Evidence Act part 6A recorded statement in accordance with s. 590AOB of the CC.

QP1207B: 'Notice of Evidence Act Part 6A recorded statement in a domestic violence proceeding for represented defendant'. This form is to be used for a represented defendant when the prosecution consider the statement to be an Evidence Act part 6A recorded statement in accordance with s. 590AOB of the CC.

QP1207C: 'Notice of editing or altering of a recorded statement'. This form is to be used is to be used when a recorded statement made by a complainant in relation to domestic violence offence has been edited, or otherwise altered to limit disclosure of evidence not required or permitted to be disclosed pursuant to s. 103O(1)(b)(i) of the *Evidence Act*.

OPM Issue 113 Public Edition

Distribution of forms

Where a 'relevant proceeding' (committal) is to be handled by the ODPP, officers are to send by email or arrange for an electronic copy of the QP 0541: 'Index to Brief/Notice for a Relevant Proceeding' to be sent by email to the relevant office of the ODPP (see SMCD).

In all other areas, the OIC of the police prosecutions corps is to develop appropriate local procedures for the receipt of the QP 0541.

3.14.4 Mandatory disclosure

Section 590AH: 'Disclosure that must always be made' of the CC provides an obligation on the prosecution to disclose to a defendant or lawyer acting for the defendant for a 'relevant proceeding' certain material to ensure a defendant is properly informed of the case against him or her.

The disclosure of material to the defendant or lawyer acting for the defendant in a 'relevant proceeding' is subject to legislative limitations outlined in Chapter 62, Chapter division 3: 'Disclosure by the prosecution', Chapter subdivision D: 'Limitations on disclosure' (s. 590AN to s. 590AQ) of the CC. For example the disclosure of a 'Evidence Act s. 93A device statement' and 'recorded statement' are controlled by ss. 590AOA and 590AOB of the CC respectively.

ORDER

For a 'relevant proceeding' and subject to any legislative limitations, the following things must be provided to the defendant or lawyer acting for a defendant:

(i) a copy of the bench charge sheet, complaint or indictment containing the charge against the person;

(ii) a copy of the accused person's criminal history in the possession of the prosecution;

(iii) a copy of any statement of the accused person in the possession of the prosecution;

(iv) for each proposed witness for the prosecution who is, or may be, an affected child—a written notice naming the witness and describing why the proposed witness is, or may be, an affected child; and

(v) for each proposed witness for the prosecution who has provided a recorded statement under Part 6A *Evidence Act* (EA), written notice naming the witness and the circumstances as to how the recorded statement will or will not be disclosed in accordance with s. 590AOB of the CC;

(vi) for each proposed witness for the prosecution other than a proposed witness mentioned in paragraph (iv):

(a) a copy of any statement of the witness in the possession of the prosecution; or

Example—a statement made by a proposed witness for the prosecution in an audio recording of an interview

(b) if there is no statement of the witness in the possession of the prosecution—a written notice naming the witness;

(vii) if the prosecution intends to adduce evidence of a representation under s. 93B of the EA, a written notice stating that intention and the matters mentioned in s. 590C(2)(b) to (d) of the CC;

(viii) a copy of any report of any test or forensic procedure relevant to the proceeding in the possession of the prosecution.

Examples of a forensic procedure—DNA, fingerprint or another scientific identification procedure

(ix) a written notice describing any test or forensic procedure, including a test or forensic procedure that is not yet completed, on which the prosecution intends to rely at the proceeding;

(x) a written notice describing any original evidence on which the prosecution intends to rely at the proceeding;

(xi) a copy of anything else on which the prosecution intends to rely at the proceeding; and

(xii) a written notice or copy of anything else in possession of the prosecution prescribed under a regulation.

How mandatory disclosure is to be made

Where a copy of a thing is required to be given to the defendant or lawyer acting for a defendant under s. 590AH of the CC and:

(i) an arresting officer gives a copy of a thing mentioned in s. 590AH of the CC (i.e. copy of bench charge sheet, record of interview or criminal history) to the defendant or lawyer acting for the defendant, the arresting officer is to:

(a) make a record in the officer's official police notebook of the time, date and to whom the thing was given; and

(b) make an entry of these facts on the QP 0541: 'Index to Brief/Notice for a Relevant Proceeding' (available in QPRIME) which is to accompany the brief of evidence; or

OPM Issue 113 Public Edition

(ii) a prosecutor is to provide a copy of a thing or provide written notice to the defendant or lawyer acting for the defendant as required under s. 590AH of the CC the prosecutor is to:

(a) complete the relevant section(s) of the QP 0541;

(b) where there is a lawyer acting for the defendant, serve a document on the lawyer advising that the copy of the thing or written notice (QP 0541) is available for collection from a stated place (see s. 39: 'Service of documents' of the *Acts Interpretation Act* (AIA)); or

(c) where the defendant is not represented, serve a document on the defendant to the defendant's place of business or residential address last known to the prosecution advising that the copy of the thing or written notice (QP 0541) is available for collection from a stated place (see s. 39 of the AIA); and

(d) attach a copy of the completed QP 0541 and any other correspondence to the relevant prosecution file.

Where a prosecutor is required to serve a document on a defendant or lawyer acting for the defendant advising that a copy of a thing or written notice is available for collection from a stated place (see s. 590AM of the CC), such document should be in the form of a letter that is substantially in the same format as QP 0546: 'Document Advising Written Notice/Copy of Thing for a Relevant Proceeding'.

Arresting officers should liaise with the prosecutor responsible for the matter and keep the prosecutor informed of any disclosure made to the defendant or lawyer acting for the defendant. Arresting officers should ensure the victim/witness in a relevant proceeding is kept informed on the progress of the matter.

When mandatory disclosure is to be made

ORDER

Where the prosecution is required to give a defendant or lawyer acting for the defendant a written notice or copy of a thing in a 'relevant proceeding' being a committal proceeding or prescribed summary trial, such material is to be provided at least 14 days before the commencement of the relevant proceeding.

Where the material required to be provided to the defendant or lawyer acting for the defendant is unable to be provided within the specified time frame as it was not in the possession of the prosecution at the time or it did not exist, the prosecution is to provide the material as soon as practicable after it comes into the possession of the prosecution (see s. 590AL of the CC).

Where a thing the prosecution intends to rely upon in a relevant proceeding comes into the possession of the prosecution after the initial mandatory disclosure under s. 590AH of the CC has been made, the prosecutor is to:

(i) complete a QP 0542: 'Supplementary Notice for a Relevant Proceeding'; and

(ii) where there is a lawyer acting for the defendant, serve a document on the lawyer advising that written notice (QP 0542) is available for collection from a stated place (see s. 39 of the AIA); or

(iii) where the defendant is not represented, serve a document on the defendant to the defendants place of business or residential address last known to the prosecution advising that written notice (QP 0542) is available for collection from a stated place (see s. 39 of the AIA); and

(iv) attach a copy of the QP 0542 and any other correspondence to the relevant prosecution file.

Limitations on disclosure

Section 590AC: 'Chapter division does not have particular consequences' of the CC provides that the prosecution is not required to disclose a thing for a 'relevant proceeding' if such disclosure is unlawful under the CC or another law.

Section 590AN: 'Limit on disclosure of things accused person already has' of the CC provides that the prosecution is not required to give the defendant or lawyer acting for the defendant in a 'relevant proceeding' anything the defendant or lawyer acting for the defendant already possesses or has already been given by the prosecution.

Section 590AOA: 'Evidence Act section 93A device statement' of the CC provides that the prosecution is not, for a 'relevant proceeding', required to give the accused person a copy of an Evidence Act s. 93A device statement (the **'statement'**) other than as required under s. 590AOA of the CC.

Section 590AOB: 'Disclosure of recorded statement' of the CC provides that the prosecution is not, for a 'relevant proceeding', required to give the accused person a copy of a recorded statement (as defined under s. 103A: 'Definitions for part' of the EA) other than as required under s. 590AOB of the CC.

Section 590APA: 'Protected counselling communications' of the CC provides that the prosecution is not required to give the accused person a copy of a document if they reasonably consider the document is a protected counselling communication.

Refer also to ss. 3.14.6: 'Disclosure of sensitive evidence in a relevant proceeding', 3.14.7: 'Disclosure of witness contact details in a relevant proceeding', 3.14.8: 'Disclosure contrary to the public interest in a relevant proceeding', 3.14.9: 'Disclosure of Evidence Act section 93A device statement or recorded statement in a relevant proceeding', and 3.14.11: 'Disclosure of protected sexual assault counselling communications' of this chapter.

OPM Issue 113 Public Edition

3.14.5 Disclosure that must be made on request

Section 590AJ: 'Disclosure that must be made on request' of the CC provides an obligation on the prosecution to disclose on request to the defendant or lawyer acting for the defendant in a relevant proceeding certain material to ensure the defendant is properly informed of the case against them.

The disclosure of material is subject to legislative limitations (see ss. 590AN: 'Disclosure by the prosecution' to s. 590AQ: 'Limitations on disclosure' of the CC).

ORDER

In a 'relevant proceeding' a prosecutor, subject to any legislative limitations, is to, on request provide the following to the defendant or lawyer acting for the defendant:

(i) particulars of a matter alleged in the bench charge sheet or complaint containing the charge against the defendant if a proposed prosecution witness is, or may be, an 'affected child' (see s. 21AC of the *Evidence Act*);

(ii) a copy of the criminal history, excluding spent convictions, of a proposed witness for the prosecution (see ss. 590AJ and 590AD of the CC);

(iii) a copy or notice of anything in the possession of the prosecution that may reasonably be considered to be adverse to the reliability or credibility of a proposed witness for the prosecution;

(iv) notice of anything in the possession of the prosecution that may tend to raise an issue about the competence of a proposed witness for the prosecution to give evidence in the proceeding;

(v) a copy of any statement of any person relevant to the proceeding and in the possession of the prosecution but on which the prosecution does not intend to rely on at the proceeding;

(vi) a copy or notice of any other thing in the possession of the prosecution that is relevant to the proceeding but on which the prosecution does not intend to rely on at the proceeding.

Where a request has been made for a criminal history of a proposed witness for the prosecution, and a prosecutor identifies there is a criminal history and that spent convictions need to be removed in compliance with ss. 590AJ and 590AD of the CC, the prosecutor may request the Police Information Centre (PIC) produce the criminal history, excluding spent convictions.

How disclosure on request is to be made

Where the prosecution is requested to provide a copy of a thing under s. 590AJ(2) of the CC, the prosecutor is to:

(i) complete the relevant sections of the QP 0543: 'Disclosure on request for a relevant proceeding';

(ii) where there is a lawyer acting for the defendant, serve a document on the lawyer advising that the copy of the thing requested is available for collection from a stated place. (see s. 39: 'Service of documents' of the *Acts Interpretation Act* (AIA)); or

(iii) where the defendant is not represented, serve a document on the defendant to the defendant's place of business or last known residential address advising that the copy of the thing requested is available for collection from a stated place. (see s. 39 of the AIA);

(iv) complete the appropriate sections of the QP 0543; and

(v) attach a copy of all correspondence to the relevant prosecution file.

Where a prosecutor is required to serve a document on the defendant or lawyer acting for the defendant advising that a copy of a thing is available for collection from a stated place (see s. 590AM of the CC), such document is to be in the form of a letter that is substantially in the same format as QP 0546: 'Document advising written notice/copy of thing for a relevant proceeding'.

Where the prosecution is required to give notice of a thing under s. 590AJ(2) of the CC, the prosecutor is to:

(i) where there is a lawyer acting for the defendant, give notice to the lawyer in writing using the QP 0543; or

(ii) where the defendant is not represented, give notice in writing using the QP 0543 to the defendant's place of business or last known residential address; and

(iii) attach a copy of the correspondence to the relevant prosecution file.

Where the prosecution gives notice of a thing under s. 590AJ(2) of the CC and such thing is not original evidence (i.e. is not a thing that may be tendered as an exhibit in a relevant proceeding) the prosecutor is to advise the defendant or lawyer acting for the defendant using the QP 0543 that the thing may be viewed on request at a stated place.

Arresting officers are to liaise with the prosecutor responsible for the matter to keep informed of any disclosure made to the defendant or lawyer acting for the defendant. Arresting officers are to ensure the victim/witness in a relevant proceeding is kept informed on the progress of the matter.

OPM Issue 113 Public Edition

When requested disclosure is to be made

ORDER

Prosecutors are to provide to a defendant or lawyer acting for the defendant material requested under s. 590AJ(2) of the CC as soon as practicable but within 14 days after the request is made.

Where the material requested by a defendant or lawyer acting for the defendant is unable to be provided on request as it was not in the possession of the prosecution or it did not exist at the time of the request, the prosecution is to provide the material as soon as practicable after it comes into the possession of the prosecution (see s. 590AL of the CC).

Limitations on disclosure

The prosecution is not required to:

(i) disclose a thing for a relevant proceeding if such disclosure is unlawful under the CC or another law (e.g. s. 6: 'Non-disclosure of convictions upon expiration of rehabilitation period' of the *Criminal Law (Rehabilitation of Offenders) Act*) (see s. 590AC: 'Chapter division does not have particular consequences' of the CC);

(ii) give the defendant or lawyer acting for the defendant anything the defendant or lawyer acting for the defendant already possesses or has already been given by the prosecution (see s. 590AN: 'Limit on disclosure of things accused person already has' of the CC); and

(iii) for a relevant proceeding, give the accused person a copy of:

(a) an Evidence Act s. 93A device statement other than as required under s. 590AOA: 'Evidence Act section 93A device statement' of the CC; and

(b) a 'recorded statement' other than as required under s. 590AOB: 'Disclosure of recorded statement' of the CC.

Refer also to:

(i) s. 3.14.6: 'Disclosure of sensitive evidence in a relevant proceeding';

(ii) s. 3.14.7: 'Disclosure of witness contact details in a relevant proceeding';

(iii) s. 3.14.8: 'Disclosure contrary to the public interest in a relevant proceeding'; and

(iv) s. 3.14.9: 'Disclosure of Evidence Act section 93A device statement or recorded statement in a relevant proceeding',

of this chapter.

OPM Issue 113 Public Edition

3.14.6 Disclosure of sensitive evidence in a relevant proceeding

For the purpose of this section:

Original evidence

is defined in s. 590AD of the CC as a thing that may be tendered as an exhibit in a relevant proceeding.

Sensitive evidence

is defined in s. 590AF of the CC as anything containing or displaying an image of a person (the **'imaged person'**):

(a) that, disregarding the fact the thing was brought into existence, or is in the possession of the prosecution, for the purpose of providing evidence of an offence, is obscene or indecent; or

(b) the disclosure of which to another person, without the imaged person's consent, would interfere with the imaged person's privacy.

Examples:

a computer hard drive containing obscene or indecent images

a photo of a naked rape victim taken to preserve evidence of the victim's condition at a particular time.

In a relevant proceeding, prosecutors are not required to give the defendant or lawyer acting for the defendant a copy of a thing that is sensitive evidence other than as directed by a court under s. 590AO: 'Limit on disclosure of sensitive evidence' of the CC.

ORDER

When determining whether evidence in a relevant proceeding is sensitive evidence, a prosecutor is to consult with the arresting officer.

Where it is determined by a prosecutor that evidence in a relevant proceeding is sensitive evidence and a copy is not to be provided to the defendant or lawyer acting for the defendant, the prosecutor is to give the defendant or lawyer written notice of these facts.

Where a prosecutor is required to give written notice of a thing that is sensitive evidence to the defendant or lawyer acting for the defendant under s. 590AO(2) of the CC the prosecutor is to:

(i) complete the relevant sections of the Form QP 0544: 'Notice of Sensitive Evidence in a Relevant Proceeding';

(ii) where there is a lawyer acting for the defendant, serve a document on the lawyer advising that the written notice QP 0544 is available for collection from a stated place. (Service of the document may be effected in accordance with s. 39: 'Service of documents' of the *Acts Interpretation Act* (AIA)); or

(iii) where the defendant is not represented, serve a document on the defendant to the defendant's place of business or residential address last known to the prosecution advising that the written notice is available for collection from a stated place. (Service of the document may be effected in accordance with s. 39 of the AIA); and

(iv) attach a copy of the completed QP 0544 and any other correspondence to the relevant prosecution file.

Prosecutors completing a written notice (QP 0544) in relation to sensitive evidence as required under s. 590AO of the CC are to ensure that details of the place where an appropriate person may view the 'sensitive evidence on request are contained on the written notice.

Arresting officers are to liaise with the prosecutor responsible for the matter so as to keep informed of any viewing of the sensitive evidence by the defendant or lawyer acting for the defendant. Arresting officers are to ensure the victim/witness in a relevant proceeding is kept informed on the progress of the matter.

Where a prosecutor is required to serve a document on a defendant or lawyer acting for a defendant advising that a written notice is available for collection from a stated place (see s. 590AM of the CC), such document is to be in the form of a letter that is substantially in the same format as Form QP 0546: 'Document Advising Written Notice/Copy of Thing for a Relevant Proceeding'.

3.14.7 Disclosure of witness contact details in a relevant proceeding

In a relevant proceeding (see s. 590AD of the CC) the prosecution is not required to give a defendant or lawyer acting for the defendant a 'witness contact detail' unless it is materially relevant as part of the evidence for the relevant proceeding'.

A 'witness contact detail' includes details of the address, telephone and facsimile number of a proposed witness for the prosecution or a person who has provided a statement that the prosecution does not intend to rely upon but which has been provided to the defendant or lawyer acting for the defendant. In a relevant proceeding a court may in certain circumstances direct that another witness contact detail be provided to the defendant or lawyer acting for the defendant.

In a relevant proceeding where the defendant or lawyer acting for the defendant is to be provided with or able to view material containing a witness contact detail, the prosecutor is to delete or render illegible the witness contact detail prior to providing the material to the defendant or lawyer acting for the defendant. This policy does not apply where the witness contact detail is contained in a QP9 disclosed via a portal to a defence representative acting for the defendant.

The provisions of the CC relating to the release of witness contact details in a relevant proceeding do not prohibit the prosecution from voluntarily giving a witness a request from the defence for a witness to contact the defence.

Where a witness contact detail is materially relevant as evidence in a relevant proceeding (see s. 590AP of the CC for examples of when evidence is materially relevant) and the witness contact detail is to be disclosed to the defendant or a lawyer acting for the defendant (other than disclosure made in a QP9 via a portal), the prosecutor responsible for the matter is to make a record of the disclosure on the relevant prosecution file. The record is to include such information as:

(i) the time, date and place disclosure was made;

(ii) the person to whom the disclosure was made; and

(iii) the witness contact details that were disclosed.

Where a witness contact detail is to be disclosed in a relevant proceeding other than disclosure made in a QP9 via a portal, the prosecutor is to advise the arresting officer. The arresting officer is to ensure the witness, whose contact detail is to be disclosed, is informed of this fact.

3.14.8 Disclosure contrary to the public interest in a relevant proceeding

Section 590AQ: 'Limit on disclosure contrary to the public interest' of the CC provides that the prosecution in a relevant proceeding is not required to disclose a thing to the defendant or lawyer acting for the defendant if such disclosure is not in the public interest unless directed by a court.

Where a prosecutor believes the disclosure of a thing in a relevant proceeding falls within the provisions of s. 590AQ of the CC, the matter is to be referred to the prosecutor's supervising commissioned officer for consideration.

OPM Issue 113 Public Edition

Commissioned officers that require advice regarding the disclosure of material for a relevant proceeding that may fall under s. 590AQ of the CC are to refer the matter to Operational Legal Advice.

Where it has been determined by the supervising commissioned officer that the disclosure of a thing for a relevant proceeding is not in the public interest, the prosecutor is to:

(i) complete the relevant sections of the QP 0545: 'Notice of disclosure contrary to the public interest for a relevant proceeding';

(ii) where there is a lawyer acting for the defendant, serve a document on the lawyer advising that the written notice QP 0545 is available for collection from a stated place. (Service of the document may be effected in accordance with s. 39: 'Service of documents' of the *Acts Interpretation Act* (AIA)); or

(iii) where the defendant is not represented, serve a document on the defendant to the defendant's place of business or residential address last known, advising that the written notice QP 0545 is available for collection from a stated place. (Service of the document may be effected in accordance with s. 39 of the AIA); and

(iv) attach a copy of the completed QP 0545 and any other correspondence to the relevant prosecution file.

Where a prosecutor is required to serve a document on the defendant or lawyer acting for the defendant advising that a written notice is available for collection from a stated place (see s. 590AM of the CC), such document is to be in the form of a letter that is substantially in the same format as QP 0546: 'Document advising written notice/copy of thing for a relevant proceeding'.

3.14.9 Disclosure of Evidence Act section 93A device statement or recorded statement in a relevant proceeding

In a relevant proceeding prosecutors are not required to give the defendant a copy of:

(i) an Evidence Act s. 93A device statement other than as required under s. 590AOA: 'Evidence Act section 93A device statement' of the CC; or

(ii) a recorded statement other than as required under s. 590AOB: 'Disclosure of recorded statement' of the CC.

ORDER

Where it is determined by a prosecutor that a statement is an Evidence Act s. 93A device statement or recorded statement, the prosecutor is to give the defendant a written notice by:

(i) completing the relevant form, either a:

(a) QP 0547: 'Notice of Evidence Act section 93A device statement in a relevant proceeding'; or

(b) QP 1207A: 'Notice of Evidence Act Part 6A Recorded statement in a domestic violence proceeding for unrepresented defendant'; or

(c) QP 1207B: 'Notice of Evidence Act Part 6A Recorded statement in a domestic violence proceeding for a represented defendant';

(ii) where there is a lawyer acting for the defendant, serve an appropriately completed relevant form (QP 1207B) on the lawyer; or

(iii) where the defendant is not represented, give the relevant form (QP 1207A) to the defendant at the defendant's place of business or residential address last known to the prosecution (giving of the document may be effected in accordance with s. 39: 'Service of documents' of the *Acts Interpretation Act*); and

(iv) attach a copy of the completed relevant form and any other correspondence to the relevant prosecution file.

Prosecutors completing a QP 0547 or QP 1207A to give to an unrepresented defendant are to ensure that details of where a request to allow an appropriate person to view the statement are contained on the written notice.

Arresting officers are to liaise with the responsible prosecutor to remain informed of any viewing or provision of a copy of the statement. Arresting officers are to ensure the victim/witness in a relevant proceeding is kept informed on the progress.

3.14.10 Viewing of evidence in relation to a relevant proceeding

Evidence Act section 93A device statements, recorded statements and evidence that is not original evidence

Where a prosecutor gives advice under s. 590AJ(3) or notice under ss. 590AO(2)(e), 590AOA(6) or 590AOB(5) of the CC that a thing may be viewed on request by an appropriate person, and a viewing is requested, the prosecutor is to make arrangements with the appropriate person for the viewing of the thing for the purposes of the relevant proceeding (see s. 590AR of the CC).

For the viewing of an Evidence Act s. 93A device statement, the meaning of appropriate person is defined in s. 590AOA(11) of the CC.

For the viewing of a recorded statement, the meaning of 'appropriate person' is defined in s. 590AOB(11) of the CC.

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For the viewing of other evidence that is not original evidence, the meaning of appropriate person is defined in s. 590AS(6) of the CC.

Original evidence that is not sensitive evidence or an Evidence Act section 93A device statement

For the purpose of this subsection, the meaning of 'appropriate person' is defined in s. 590AS(6) of the CC.

Section 590AS of the CC relates to the viewing of evidence in a relevant proceeding that is disclosed to the defendant or lawyer acting for the defendant under s. 590AH(2)(i) or s. 590AJ of the CC. Such evidence being original evidence (i.e. a thing that may be tendered as an exhibit in a relevant proceeding) and which is not sensitive evidence or an Evidence Act s. 93A device statement.

Under s. 590AS of the CC, the prosecution is not required to allow the defendant or lawyer acting for the defendant to view or examine a thing that has been disclosed under s. 590AH(2)(i) or s. 590AJ of the CC. However, a prosecutor may, on request, allow an appropriate person to view and examine the thing for the purpose of the relevant proceeding under the supervision of the prosecution and subject to any other conditions the prosecution considers necessary to protect the integrity of the thing. Under this provision, a court may also direct that the prosecution allow an appropriate person to view and examine the thing for the purpose of the 'relevant proceeding'.

3.14.11 Disclosure of protected sexual assault counselling communications

Prosecutors are not to give the defendant a copy of protected counselling communications where the counselled person has not waived the sexual assault counselling privilege (SACP) (see s. 2.5.15: 'Sexual assault counselling privilege' of this Manual and s. 14I: Waiver of privilege by counselled person of the *Evidence Act* (EA)).

Where a waiver has been issued, investigating officers are responsible for ensuring any potential SACP is clearly identified and placed in an envelope clearly marked SACP before being submitted in a brief to the prosecutor and only provided to prosecutions (see 'Brief of evidence preparation' in s. 2.5.15 of this Manual). Prosecutors should satisfy themselves the SACP has been waived before disclosing counselling communications.

ORDER

This order only applies to a document that the Service would otherwise be obliged to disclose (see ss. 590AH: 'Disclosure that must always be made', 590AJ: 'Disclosure that must be made on request' and 590APA(3): 'Protected counselling communications' of the CC).

If, on commencement of a relevant proceeding (see s. 590AD: 'Definitions for ch div 3' of the CC) or domestic violence application (see s. 14P: 'Application of privilege in civil proceedings' of the EA) an officer becomes aware:

(i) of documents in their possession or that exist which may be protected counselling communications; and

(ii) that the counselled person has not waived the SACP to allow disclosure of the document/s to the defendant or respondent,

the officer is to, as soon as reasonably practicable, notify the relevant prosecution corps.

Members are to ensure compliance with s. 2.5.15 of this Manual.

If a prosecutor, responsible for a relevant criminal proceeding, reasonably considers document/s are a protected counselling communication and the SACP has not been waived, the prosecutor is to, as soon as reasonably practicable or in accordance with the timeframes set out in s. 590AI(2): 'When mandatory disclosure must be made' of the CC, give the defendant or their legal representative a completed QP 1070: 'Protected counselling communication' Notice (see ss. 590APA and 590AM: 'How disclosure may be made' of the CC).

If protected counselling communication documents are in the possession of the prosecution, a prosecutor is to only disclose the documents in a relevant proceeding, or rely upon the documents in an application for a domestic violence order, if the:

(i) counselled person has waived privilege (see s. 14I of the EA);

(ii) court has granted leave under Part 2, Division 2A, Subdivision 3: 'Other proceedings' of the EA; or

(iii) SACP has been lost (see s. 14J: 'Loss of privilege if communication made in commission of offence' of the EA).

If the proceeding is a bail hearing or a committal proceeding the SACP is absolute (see Part 2, Division 2A, Subdivision 3 of the EA) and a prosecutor is to only disclose the documents if the counselled person has waived the privilege to keep the document/s confidential.

Where a counselled person has waived privilege by consenting to the release of protected counselling communications, the written notification of waiver is to be recorded in the relevant QPRIME occurrence prior to the release of any such information by the prosecutor.

If notice under s. 14G(2): 'Application for leave' of the EA is provided to the Service by the defendant, the prosecutor is to, as soon as practicable, arrange for the counselled person to be given a copy of this notice.

OPM Issue 113 Public Edition

3.15 Sexual offence prosecutions

3.15.1 Definitions

For the purpose of this chapter:

Failed sexual offence prosecution

means a person is charged with a sexual offence by the Service and:

(i) the charge or count relating to the offence is discontinued by the Service or the ODPP either by offering no evidence in the magistrates court, a no true bill or a nolle prosequi;

(ii) the magistrates court finds that there is no prima facie case disclosed with respect to the charge;

(iii) magistrate or judge returns a not guilty verdict with respect to the charge;

(iv) court finds there is no case to answer;

(v) court instructs the jury to return a directed verdict of not guilty with respect to the charge;

(vi) court stays the charge and the judge makes some adverse comments about the quality of the police investigation and prosecution; or

(vii) Court of Appeal quashes the charge and the Court of Appeal makes some adverse comments about the quality of the police investigation or prosecution.

Sexual offence

means an offence against the following sections and chapter of the Criminal Code:

s. 210: 'Indecent treatment of children under 16';

s. 213: 'Owner etc. permitting abuse of children on premises';

s. 215: 'Engaging in penile intercourse with child under 16';

s. 216: 'Abuse of persons with an impairment of the mind';

s. 217: 'Procuring young person etc. for penile intercourse';

s. 218: 'Procuring sexual acts by coercion etc.';

s. 218A: 'Using internet etc. to procure children under 16';

s. 219: 'Taking child for immoral purposes';

s. 221: 'Conspiracy to defile';

s. 222: 'Incest';

s. 227: 'Indecent acts';

s. 227A: 'Observations or recordings in breach of privacy';

s. 228: 'Obscene publications and exhibitions';

s. 228A: 'Involving child in making child exploitation material';

s. 228B: 'Making child exploitation material';

s. 228C: 'Distributing child exploitation material';

s. 228D: 'Possessing child exploitation material';

s. 229B: 'Repeated sexual conduct with a child';

s. 323A: 'Female genital mutilation';

s. 323B: 'Removal of child from State for female genital mutilation';

s. 363A: 'Abduction of child under 16'; or

Chapter 32: 'Rape and sexual assaults'.

A matter is not a failed sexual offence prosecution if:

(i) the prosecution is discontinued because of the death of the accused, complainant or vital witness;

(ii) the prosecution is discontinued because of a finding of the Mental Health Court that the accused is of unsound mind or permanently unfit for trial unless the Judge makes some adverse comments about the quality of the police investigation or prosecution;

OPM Issue 113 Public Edition

(iii) a jury acquits the defendant or is unable to decide upon a verdict unless the Judge makes some adverse comments about the quality of the police investigation or prosecution;

(iv) a charge or indictment is amended without altering the substance of the criminal allegations unless the ODPP considers that a training issue should be brought to the attention of the Service;

(v) an alternative charge or indictment is substituted that substantially covers the elements of the previous charge or indictment unless the ODPP considers that the amendment raises a training issue for the Service;

(vi) the prosecution is discontinued following a successful mediation; or

(vii) a plea of guilty is accepted to some charges and other charges are discontinued or a plea of guilty is accepted to amended or substituted charges.

3.15.2 Memorandum of understanding—sexual offence prosecutions

The Service and the ODPP have a memorandum of understanding (MOU) with regard to communications between the organisations in relation to sexual offence prosecutions, that outlines the minimum standards of communication and assistance that the Service and the ODPP can expect of each other. Additionally, the MOU refers to the 'Sexual Offence Review Committee'. The Service's obligations under the MOU have been incorporated into policies and procedures in this chapter and Chapter 2: 'Investigative Process' of this Manual.

The Service and ODPP 'Sexual Offence Review Committee'

The Service and ODPP 'Sexual Offence Review Committee' (the Committee) is comprised of:

(i) a member of Crime Command;

(ii) a member of Legal Division;

(iii) a member of ODPP; and

(iv) a regional crime coordinator.

The purpose of the Committee is to identify, review and address systemic and practice issues (includes operational and prosecutorial events) relating to sexual violence investigations and prosecutions to ensure continuous improvement in agency engagement with, and responses to, victims of sexual violence. The primary responsibilities of the Committee include:

(i) identify, share, and exemplify good practice;

(ii) identify, discuss, and resolve:

(a) practice issues;

(b) patterns or trends;

(c) failings or barriers; and

(iii) identify systemic issues, including rates of attrition, that need to be addressed by the Service or ODPP;

(iv) collate reports which outline systemic issues which have been identified in reviews and evaluations, including recommendations to enhance service delivery;

(v) monitor compliance with the MOU regarding sexual offence prosecutions;

(vi) resolve disputes about a failure to comply with:

(a) the Director of Public Prosecutions Guidelines;

(b) the MOU; or

(c) this Manual;

(vii) monitor and review the MOU to ensure it is achieving its purpose;

(viii) identify and refer relevant matters to the Sexual Violence Review Board (the Board) or the Victims' Commissioner; and

(ix) prepare and provide reports to the Board or to the Victims' Commissioner, as required.

Members from both agencies are required to identify and refer matters to the Committee for review. For the Service, these members include, but are not limited to:

(i) plain clothes investigators;

(ii) police prosecutors;

(iii) sexual violence liaison officers; and

(iv) other members with roles relating to sexual violence.

OPM Issue 113 Public Edition

To refer matters to the Committee, members are to complete a QP 1137: 'Sexual Offence Review Committee referral' on the relevant QPRIME occurrence. Referring members are to ensure:

(i) sufficient information and reasons for the referral are contained within the referral form;

(ii) obtain their relevant OIC or manager approval to refer the matter to the Committee; and

(iii) email the completed form to SexualViolenceReviews@police.qld.gov.au.

The referral will be assessed and actioned by the Committee's secretariat. The Committee's secretariat role is shared between the Service and ODPP and rotates on a yearly basis.

The Committee may invite guests to attend meetings where it is determined that their professional, cultural or social knowledge or background may be relevant. This can include, but is not limited to, a representative from a relevant government or non-government agency who can provide their subject matter expertise about:

(i) domestic and family violence;

(ii) sexual violence;

(iii) child protection;

(iv) diverse backgrounds and cultures, including First Nations peoples;

(v) forensic health; or

(vi) witness intermediaries.

3.15.3 Failed sexual offence prosecutions

A failed sexual offence prosecution can occur at a magistrates court (see s. 3.15.1: 'Definitions' of this chapter).

Prosecutor

Where a prosecutor withdraws a charge or offers no evidence or a magistrate dismisses a charge for a sexual offence prosecution, the prosecutor is to forward:

(i) the completed court brief (QP9); and

(ii) a copy of the QP 0626: 'Request for Authority to Withdraw Charge(s)' form (or equivalent), or a copy of the QP 0625: 'Report on dismissal of charge(s)' form (or equivalent),

to the QPS and ODPP Failed Sexual Offence Prosecutions Working Party by email to 'Failed Sexual Prosecutions'.

See also s. 3.4.4: 'Withdrawal of charges' of this chapter.

3.16 Case conferencing

In a proceeding against a person charged by an officer for an offence, the Commissioner may take part in conferences (case conferencing) with the person's legal representative about the conduct of the proceeding in order to narrow issues or help in the timely resolution of the proceeding (see s. 7(u)&(v): 'Particular matters within scope of prescribed responsibility' of the Police Service Administration Regulation).

Case conferencing involves negotiations (including discussions as to whether or not negotiations will take place) between prosecutions and defence to discuss issues in dispute, in order to bring about an early resolution to proceedings.

Generally, the public interest is in the conviction of the guilty. Case conferencing supports early pleas of guilty resulting in benefits to the prosecution, victim, and the community. The purpose of a case conference is to achieve a just and early resolution.

Prosecutors are not to withhold available, uncontested and incontrovertible evidence from the Court. This includes, to achieve a desired/preferred outcome for a defendant, particularly in circumstances where the legislature has statutorily prescribed minimum sentencing options to the Court to revoke such discretions and to ensure that strong deterrents exist to protect the public from the harms. While prosecutors have a broad discretion, that discretion should not be focussed on the personal interests of an individual, rather, it should seek to balance the interests of the public as a whole.

Early case conferencing is encouraged, though should not be based on expediency alone or a desire to avoid prosecuting a summary trial or a committal hearing.

Case conferencing will generally occur on the material contained in the QP9, however prosecution or defence may request that copies of certain specified statements or exhibits be prepared, copied and disclosed to facilitate case conferencing. To be clear, nothing in this section, restricts case conferencing between prosecutions and defence from occurring even after disclosure of a full brief of evidence.

Each case will depend on its own circumstances, but case conferencing may be appropriate where:

OPM Issue 113 Public Edition

(i) appropriate amendments to the summary of facts will result in the defendant entering a plea of guilty;

(ii) the prosecution has to choose between a number of appropriate alternate charges;

(iii) the defendant offers to plead guilty to a specific charge that is appropriate, accords with the admissible evidence and encompasses all of the defendant's criminal conduct;

(iv) a fair and just, summary outcome can be achieved; or

(v) witness availability is an issue.

Case conferencing may result in:

(i) the provision of additional information, e.g. a statement and audio/video recording;

(ii) agreement being reached on the facts to be presented to a court;

(iii) a reduction in the level, or the number of charges, through the amendment, substitution, withdrawal or offering of no evidence to charges;

(iv) the amendment, substitution or withdrawal of charges which otherwise must proceed on indictment, to facilitate a summary resolution of the matter; or

(v) agreement being reached concerning appropriate penalty submissions to be made to a court.

The prosecutor in a matter in which case conferencing has occurred should proceed on those charges which fairly represent the conduct that can be reasonably proved.

3.16.1 Responsibilities for case conferencing

Members permitted to take part in case conferencing

A member assigned to perform prosecution duties (prosecutor) may take part in case conferencing with a defendant's legal representative.

Case conferencing may be instigated by either the defendant's legal representative or the prosecutor at any stage after the Court Brief (QP9) is delivered to prosecutions (or disclosed via a portal), including at, or prior to, the date of first appearance.

Prosecutors may participate in oral case conferences with a defence legal representative where appropriate. A prosecutor is not to engage in case conferencing with an unrepresented defendant, however, may communicate with an unrepresented defendant to provide information about:

(i) the court process;

(ii) the charges; and

(iii) the prosecution case.

Prosecutors are not to engage an unrepresented defendant for the purposes of charge negotiation or the provision of legal advice.

ORDER

Where case conferencing results in an agreement being reached that there should be a substitution, withdrawal or offering of no evidence to a charge, only an authorised officer can approve the substitution, withdrawal or offering of no evidence to the charge.

Officers permitted to authorise the substitution, withdrawal of or offering no evidence to a charge

The following officers (authorised officers) have the authority to approve the substitution, withdrawal or the offering of no evidence to a charge as a result of case conferencing:

(i) the OIC of a prosecution corps, including prosecutors at Charleville, Kingaroy, Roma and Murgon;

(ii) a prosecutor of the rank of or above senior sergeant; or

(iii) a prosecutor who is authorised in writing by the Executive Director, Legal Division

Submissions

Any submission regarding case conferencing from a defendant or their legal representative must be dealt with expeditiously.

ORDER

Where a submission has been received from a defendant, or their legal representative, in writing, a copy of the submission and any written response, is to be uploaded to the documents tab on the relevant QPRIME case file(s).

Where case conferencing is conducted orally (in person or by telephone), details of any oral submission, received from a defendant or their legal representative, and the prosecution response, is to be entered on the relevant QPRIME case diary log(s).

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Withdrawing or offering no evidence to a charge

Where a prosecutor, taking part in case conferencing, intends to withdraw or offer no evidence in relation to a charge, the prosecutor responsible for the prosecution of the charge is to ensure, prior to withdrawing the charge or offering no evidence on the charge, that:

(i) the sufficiency of evidence test has been applied;

(ii) if the prosecutor is of the view there is insufficient evidence the prosecutor is to consult with the arresting officer, or their supervisor or OIC prior to withdrawing the charge whenever reasonably practicable;

(iii) the public interest test is satisfied;

(iv) any other relevant guidelines in the DPP Guidelines are complied with;

(v) pursuant to Chapter 2: 'Charter of victims' rights' of the *Victims of Crime Assistance Ac*t, the victim is consulted where the offence(s) involves:

(a) an offence against the person;

(b) a domestic violence offence within the meaning of the s. 1: 'Definitions' of the CC;

(c) an offence against ss.:

- 177(2): 'Contravention of domestic violence order';
- 177A(2): 'Contravention of a police protection direction';
- 178(2): 'Contravention of police protection notice'; or
- 179(2): 'Contravention of release conditions' of the DFVPA;

(d) an offence of attempting to commit, or conspiring to commit, an offence mentioned in (a), (b), or (c) above; or

(e) in all other instances, consult with the victim, wherever reasonably practicable; and

(vi) a prosecutor may task an investigating officer to consult with a victim of the crime.

Where it is not reasonably practicable to consult with the investigating officer or victim, the prosecutor responsible for withdrawing the charge is to record such reasoning on the case diary log of the relevant QPRIME case file. The views of the arresting officer, OIC, and victim must be considered but are not determinative. It is the public, rather than the individual, interest which must be served (see Guideline 17: 'Charge negotiations' subsection (vi) 'Consultation' of the DPP Guidelines).

It is acknowledged that investigating officers will always have an interest in any prosecution and should be consulted whenever practicable prior to the decision to withdraw a charge. Although it is desirable for the prosecutor to consult with an investigating officer prior to withdrawing a charge, if the matter is a simple (not indictable) or regulatory offence (including traffic offences that have been commenced by the Service), a member of the Service performing prosecution duties with authority to withdraw charges is not required to consult the investigating officer prior to doing so, where there is a need to achieve an expeditious outcome. The officer authorising the withdrawal is to ensure an entry is made in the relevant QPRIME case diary log recording the reasons for the decision to withdraw the charge.

Where the prosecutor is not an authorised officer, appropriate approval is to be obtained from an authorised officer prior to withdrawing or offering no evidence to a charge in court.

ORDER

Where a prosecutor takes part in case conferencing, the member is to ensure that within the relevant QPRIME case file:

(i) the 'case conferencing' check box is updated to indicate that case conferencing was undertaken; and

(ii) brief details of the case conference are entered in the case diary log, including authorising officer details;

(iii) if no consultation was undertaken (with either the investigating officer, their supervisor or their OIC or victim) a notation in the case diary log is required by the prosecutor as to why consultation did not occur.

3.16.2 Restrictions on case conferencing

Case conferencing is not to occur where:

(i) the defendant is not legally represented;

(ii) the public interest is such that disputed facts should be determined by a court;

(iii) the matter is to proceed to summary trial and there is no likelihood of achieving any pre-trial resolution;

(iv) the matter is to proceed to committal hearing or registry committal and there is no likelihood of achieving a summary resolution; or

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(v) the charge is under a Commonwealth statute.

Case conferencing is a process that involves discussions between prosecutors and the defendant's representatives. It is not a matter that should require the participation of a court other than for approving necessary adjournments. Therefore, a prosecutor should not request court staff or judicial officers to become involved in case conferencing.

Case conferencing must not result in an agreement that will bind the Crown in any subsequent proceeding where the Director of Public Prosecutions (State) may assume carriage.

3.16.3 Provision and disclosure of material during case conferencing

Prosecutors may request the supply of information or material, such as statements and audio/video recordings, to facilitate case conferencing.

ORDER

Where a prosecutor requests the supply of further material to facilitate case conferencing, the prosecutor is to ensure that a 'QPS PROS disclosure request required' workflow in QPRIME is commenced.

Materials supplied to prosecutors for case conferencing are not to contain personal particulars such as address, telephone, or next of kin details relating to a victim or witness unless the information is required to prove the particulars of the offence. See also section titled 'Copies of statements and documentary exhibits' in s. 3.4.13: 'Supply of copies of court brief (QP9), particulars, statements and reports' of this chapter.

3.17 Deleted

3.18 Deleted

3.19 Attorney-General appeals and disclosure of information to the Department of Justice

Section 669A: 'Appeal by Attorney-General' of the Criminal Code allows the Attorney-General to appeal to the court against any sentence.

Section 222(2A): 'Appeal to a single judge' of the *Justices Act* specifically enables the Attorney-General to appeal against an order made by justices or a justice in a summary way, on a complaint for an offence or breach of duty, within 1 month after the date of the order to a district court judge.

The disclosure of information to the Department of Justice (DJ), in response to an Attorney General appeal, requires the authorisation of the Commissioner in accordance with s. 10.2: 'Authorisation of disclosure' of the PSAA.

QPS Legal Services, Office of the General Counsel (OGC) deals with Service judicial review and appeal matters. The Director, Legal Services is responsible for coordinating a response to DJ on behalf of the Commissioner.

A member who receives a request to supply documentation in response to an Attorney General appeal, is to advise OGC at the earliest opportunity. Documentation or evidence relating to an appeal can only be released once approval has been issued from OGC.

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Appendix 3.1 Factors for consideration in restitution/compensation

(ss. 3.7.2, 3.7.3 and 4.7.2)

Compensation

(i) nature of the injuries:

(a) extent and particulars of the injuries as well as the amount of suffering; and

(b) the duration of the pain/discomfort (time period, past and future if applicable);

(ii) nature and effect of that pain/discomfort:

how it affected the complainant's life and if applicable, how it will affect the complainant's life (e.g. soft foods for a week—jaw wired);

(iii) mental anguish caused

whether the injury will ever heal based on medical advice, e.g. bite/spitting accompanied by words 'I've got AIDS';

(iv) ongoing problems:

(a) particularise as per medical/dental advice;

(b) be specific as to the extent of such problems, duration of these problems and what treatment will be required in the future; and

(c) cost;

(v) out of pocket expenses:

(a) ambulance;

(b) taxi fares—the doctor or dentist and for further and future treatment;

(c) length of journey; and

(d) cost of the fare;

(vi) loss of wages—amount of money involved:

(a) explain why complainant could not work as a direct result of the injuries; and

(b) don't overlook future on-going problems;

(vii) medical/dental expenses (after any applicable rebate);

(viii) motor vehicle expenses:

(a) motor vehicle used;

(b) length of journey, to where and why;

(c) number of trips;

(d) future trips in respect of on-going problems;

(e) petrol consumed per trip; and

(f) parking expenses;

(ix) property damaged as a result (e.g. clothing):

(a) particularise the property;

(b) outline how it was damaged as a result of the offence;

(c) outline the age of the property;

(d) outline the condition of the property prior to the offence; and

(e) outline the cost of replacement;

Restitution

(i) type of property:

(a) particularise the property in question;

(b) specify the condition of property prior to offence; and

(c) specify the value of the property prior to the commission of the offence;

(ii) damage:

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(a) specify the extent of damage; and

(b) explain how the property was damaged as a result of the commission of the offence;

(iii) repair costs:

(a) explain what has to be done to ensure that the property is of the same condition as it was prior to the offence; and

(b) outline the cost of that repair;

(iv) wages:

explain how the complainant suffered due to loss of the property in question, e.g. hire cars;

(v) miscellaneous:

any other expenses incurred, such as towing fees, etc.;

(vi) subrogation of ownership:

(a) occurrences in QPRIME should be searched, where appropriate, prior to any court appearance where the matter may be dealt with;

(b) it is incumbent upon police to verify the true ownership of property. Ownership may have passed to an insurance company;

(c) if ownership in the property has passed to an insurance company, the insurance company is to be consulted to obtain the correct amount for restitution.

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Appendix 3.2 Procedure to be adopted when checking briefs of evidence

(s. 3.8.14)

(i) Read brief of evidence;

(ii) Identify correct statute(s);

(iii) Identify correct section(s), regulation(s). Consider cognate offence(s);

(iv) Verify wording of the charge(s) via QPRIME using the Specimen Charge database or if QPRIME is unavailable, from the specimen charge menu on the QPRIME Online Gateway on the Service Intranet;

(v) Consider any necessary amendments;

(vi) Elementise the charge(s);

(vii) Classify the offence(s);

(viii) Consider jurisdiction;

(ix) Consider limitation of time;

(x) Apply any facilitation of proof provisions;

(xi) Refer to averments;

(xii) Refer also to definitions;

(xiii) Is the evidence sufficient to support the charge(s)? Consider possible defences/exculpations;

(xiv) Are the facts on the form QP9 consistent with those contained in the full brief of evidence?;

(xv) Is all the evidence including certificates admissible?;

(xvi) Ensure confidentiality of witness details (name, address, phone number, DOB, etc) unless required to prove a particular offence;

(xvii) Are all exhibits referred to in statements?;

(xviii) Should further evidence be obtained?;

(xvix) Consider police powers and procedures:

- (a) name and address;
- (b) search;
- (c) seize;
- (d) detain;
- (e) arrest; summons;
- (f) authority to prosecute;
- (g) production of licenses;
- (h) disposal of property; and

(xx) Check samples of audio/visual recordings that are to be tendered as evidence. If the quality of the recordings made by Service owned recording equipment is substandard, action is to be taken to ensure any recording equipment faults are rectified. Additionally, if the quality of the recordings is so poor that it will affect its value as evidence, consideration is to be given to the sufficiency of evidence test as contained in s. 3.4.3: ‘Factors to consider when deciding to prosecute’ of this chapter and whether further investigation is required.

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Appendix 3.3 Police prosecutors appeal report where a record or transcript of the proceedings is not available

(s. 3.11.2)

Unless the proceedings are recorded by typewriter or by tape recorder and transcribed, a detailed report is required to be completed by the prosecutor who believes that a decision or penalty made or imposed by a magistrate should be appealed.

The following list sets out the requirements of the prosecutor's report:

(i) full name of accused;

(ii) date and location of appearance;

(iii) name of magistrate;

(iv) short title of charge(s);

(v) legal representative of accused (if any);

(vi) other matters placed before court by prosecutor;

(vii) statements made to the court by the defendant or the defendant's legal adviser in relation to the offence or in mitigation of penalty (including plea);

(viii) if applicable, the details of any submissions made by the prosecutor as to penalty, the material error of fact or material error of law as is relevant to the appeal;

(ix) sentence or penalty imposed, with comments made by the magistrate; and

(x) the reasons supporting the belief that the penalty imposed by the magistrate was manifestly inadequate or that a decision made by the magistrates was based on a material error of fact or on a material error of law.

In addition to the above report, a copy of the:

(i) full brief of evidence;

(ii) the accused's criminal history;

(iii) if available, copies of transcriptions of records of interview; and

(iv) any other document that were tendered before the court,

should be attached to the report.

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Appendix 3.4 Deleted

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Appendix 3.5 Schedule for restitution/compensation

(s. 3.7.3)

Schedule for restitution/compensation

R - v - _____

Occurrence no.	Arresting officer & station/ establishment	Date of offence(s) (chronological order)	Short title of offence(s)	Complainant(s) name(s) & address(es)	Description of property stolen/damaged	Value	Recovered (Y/N)	Rest /comp. amount
					Value of property & total amount of rest/comp.			

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Appendix 3.6 Request for prescribed articles

I [1] _____ representing [2] _____ charged with [3] _____ request a copy of [4] _____ being tendered as evidence by the prosecution, for the purpose of defending the above charge(s).

The requested prescribed article(s) is/are required in court proceedings for the purpose of enabling the aforementioned [5] _____ to defend the said charge(s).

I understand the provisions of section 10.21A of the *Police Service Administration Act 1990* only allow possession of prescribed article(s) by a person charged with an offence of which the article is evidence or the person's lawyer, for the purpose of enabling the person to defend the charge. I also understand that a person must not possess prescribed article(s) after the time allowed for any appeal against a conviction for an offence of which the relevant article is evidence ends, unless the article is kept as part of court records or the records of a lawyer acting for the person charged with the offence.

I also understand ownership of the requested prescribed article(s) is always vested in the Commissioner of Police.

I undertake to return the prescribed article(s) to the Officer in Charge of Police at [6] _____ after the time allowed for any appeal against a conviction for an offence of which the relevant article is evidence ends, unless the article is kept as part of court records or the records of a lawyer acting for the person charged with the offence.

Signature _____
[7] _____

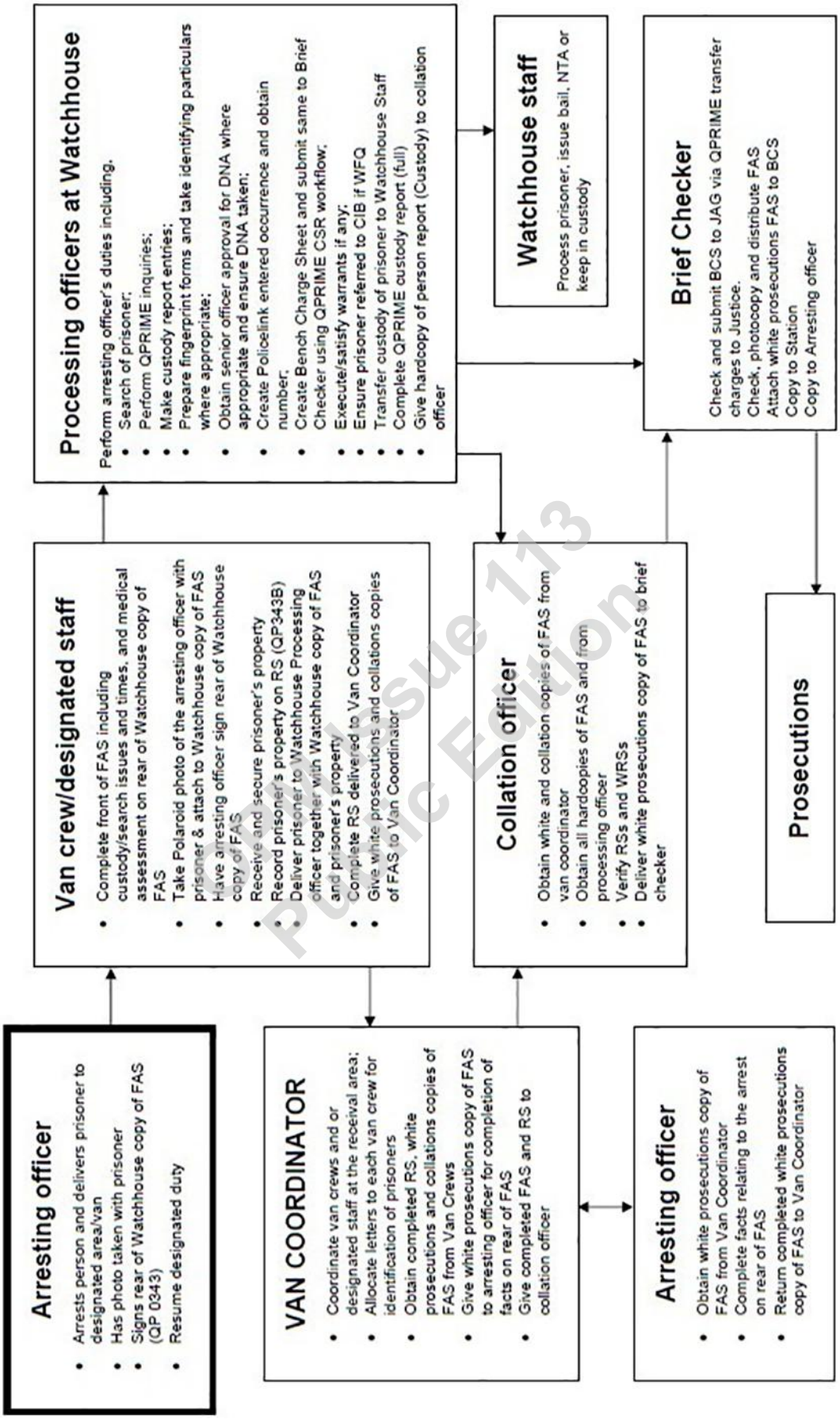
Date _____

[1] Name of lawyer or defendant requesting prescribed articles
[2] If request made by lawyer, insert name of defendant. If unrepresented defendant, insert the word 'myself'
[3] Short title of relevant offence(s)
[4] Prescribed article(s) requested, as per s. 10.21A *Police Service Administration Act 1990*
[5] Name of defendant
[6] Location of police prosecution corps, or where appropriate, police station
[7] Where relevant, name of firm of legal representative

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Appendix 3.7 Field Arrest Sheet process flow chart

(s. 3.7.14)



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Appendix 3.8 Advice pursuant to the Debt Collectors (Field Agents and Collection Agents) Act 2014

(s. 3.4.29)

Date: ……. / ……. / ……. Facsimile: …….

To: **Manager**
Licensing Branch
Business Services Division, Office of Fair Trading

Advice pursuant to the *Debt Collectors (Field Agents and Collection Agents) Act 2014*

On ……. / ……. / ……. ..... (insert person's full name, any other name/s that is believed the person may have used, and date and place of birth) reasonably believed to be a licensee or subagent under the *Debt Collectors (Field Agents and Collection Agents) Act* was convicted of the offence of ..... (insert offence title) against the ..... (insert statute).

Person's Security Provider's Number (if known) …….

Should you wish to obtain the subject person's criminal history, you may make application to the Manager, Police Information Centre, GPO BOX 1440, Brisbane Qld 4001.

Police Prosecutor

Name ……. Rank …….

Station ……. Tel. …….

Signature ……

Instructions—May be hand-written. Attach copy to prosecution copy of court brief.

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Appendix 3.9 Advice pursuant to the Security Providers Act

(s. 3.4.32)

Date: ……. / ……. / ……. Facsimile: ……

To: **Manager**
Licensing Branch
Business Services Division, Office of Fair Trading

Advice pursuant to the *Security Providers Act 1993*

On ……. / ……. / ……. ..... (insert person's full name, any other name/s that is believed the person may have used, and date and place of birth), reasonably believed to be *a licensed person/an applicant for a licence under the *Security Providers Act* was charged with the offence of ..... (insert offence title) against the ..... (insert statute).

A brief description of the nature of the offence charged with is as follows ……
……
……

Person's Security Provider's Number (if known) ……

Should you wish to obtain the subject person's criminal history, you may make application to the Manager, Police Information Centre, GPO BOX 1440, Brisbane Qld 4001.

Police Prosecutor

Name …… Rank ……

Station …… Tel. ……

Signature ……

Instructions—May be hand-written. Attach copy to prosecution copy of court brief.

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Appendix 3.10 Deleted

See Form QP 1205: 'Notice required under s. 80 of the Education (Queensland College of Teachers) Act 2005' available on Forms Select.

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Appendix 3.11 Notification under s. 74 of the Public Sector Act

(s. 3.4.32)

Date:

ATTN:

TITLE:

[Relevant Government Department]

NOTIFICATION UNDER S. 74 OF THE PUBLC SECTOR ACT 2022

Pursuant to s. 74: 'Prosecuting authority must disclose to chief executive committals, convictions and other information' of the *Public Sector Act*, I reasonably believe that a person is a public service employee and has been charged with a relevant offence. I hereby give notice that the person has: *been committed for trial/*been convicted for a relevant offence/*had a prosecution for a relevant offence ended.

Name of person:

The court in which the person appeared:

Offence of which the person was *committed/*convicted:

Date of the *committal/*conviction/*prosecution ending:

Particulars of the offence:

Sentence imposed by the court:

Respectfully,

Name
Rank and Number
Prosecution Office/Station
Contact Details

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Appendix 3.12 Deleted

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Appendix 3.13 Recording of court results

(s. 3.4.20)

The following lists provide the type of orders generally made by courts and examples of common abbreviations for recording such results:

A. Magistrates Courts

Below are listed the types of orders made in a Magistrates Court and examples of details required with their appropriate abbreviations:

Result		Abbreviated Example
(i)	No conviction recorded	N.C.R. s. 12 P & S Act
(ii)	Bail forfeited	B./F. $x
(iii)	Community service order	x hrs C.S.O.
(iv)	Convicted and fined	C.& F. $x
	in default	I./D. x mths
	time to pay	T.T.P. x days
	no time to pay	N.T.T.P.
(v)	Convicted and not punished	C. & N.P.
(vi)	Convicted and sentenced	C. & S.
(vii)	Convicted and sentenced to xx months/years imprisonment parole release date xx.	C & S xx mths IMP PRD 8 May 2008.
(viii)	Convicted and sentenced to xx months/years imprisonment parole eligibility date xx.	C & S xx mths IMP parole eligibility date 8 May 2008.
(ix)	Part or all of the imprisonment sentence suspended	C. & S. x mths imp. susp. x mths
(x)	Convicted and placed on recognisance of (amount) to be of good behaviour for a period	Conv. Recog. $ x G.B.B. x mths
(xi)	Discharged conditionally upon entering into a recognisance of (amount) to be of good behaviour for a period	Discharged cond. recog. $ x G.B.B. x mths
(xii)	Fine option order (indicate which fine suspended if more than one fine imposed)	C. & F. $ x I./D. x days F.O.O. x hrs
(xiii)	Probation (write down any specific conditions)	Probation x mths
(xiv)	Discharged absolutely	Discharged absol. s. 19 P & S Act
(xv)	Multiple charges combined into a singular penalty order	Charges (x no.s) combined into 1 penalty C. & S. x mths. imp.
(xvi)	Restitution order	Restn $ x
(xvii)	Compensation order	Compn $ x
(xviii)	Witness and summons costs	Costs $ x
(xix)	Drivers licence disqualification	D.L. Disq. x mths
(xx)	Weapons licence disqualification	Weapon Lic. Disq. x mths
(xxi)	Reopening of a traffic matter	Application to reopen lodged on [Date]

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B. Childrens Court

Below are listed the types of orders made in a Childrens Court and examples of details required with their appropriate abbreviations:

Result		Abbreviated Example
(i)	Conviction recorded	Conv. Rec. s. 183 J.J.Act
(ii)	No conviction recorded	N.C.R. s. 183(2) J.J.Act
(iii)	Custodial sentence	Detention x mths
(iv)	Reprimanded	Rep.
(v)	Good behaviour order	G.B.O. x mths
(vi)	Fined	F. $ x
(vii)	Community service order	C.S.O. x mths
(viii)	Probation	Probation x mths
(ix)	Compensation	Compn. $ x (child) Compn. $ x (parent)
(x)	Restitution	Restn. $ x (child) Restn. $ x (parent)
(xi)	Drivers licence disqualification	D.L. Disq. x mths
(xii)	Multiple charges combined into a singular penalty order	Charges (charge no.s.) combined into 1 penalty
(xiii)	Custodial sentence suspended immediate release order granted	I.R.O. x mths
(xiv)	Indefinite referral Youth Justice Conference per s. 161(3) of the Youth Justice Act	YJC indefinite referral

C. Suspended sentences

Where a defendant appears before a court for an offence, for which imprisonment may be imposed, committed during the operational period of a suspended sentence order, the police prosecutor is to record any order made by the court in relation to the suspended sentence.

These details should be recorded on the same Court Brief (QP9) for which the defendant is presently before the court.

Below are listed the types of orders made in relation to a breach of a suspended sentence and examples of details required with their appropriate abbreviations:

Result		Abbreviated Example
(i)	Adjourned to (location) District/Supreme Court in custody/granted bail	Adj (location) Dist/Sup Crt in cust/on bail
(ii)	Operational period extended	Oper. period extended x mths
(iii)	Defendant to serve whole of suspended sentence	To serve whole susp. sent.
(iv)	Defendant to serve part of suspended sentence	To serve x mths of susp. sent.

OPM Issue 113 Public Edition

Chapter 4—Property

4.1 Dealing with property generally 495

4.1.1 Retention of property 495
4.1.2 Members claiming property 495
4.1.3 Members absent from duty 495

4.2 Receiving property 495

4.2.1 Property receipt 495
4.2.2 Completing a property receipt 496
4.2.3 Property standardised descriptors 497
4.2.4 Lodging property 498
4.2.5 High risk property 498
4.2.6 Retention of exhibits 499
4.2.7 Continuity of possession 501
4.2.8 Order in relation to seized thing 502

4.3 Receiving property of a particular class 502

4.3.1 Money 502
4.3.2 Property of deceased persons 503
4.3.3 Deleted 504
4.3.4 Seizure of documents 504
4.3.5 Queensland Health employees assisting with drug investigations 504
4.3.6 Property from covert operations 504
4.3.7 Weapons 504
4.3.8 Ammunition 506
4.3.9 Dangerous/noxious things 506
4.3.10 Potentially harmful things 507
4.3.11 Perishable things 507
4.3.12 Animals 508

4.4 Temporary removal of property from property points 508

4.4.1 Deleted 509
4.4.2 Exhibits retained by the court 509
4.4.3 Retention of exhibits after person committed for trial or sentence 509

4.5 Examination of property 509

4.5.1 Forensic examination 509
4.5.2 Forensic examination of drug exhibits 510
4.5.3 Saliva analysis 512
4.5.4 Substances not requiring examination under Drugs Misuse Act 513
4.5.5 Presumptive screening tests of suspected drugs and precursors 514

4.6 Disposal of property 515

4.6.1 General requirements of disposal 515
4.6.2 Forfeiture of property including orders 517
4.6.3 Direction for disposal of forfeited property 519
4.6.4 Disposal where not appropriate to return item 520
4.6.5 Disposal of items of a particular class 521
4.6.6 Disposal of property to finder 522
4.6.7 Disposal of unclaimed property 522
4.6.8 Disposal of property under a relinquishing order 522
4.6.9 Disposal of deceased person's property 523
4.6.10 Disposal of weapons and weapon related things 523
4.6.11 Disposal of animals 528
4.6.12 Disposal of electronic devices and storage media 529
4.6.13 Disposal of vehicles including loads or other things 530
4.6.14 Disposal of drug matter 530
4.6.15 Retention and use of dangerous drugs for training 535

OPM Issue 113 Public Edition

4.6.16 Things of use to the Service or a government department 537
4.6.17 Destruction procedures 538
4.6.18 Public auction procedures 539
4.6.19 Sale by tender procedures 540
4.6.20 Application for return of relevant thing 541
4.6.21 Finalising a property entry in QPRIME 541
4.6.22 Disposal flow chart (court order) 542
4.6.23 Disposal flow chart (no court order) 543

4.7 Ownership of property 543

4.7.1 Disputed ownership (disposal) 543
4.7.2 Letters of subrogation 544
4.7.3 Restraining or confiscation orders under the Criminal Proceeds Confiscation Act 544
4.7.4 Restraining orders under the Drugs Misuse Act 546

4.8 Property points 546

4.8.1 Designation of property points 547
4.8.2 Establishing property points 547
4.8.3 Evidence Management (Exhibits) 548
4.8.4 Property plans 548
4.8.5 Responsibilities of district officers 549
4.8.6 Minimum storage requirements 550
4.8.7 Safety considerations 550

4.9 Property officers 551

4.9.1 Appointment of property officers 551
4.9.2 Responsibilities of property officers 551
4.9.3 Action on receipt of property 552
4.9.4 Publication of a notice on the QPS website 553
4.9.5 Authorisation for members to possess dangerous drugs and weapons 554
4.9.6 Finalising property in QPRIME 554

4.10 Recording personal identification numbers 554

4.11 Transmission and return of seized things between states and territories 554

4.11.1 When Queensland is the receiving state 555
4.11.2 When Queensland is the seizing state 557

4.12 Towing of motor vehicles 558

4.12.1 Definitions 558
4.12.2 Towing of motor vehicles following a traffic crash 559
4.12.3 Towing of motor vehicles seized by officers 559
4.12.4 Towing of motor vehicles parked on private property 562
4.12.5 Abandoned vehicles (as distinct from being stolen and abandoned) 563
4.12.6 Payment of towing fees 563
4.12.7 Towing contracts 564

Appendix 4.1 Deleted 565

OPM Issue 113 Public Edition

4.1 Dealing with property generally

4.1.1 Retention of property

Property should be retained for as short a period as possible prior to disposal. The use of secondary evidence (e.g. photographs) should always be preferred over the retention of physical property, however there may be circumstance when property is seized, and officers need to consider retention of the physical property (see s. 4.2.6; 'Retention of exhibits' of this chapter). While in the possession of the Service, property is to be handled in an efficient, safe and accountable manner.

4.1.2 Members claiming property

Members who come into possession of property as a consequence of their duty may not later claim that property. Where a member is not on rostered duty and finds property and is not the reporting officer, this would not be considered a consequence of their duty. Where a member was not on rostered duty and they were handed property found by another person, this would be considered a consequence of their duty. Where clarification is required reporting officers should seek advice from their district officer or equivalent.

4.1.3 Members absent from duty

ORDER

Where a member is absent from duty for an extended period, or is otherwise unable to meet any requirement of this chapter, that member's supervising officer is to either undertake the duty required, or assign another member to do so.

4.2 Receiving property

ORDER

A member who takes possession of property, the reporting officer, (see SMD) must create a QPRIME occurrence and complete and issue a property receipt unless the property:

(i) is not required as evidence and is:

(a) a vehicle for which the issue of a QP 0703: 'Notice to owner re seizure / moving of vehicle, load or other thing' under s. 126: 'Steps after seizing a vehicle, load or other thing' of the PPRA is appropriate (see s. 4.6.13: 'Disposal of vehicles including loads or other things' of this chapter and s. 4.12: 'Towing of motor vehicles' of this chapter and Chapter 16: 'Immobilising and impounding motor vehicles' of the Traffic Manual);

(b) an animal for which the issue of a QP 0703A: 'Notice to owner re seizure of animal' under s. 139: 'Steps after seizing animal' of the PPRA is appropriate (see s. 4.3.12: 'Animals' of this chapter);

(c) subject to other Service policy; or

(d) for the receipt of money, where an Official Receipt is completed, such as:

- for the payment of official services; or
- to satisfy a warrant; or

(e) recorded within a QP 2130: 'Found Property Proforma' completed by a protective services officer (PSO) and presented to police for lodging; or

(ii) is required as evidence and has been taken possession of during a covert operation or under a covert search warrant (see s. 4.3.6: 'Property from covert operations' of this chapter).

The reporting officer is to make all necessary inquiries and arrange for any tests or examinations required to facilitate the lawful disposal of property. Regional arrangements may require particular classes of property to be disposed of by a person other than the reporting officer. The responsibility for disposal remains with the reporting officer.

Where the rightful owner of property is not known, reporting officers are to make all necessary inquiries to locate the lawful claimants, including QPRIME checks.

See 'Property' in the QPRIME User Guide.

4.2.1 Property receipt

A property receipt should be issued, if possible, at the scene and in the presence of the relevant person, either by completing:

(i) a QPRIME property entry at the time of receiving the property and generating a QP 0760: 'Property Receipt';

(ii) a QPB32A: 'Field Property Receipt'; or

OPM Issue 113 Public Edition

(iii) an entry in an official police notebook if a QPB32A is not available.

4.2.2 Completing a property receipt

When completing a property receipt, members should:

(i) ensure the description of any property contains sufficient detail to clearly identify the item and includes, where applicable:

(a) model numbers;

(b) serial numbers;

(c) distinctive markings;

(d) for property that is drugs or drug utensils use the standardised descriptors (see s. 4.2.3: 'Property standardised descriptors' of this chapter) and an accurate description of amount or weight; and

(d) damage or defects;

(ii) where the quantity or type of property taken possession of makes it impractical to accurately record the full description of the property at the location (e.g. seizing large amounts of currency) they are to where practicable:

(a) securely seal the property in a suitable container(s) in the presence of:

- the relevant person; and
- a senior officer;

(b) sign and date the seal(s) along with:

- relevant persons; and
- senior officer;

(c) include in the property receipt a brief description of the property;

(d) advise the relevant person:

- that a full and complete property receipt will be issued as soon as reasonably practicable; and
- where the property is to be taken;

(e) when appropriate, unseal the property and record a full description of it. In the case of money, this is to include a list of serial numbers and denominations;

(f) ensure a senior officer is present to witness the unsealing and recording process; and

(g) if applicable, invite and allow the relevant person to witness the unsealing and recording;

(iii) request the relevant person:

(a) complete the acknowledgement at the bottom of the:

- QPB32A: 'Field property receipt'; or
- QP 0760: 'Property receipt'; or

(b) sign the relevant notebook entry,

to confirm the receipt contains a true and accurate account of the items taken and, if required, explain that there is no obligation to sign;

(iv) if any of the property is to be relinquished, ensure the relevant person also completes a relevant relinquishing order, that is subsequently scanned into the relevant QPRIME occurrence, using a:

(a) QP 0368: 'Relinquishing order';

(b) QP 0368A: 'Relinquishing order (weapon(s))' (see s. 4.3.7: 'Weapons');

(b) QPB32A; or

(c) QP 0760; and

(v) ensure the relevant person is given a copy of the property receipt; either:

(a) personally;

(b) if the property is taken from a premises and the occupier is not present, leave a copy of the property receipt in a conspicuous place at the premises; or

(c) if not completed at the time of taking possession of the property either by:

- personal delivery;

OPM Issue 113 Public Edition

- delivery by post; or
- other suitable method, depending on the circumstances;

(vi) if not already done and as soon as reasonably practicable complete a QPRIME property entry including the weight or number of the drugs; and

(vii) lodge the property at a designated property point as soon as possible (see s. 688: 'Responsibilities of police officer or protective services officer taking possession of relevant thing' of the PPRA), unless:

(a) the property is earlier returned, destroyed or disposed of according to legislation or policy;

(b) a member of the Financial and Cyber Crime Group, Crime Command has taken possession of property which consists entirely of documents; or

(c) it is necessary to keep the property for use during questioning or an investigative procedure (however it is to be lodged as soon as the reason for keeping it ends);

(d) the reporting officer is awaiting approval from their officer in charge for disposal of property of no value under s. 690: 'Forfeiture in particular cases' of the PPRA and in accordance with section titled 'Forfeiture of property considered to have no value' in s. 4.6.2: 'Forfeiture of property including orders' of this chapter; or

(e) the property in the possession of a protective services officer has been given to an officer as it relates to a matter requiring further investigation.

4.2.3 Property standardised descriptors

Where property of a type described below is received by a member the following standardised descriptors are to be used:

Property type	Item	Standardised descriptor
Drugs	**Primary container or packaging**	Clip sealed bag Sealed envelope Plastic bag Plastic/glass vial
	Drug matter	Quantity Colour Form of drug
	Quantity	Grams (note if the weight is inclusive or exclusive of packaging) Millilitres Number of seeds/plants/capsules/tablets/tabs etc.
	Form of drug	Powder Compressed/or partially compressed powder Crystalline substance Tablets Capsules (Dried/fresh/fermenting) plant material or mushrooms Food stuff Seeds Liquid Oil Resin (block or paste) Cardboard tabs

OPM Issue 113 Public Edition

Property type	Item	Standardised descriptor
	Type of utensil	(Glass/plastic/ceramic) bottle fashioned into a smoking utensil Metal (pipe/cone) Plastic container containing a (....ml) syringe Note that utensils may be able to be immediately disposed of as per s. 4.6.14: 'Disposal of drug matter' of this Manual.
	Examples	One clip sealed bag holding white powder, weighing approx. 5 grams in total (bag + powder) One glass vial holding clear liquid approx. 2 ml One clip sealed plastic bag holding ten seeds One clear plastic bottle fashioned into a smoking utensil One silver coloured metal pipe, with residue present 100 cardboard tabs

4.2.4 Lodging property

Where members are required to lodge property they are to, after issuing a property receipt:

(i) generate a QP 0760: 'Property Receipt' or property barcode from the QPRIME entry, if not already complete;

(ii) if possible and safe place the property in a suitable property bag;

(a) seal the bag (for items requiring forensic examination, do not staple the bag);

(b) enter the following information on the bag:

- the officer's name, rank, registered number and station;

(c) sign and date the seals;

(d) if applicable, officers should also note on the exhibit packaging:

- the date and time of taking possession of the property;
- for property that consists wholly or partly of drug matter a full and complete description of the drug matter;
- the name and address of the person from whom the property was taken; and
- invite the person from whom the property was taken to sign the bag at an appropriate position on the bag; and:

(iii) if the property:

(a) is too large to fit into a property bag; or

(b) possesses features that would make storage in a property bag undesirable and unsafe,

seek advice from the officer in charge of the property point on the most suitable method of containing or wrapping the property; and

(iv) hand the property to the relevant property officer or lodge the property at a property point in accordance with local procedures.

4.2.5 High risk property

High risk property includes property that is easily transportable and or convertible to cash, money, and illicit drugs.

Whenever a member intends to seize, handle or dispose of property, they should conduct a risk assessment to determine what level of corroborative practices should be adopted.

To mitigate the risk from high risk property, members should consider all options available and choose the most suitable within the constraints of time, place and circumstances. The most effective method of mitigation is corroboration and may include:

(i) the use of audio, video and/or photographic equipment. It is best practice to record the counting of seized money with video equipment at the scene in a continuous manner, by depicting the scene and remaining static during the process;

(ii) sealing items of property in 'property bags' (see SMD) preferably at the scene; and

OPM Issue 113 Public Edition

(iii) the presence of any person at the time of seizure or handling including:

(a) a suspect;

(b) another officer;

(c) a commissioned officer; and

(d) an independent person.

Officers undertaking an emergency search and seizure of property are required to make risk assessments at the scene and adopt appropriate corroborative practices. In most investigations officers will have the benefit of time and should plan to ensure range of corroborative practices are in place, such as having appropriate personnel (i.e. corroborating officer(s), a commissioned officer), and equipment (e.g. property bags, body worn cameras) available.

4.2.6 Retention of exhibits

Where any property is seized officers need to consider s. 691: 'Return of relevant things' of the PPRA.

The reporting officer is to:

(i) make all necessary inquiries; and

(ii) arrange for any tests or examinations required,

to facilitate the lawful disposal of property and do so as soon as practicable. Local arrangements may require particular classes of property to be disposed of by a person other than the reporting officer. The responsibility for property disposal remains with the reporting officer.

Where the rightful owner of property is not known, reporting officers are to make all necessary inquiries to locate the lawful claimants, including QPRIME checks.

When property is seized to provide evidence in a court or other proceedings, unless some reason exists which makes it desirable that a court view the physical exhibit, secondary evidence should be presented. Secondary evidence (e.g. photographs) should be used wherever possible, and officers should minimise the retention of physical items of property.

Officers considering the retention or disposal of exhibits should attempt to minimise any inconvenience to the owner of the property. It is desirable that in all cases exhibits should be returned to the owner, except in cases where compelling reasons exist not to, or where it will affect the outcome of the case.

Officers should consider returning the property to the owner and seek an undertaking that they will produce the property before a court as required. An undertaking may be requested as a condition of an order made (see s. 696: 'Orders issuer may make in relation to seized thing' of the PPRA and s. 77: 'Applications for orders in relation to seized things—Act, s 695' of the Responsibilities Code) or may be sought from the owner of the property at the officers discretion (see QP 0698: 'Undertaking to produce a thing before a court').

Exhibits may be retained in circumstances where:

(i) it is necessary and likely that the property should be viewed by a court or jury;

(ii) the exhibit is a murder weapon;

(iii) the exhibit is a document or money which must be retained in original form for evidentiary/court purposes (including 'tainted' property);

(iv) in the case of an offence involving property, the suspect denies the charge and maintains a claim to the property;

(v) the exhibit has certain characteristics which would tend to prove a matter before a court, and where those characteristics cannot be explained or presented via secondary evidence;

(vi) the exhibit appears to be the subject of contentious or conflicting opinions by expert witnesses; or

(vii) the suspect or the suspect's legal representative has indicated a desire to have the exhibit independently tested, examined or analysed.

In all cases where an officer elects to retain an exhibit rather than present secondary evidence, the officer must justify the decision to do so.

When no longer required to be retained, investigating officers should dispose of such exhibits in accordance with s. 4.6: 'Disposal of property' of this chapter unless otherwise directed by an order of a court.

Retention of homicide exhibits

Relevant exhibits related to homicide cases, that hold evidentiary value, should be retained for a period of up to 100 years. This extended retention period allows for:

(i) future advances in forensic technology;

(ii) potential legislative changes (e.g. double jeopardy reforms); and

OPM Issue 113 Public Edition

(iii) extended or delayed appeal processes.

After 100 years, it is highly unlikely that any offender would still be alive to initiate an appeal or face further prosecution.

Decisions regarding the retention of exhibits should be made on a case-by-case basis, taking into account all relevant factors, including:

(i) the nature and significance of the exhibit;

(ii) the status of the case (e.g. unsolved, under appeal); and

(iii) legal obligations and investigative needs.

Long term storage of homicide exhibits may be facilitated by transferring them to Evidence Management (EM) at Wacol, under the following conditions:

(i) prior to transferring exhibits to EM, prior approval is required from the OIC of EM. EM will advise on the correct storage cage into which exhibits can be packed and locked, audited and sealed for long term storage;

(ii) requests for transfer of cold case exhibits must first be referred to the Inspector of Homicide Group, Crime Command for approval;

(iii) all other solved homicide matters must be finalised with no ongoing appeals or Coronial matters outstanding;

(iv) where possible, secondary evidence should be preferred over storage of the primary exhibit;

(v) hazardous exhibits should be disposed of and not transferred to EM;

(vi) court records (full briefs of evidence etc.) should not be transferred to EM and should remain with the owning district; and

(vii) electronic media (VHS/C90/DVD) should be transferred to Electronic Media section for archiving.

To enable effective management of exhibits the 'bring up date' for review of each exhibit is to be varied depending on the phase of the investigation, as follows:

(i) 60 days during the 'active' phase of an investigation, to ensure exhibits no longer required are disposed of in a timely fashion;

(ii) 12 months upon arrest of suspect(s) or presentation of coronial brief, by:

(a) submission by the investigating officer of a supplementary report within the QPRIME occurrence;

(b) approval of extension is obtained from the officers supervising detective senior sergeant; and

(c) if approved, sending a QPRIME task/workflow to the relevant property office; and

(iii) 100 years upon finalisation by way of conviction, acquittal, coronial recommendation or other relevant event after:

(a) all exhibits that were not required to be retained are disposed of (see s. 4.6: Disposal of property' of this chapter);

(b) all checked out exhibits are returned to the relevant property point or disposed of via existing procedures;

(c) all remaining exhibits are 'checked in' to Evidence Management (Exhibits) (EM) or transferred, if held elsewhere;

(d) submission by the investigation officer of a supplementary report within the QPRIME occurrence:

- outlining:
  - compliance with (a) to (c) above; and
  - the reason for finalisation; and
- requesting forfeiture of all remaining exhibits at the expiry of the 100 years retention period (see s. 4.6.2: 'Forfeiture of property including orders' of this chapter);

(e) approval of extension is obtained from the:

- Detective Superintendent, Homicide Group for Crime Command officers; or
- district officer for regional detectives; and

(f) if approved, sending a QPRIME task/workflow to EM for action.

Upon the expiration of the 100 year retention period, exhibits of historic or public interest value should be considered for retention by the Queensland Police Museum, Queensland State Archives or other appropriate public entity prior to actual disposal or destruction (see s. 4.6: Disposal of property' of this chapter).

OPM Issue 113 Public Edition

4.2.7 Continuity of possession

ORDER

Members are to maintain the continuity of evidence in their possession and where accompanied by a running statement are to complete the relevant parts of the running statement prior to giving the exhibit to another member.

Running Statements

Running statements:

(i) QP 0694: 'Running statement (about relevant things in the possession of the Police Service)'; and

(ii) QP 0694A: 'Running statement (about relevant things in the possession of the Police Service—supplement)',

are completed in relation to a relevant thing in the possession of the Service that is evidence of the commission of an offence (see s. 724: 'Evidentiary provision about particular things in the possession of the police service' of the PPRA).

Investigating officers:

(i) may decide to use a running statement to later prove continuity of possession in relation to an exhibit which is a relevant thing in a criminal proceeding; and

(ii) are responsible for ensuring a running statement is initially prepared and accompanies the exhibit.

The running statement is:

(i) a contemporaneous record of each person in the chain of possession; and

(ii) to include:

(a) identification as a running statement;

(b) a description of the relevant thing in the possession of the Service that is evidence of the offence to which it relates;

(c) sufficient identification of the offence to connect it to the proceedings in which the certificate is evidence;

(d) where and when the relevant thing was found;

(e) who found the relevant thing;

(f) the name of each person to whom the thing was given after it was found;

(g) before the relevant thing was given to each person who had possession of it, how the relevant thing was kept secure from tampering; and

(h) how the thing was dealt with by each person who had possession of it including, but not limited to, how, when and by whom it was transported from person to person or place to place.

OPM Issue 113 Public Edition

Evidentiary certificate for criminal proceedings

When required to prove continuity of possession in relation to an exhibit in a criminal proceeding for which a running statement has been completed, the investigating officer is to:

(i) complete a QP 0684: 'Evidentiary certificate (about relevant things in the possession of the Police Service)' in relation to the running statement and attach a copy of the running statement relating to the exhibit;

(ii) ensure the completed QP 0684 is signed by the delegate; and

(iii) attach the signed certificate and copy of running statement to the brief of evidence for production in court.

The Commissioner's power to sign a certificate has been delegated to:

(i) commissioned officers;

(ii) OICs; and

(iii) detective senior sergeant—operations leaders, Crime Command,

(see Delegation D 24.46).

A copy of the certificate is to be given to the defendant or the defendant's lawyer at least 14 business days before the hearing day.

If the defendant intends to challenge a matter stated in the certificate, they must, at least 10 business days before the hearing day, give the prosecuting authority notice, in the approved form, of the matter to be challenged. The Form 109: 'Challenge notice' is the approved form which is to be used for this purpose.

Challenge notice

ORDER

Members requested to provide a challenge notice by the defendant or their lawyer, are to comply with the request by providing a Form 109 as soon as practicable.

If the defendant gives the prosecuting authority a completed Form 109, the certificate stops being evidence of the matter challenged.

Members receiving a completed challenge notice are to note the date and time of receipt and notify the investigating officer by QPRIME tasking.

The investigating officer, upon being notified of the challenge notice, is to:

(i) notify and provide the relevant prosecutor with a copy of the challenge notice; and

(ii) ensure that alternative evidence of continuity of possession is available (i.e. witness statements) and that relevant witnesses are notified and are available to attend and give evidence in the criminal proceeding as required.

4.2.8 Order in relation to seized thing

Officers **must** make an application within 30 days after an officer seizes the thing under s. 695: 'Application for order in relation to seized things' of the PPRA and are to:

(i) complete, as far as possible:

(a) QP 0704: 'Application for order in relation to thing seized'; and

(b) QP 0705: 'Order in relation to thing seized';

(ii) swear the QP 0704 before a suitable issuer and provide the issuer with the original of both forms for consideration;

(iii) where applicable, provide any further information and/or make any amendments to the QP 0705 as required by the issuer;

(iv) retain a copy of the completed and/or amended QP 0704 and the original of the completed QP 0705;

(v) ensure that a copy of each completed form is scanned as an attachment to the relevant QPRIME occurrence entry;

(vi) advise their officer in charge and property officer responsible for the property point at which the seized thing is held of the nature of the order made and give them a copy of the order; and

(vii) take whatever action in relation to the things as is indicated on the completed QP 0705.

4.3 Receiving property of a particular class

When receiving property of particular classes, members are to ensure that all the provisions of s. 4.2: 'Receiving property' of this chapter are complied with, to the extent that they are applicable when complying with this section.

4.3.1 Money

Money is regarded as high risk property and appropriate local procedures **should** be established, see s. 4.2.5: 'High risk property' of this chapter.

Officers in charge **are to** develop local station instructions to effectively deal with the receiving and taking possession of money resulting from daily cash transactions, warrants and cash bail (see s. 1.5.3: 'Regional, district and station instructions' of this Manual).

Upon receiving, taking possession or seizing money:

(i) it is to be placed in a suitable container (see s. 4.8.6: 'Minimum storage requirements' of this chapter);

(ii) a minimum of two persons, being:

(a) the reporting officer; and

(b) the person from whom the money was taken; and/or

(c) another member,

should sign across the seal of the container and, where available, clear tape should be placed over the seal and signature(s);

(iii) the container with money should be placed in a suitable secure storage facility, until the money is:

OPM Issue 113 Public Edition

(a) banked (see s. 4.7.2: 'Banking of Collections Practice' of the Financial Management Practice Manual (FMPM); or

(b) lodged at a property point; and

(iv) whenever the container with money is opened, a minimum of two members should be present to witness the breaking of the seal and counting of the money; and

(v) where the money is required to be resealed a new container should be used to enclose the previous container with money.

See also s. 11.9: 'Crimes (Currency) Act' of this Manual.

Australian currency

A member who takes possession of Australian currency which cannot lawfully be returned to a rightful claimant **is to** deposit it into the Queensland Police Service collections account (see s. 4.7.2 of the FMPM), except:

(i) found money of $50 or less (see s. 4.6.2: 'Receipting Practice' of the FMPM);

(ii) where its retention in its original form is:

(a) required by law; or

(b) considered necessary because of its peculiar evidentiary value and the reporting officer:

- has written permission of a commissioned officer; and
- has modified the QPRIME occurrence entry with a scanned copy of the written permission; or

(iii) currency which is of interest to a collector or dealer.

Found monies, retained as currency, are to be returned to the finder as currency and cheques are not to be drawn unless approved by the officer in charge. Where advice to the finder that the monies can be claimed, and the money has not been collected after seven days, the money is to be treated as unclaimed property and forfeited.

Copying currency

Officers **are to** ensure that money is not copied in any way that it may be:

(i) taken to be genuine; or

(ii) able to be dealt with in such a way as to make it appear to be genuine,

(see s. 11.9.3: 'Photographing or photocopying bank notes' of this Manual).

Money seized as an exhibit

Officers who seize money **are to** ensure that it is retained in its original form and that the QPRIME occurrence entry is endorsed accordingly.

Foreign currency

A member who takes possession of foreign currency **should** initially retain it in its original form and not bank it. If a lawful claimant to the currency is not located, the property officer should, if the currency does not need to be retained for exhibit purposes or an application for forfeiture:

(i) where the amount is significant, bank the foreign currency in the police collections account, then forward the amount raised in the transaction to the consolidated fund; or

(ii) where the currency has no significant value, exercise discretion and dispose of the currency by means appropriate to the circumstances.

Counterfeit currency

See s. 11.9.1: 'Investigations regarding counterfeit money' of this Manual.

4.3.2 Property of deceased persons

Property of a deceased person should not, under normal circumstances, be taken possession of by officers unless absolutely necessary or where relevant statutory provisions allow. The circumstances under which such property may be taken might include:

(i) safeguarding the property;

(ii) supplying evidence for the investigation into the death;

(iii) securing the scene; or

(iv) for the safety of other persons.

OPM Issue 113 Public Edition

When issuing a property receipt for the property of a deceased person, the relevant person to receive the receipt would be in order of priority:

(i) next of kin;

(ii) other relative;

(iii) a friend;

The property receipt should be retained until it can be given to the next of kin or other relative of the deceased person.

Officers returning property are to obtain an indemnity receipt or notebook acknowledgement of receipt from the person receiving the property.

4.3.3 Deleted

4.3.4 Seizure of documents

A member taking possession of a document should attempt to minimise any disruption caused by the seizure of that document to the commercial activity of the person or company from whom the document is taken.

Where original documents are required as proof of the contents and are available, secondary evidence may not be accepted.

Reporting officers should ensure compliance with the provisions of s. 623: 'Right to inspect seized documents' of the PPRA.

4.3.5 Queensland Health employees assisting with drug investigations

Officers are to be mindful of the limitations on nursing and other health employees to supply information in relation to the circumstances of receiving dangerous drugs from persons in the course of their duties (see s. 142: 'Confidential information may not be disclosed by designated persons' of the *Hospital and Health Boards Act*).

Officers are to take these factors into consideration when determining the likelihood of sufficient evidence existing for the successful prosecution of an offender. This factor will then determine whether police should attend the location nominated by a QH employee and collect the suspected dangerous drugs or advise QH to arrange disposal of the drugs in compliance with s. 125 of the DMA.

4.3.6 Property from covert operations

Chapter 20: 'Other standard safeguards' of the PPRA does not apply to officers performing functions in a covert way (see s. 620: 'Chapter does not apply to covert operations' of the PPRA).

Sections of Chapter 20 relevant to property are:

s. 622: 'Receipt for seized property'

s. 623: 'Right to inspect seized documents'

s. 637: 'Supplying police officer's details'

ORDER

In instances where an officer obtains possession of property as a result of a covert operation or action, the officer who is the appointed exhibit officer for that operation is to assume the responsibilities of the reporting officer. Possession of the property is to be passed from the covert operative to the appointed exhibit officer in accordance with the procedures set down in the relevant operational order.

Officers performing duty as a covert operative in the course of an authorised covert operation, or otherwise undertaking a legitimate covert role, are exempted from the specific provisions of this chapter, provided that this exemption shall only apply when compliance with this chapter would jeopardise the success of the covert operation or the safety of the covert operative, or other persons.

4.3.7 Weapons

Officers should make every effort to identify the serial number of each weapon which comes into police possession and seek further advice from Weapons Licensing Group if the serial number is not immediately apparent.

Officers should utilise QPRIME to identify if a firearm is already recorded before entering a new record. Duplication of firearm entries should be rectified by generating a workflow task to have the entries merged. Officers may be required to provide photographic evidence of the firearm to achieve a merge record.

Members intending to lodge or store weapons at a property point or otherwise handle weapons are to:

(i) comply with:

(a) the relevant provisions of s. 14.6.4: 'Safety of firearms' of this Manual;

OPM Issue 113 Public Edition

(b) s. 93: 'Firearms to be kept unloaded other than when being used to shoot' of the Weapons Regulation; and

(ii) ensure each weapon:

(a) has the bolt removed or the action broken; or

(b) is zip tied or otherwise secured in such a manner that the breach of each weapon is securely held open.

Weapons relinquished to the Service

Where a member receives a relinquished weapon they are to:

(i) conduct the necessary inquiries to ensure that the person is legally entitled to relinquish the weapon including:

(a) checking the serial number of the weapon with the weapons register to ensure it is not a weapon of interest; and

(b) verify the identity of the person relinquishing the weapon;

(ii) inform the person relinquishing the weapon that:

(a) as a result of relinquishing the weapon they are relinquishing ownership of the weapon(s) absolutely and totally to the Queensland Police Service;

(b) the relinquished weapon will become the property of the State and is subject to any direction given by the Commissioner; and

(c) the weapon will be destroyed after a period 10 days upon receipt of the weapon; and

(iii) complete a QP 0368: 'Relinquishing order' or QP 0368A: 'Relinquishing order (weapons)' (available in QPRIME), and have the person relinquishing the weapon sign the form. Where there is no existing occurrence, officers are to enter a relinquishing occurrence in QPRIME. Officers should ensure this is a QP occurrence and not link any property to a QI occurrence.

Where a person who has previously relinquished a weapon to the Service makes inquiries with a member in relation to the return of the previously relinquished weapon, the member is to make every reasonable attempt to return the weapon to the person providing:

(i) the weapon has not been destroyed;

(ii) the person is legally entitled to possess the weapon; and

(iii) the person provides any necessary accompanying documentation required to possess the weapon, e.g. Form 27: 'Permit to acquire'.

When a member is satisfied the weapon can be returned to the person, the member is to obtain approval from a commissioned officer prior to returning the weapon.

ORDER

Weapons are not to be disposed by way of public auction.

Weapons surrendered to approved licenced dealers and stations under the National Firearms Amnesty

The National Firearms Amnesty policies and procedures for the surrender of firearms and prescribed thing (see s. 168B(8): 'Amnesty for firearms and prescribed things in particular circumstances' of the *Weapons Act* (WA)) are available on the National Firearms Amnesty webpage on the Weapons Licensing Group SharePoint page.

Under the Amnesty, firearms and prescribed things can be surrendered to an approved licenced dealers (ALD) (list available QPS Internet) and station. Where items are surrendered to an approved licence dealer it can be retained for registration, sale or destruction, unless the item is a category R weapon (see s. 8: 'Category R weapons' of the Weapons Categories Regulation). ALDs are not permitted to retain category R weapons and are to surrender them to an officer (see s. 168B(4) of the WA). This also applies where the ALD is also a licenced armourer permitted to possess such weapons for specific purposes, such as to make them permanently inoperable.

ORDER

The OIC of a station containing an ALD under the National Firearms Amnesty within the boundaries of their division are to coordinate the collection and transportation of all category R weapons surrendered to the ALD.

Disposal considerations for Amnesty surrendered category R weapons

Category R weapons surrendered under the Amnesty are considered forfeited to the State, however many are considered to hold value or historical significance. When arranging for the disposal or destruction of these weapons, members are to consider whether the ALD has requested the return of the weapon and whether the weapon can be appropriately disposed of by providing it to a licensed armourer at the request of the ALD who surrendered it.

It is appropriate, where Weapons Licensing has provided approval for the disposal of the category R weapon, for the delegated commissioned officer (see 'Weapon forfeited to the State' in s. 4.6.10: 'Disposal of weapons and weapon

OPM Issue 113 Public Edition

related things' of this chapter and Delegation D 24.24) to approve the return of the weapon to a licensed armourer nominated by the ALD. Members are then to arrange disposal of the relevant item by arranging transportation of the category R weapon to the licensed armourer.

4.3.8 Ammunition

Ammunition is an explosive under the *Explosives Act* (EA). The Chief Inspector, Explosives Inspectorate is the officer in charge of the government magazines which provide centralised secure storage facilities for explosives within Queensland.

Small arms ammunition may be temporarily stored at a police property point in accordance with Part 8, Division 2: 'Requirements for storing sch 4 explosives' of the Explosives Regulation (ER).

Ammunition which cannot be stored under the ER should be delivered to an EA inspector for storage at a government magazine and subsequent disposal. This includes ammunition that is required for evidentiary purposes or examination.

Ammunition lawfully seized may be stored at a government magazine pending:

(i) the outcome of court proceedings; or

(ii) results of investigations, inquiries or examinations.

Ammunition which has been directed to be destroyed is to be given to an EA inspector for destruction.

To transfer ammunition to the Explosives Inspectorate for storage and/or disposal, members are to:

(i) request a verbal approval from a commissioned officer to transfer possession to the explosives inspector (see Delegation D 24.25); and

(ii) where such an approval:

(a) is made:

- transfer possession, ensuring an indemnity or other appropriate receipt is obtained from the EA inspector;
- advise the commissioned officer that possession of the thing has been transferred; and
- ensure that the indemnity receipt or other appropriate receipt is scanned as an attachment to the relevant QPRIME occurrence; or

(b) is not made, the thing should be dealt with in accordance with the appropriate provisions of this chapter.

Commissioned officers satisfied that the ammunition:

(i) has been directed to be destroyed; or

(ii) cannot:

(a) be stored safely at a property point; or

(b) lawfully returned to its owner or lawful possessor,

are to approve transfer of ammunition to the Explosives Inspectorate, upon request.

Ammunition which may be dangerous due to its condition or specific characteristics (e.g. military ammunition containing an explosive charge) should be dealt with in accordance with s. 4.3.9: 'Dangerous/noxious things' of this chapter.

4.3.9 Dangerous/noxious things

Dangerous and noxious things may include articles such as commercial explosives, military ordnance, old and unstable ammunition or pyrotechnics, poisons, chemicals, damaged lithium-ion batteries and any other thing which cannot be safely stored at a property point, but does not include drug matter.

Officers taking possession of a dangerous or noxious thing are to deal with it in accordance with s. 723: 'Commissioner may make arrangements' of the PPRA.

Members who are required to deal with dangerous/noxious things are to take all necessary precautions, including seeking appropriate expert advice and/or assistance, to prevent, as far as is practicable, exposure of any person to risk of illness or injury which may be caused by the thing e.g. not storing dangerous/noxious or hazardous chemicals in close proximity to one another if this creates a potential risk of explosion or fire.

Members should handle and store dangerous/noxious things in accordance with expert advice received.

Officers who take possession of a dangerous or noxious thing that cannot be safely stored or lawfully returned to its owner or the person who had lawful possession of it should, as soon as practicable:

(i) identify an appropriate government department or agency which can lawfully store and/or dispose of the thing, and an appropriate officer within that department or agency who may take possession of the thing;

OPM Issue 113 Public Edition

(ii) request a verbal direction from a commissioned officer to transfer possession of the thing to the identified appropriate officer (see Delegation D 24.25); and

(iii) where a direction is:

(a) made:

- transfer possession of the thing, ensuring an indemnity receipt is obtained from the person to whom possession was transferred;
- advise the commissioned officer of the transfer of possession; and
- ensure that the indemnity receipt is scanned as an attachment to the relevant QPRIME occurrence; or

(b) not made, the thing should be dealt with in accordance with the appropriate provisions of this chapter.

Commissioned officers should give a verbal direction under this policy if they are satisfied:

(i) the thing is a dangerous or noxious thing:

(ii) the thing cannot be stored safely or lawfully returned to its owner or the person who had lawful possession of it;

(iii) the thing is not drug matter;

(iv) the nominated government department or agency can lawfully store and/or dispose of the thing; and

(v) the nominated appropriate officer is:

(a) able to safely receive and deal with the dangerous/noxious thing; and

(b) willing to take possession of and deal with the dangerous/noxious thing.

4.3.10 Potentially harmful things

Potentially harmful things which have been seized pursuant to s. 603: 'Power to seize potentially harmful things' of the PPRA are automatically forfeited to the State at the time of seizure.

Potentially harmful things may include volatile substances such as aerosols and solvents. (see s. 6.5.5: 'Potentially harmful things (volatile substance misuse)' of this Manual).

A volatile substance may be considered of no real value when the cost of seizing and disposing of the item exceeds any perceived value of the item.

Officers who seize potentially harmful things that are of no real value may dispose of such items by placing those in a refuse bin. Officers should be mindful when disposing of such potentially harmful things that people may seek to retake possession of such items to reuse it.

Where practicable, officers should render potentially harmful things unusable, e.g. removing the nozzle from an aerosol can prior to disposal.

Section 4.2: 'Receiving property' of this chapter does not apply to items seized under s. 603 of the PPRA.

4.3.11 Perishable things

Reporting officers or property officers are to seek approval verbally or in writing from an authorised delegate (see Delegation D 24.18) to ensure that any perishable property:

(i) that cannot be returned to its owner or the person who had lawful possession of it before coming into possession of the Service; or

(ii) whose owner or the person who had lawful possession of it before coming into possession of the Service cannot be contacted to obtain directions about how to deal with it,

is disposed of, under s. 716: 'Perishable things' of the PPRA:

(i) prior to spoilage if possible;

(ii) in a way which does not cause an actual or apparent conflict of interest (e.g. a conflict of interest may be apparent if a friend, relative or business associate of a person in a position to influence how a perishable thing may be disposed of may benefit from its disposal); and

(iii) in a way that benefits the community, unless it is reasonably suspected that the thing is unfit for human consumption. In such a case, the thing is to be disposed of in a way that does not cause a danger to anyone in the community generally.

A suitable method of disposal of perishable foods that benefits the community includes giving it to a charitable organisation which provides meals for homeless, infirm or elderly persons.

OPM Issue 113 Public Edition

Suitable methods of disposal of perishable foods which are deemed unfit for human consumption include incineration or depositing at an appropriate waste disposal facility.

It is the responsibility of officers in charge of stations and establishments to which a property point is attached to ensure that perishable things are disposed of as soon as possible.

4.3.12 Animals

Section 4.2: 'Receiving property' of this chapter does not apply to animals seized and moved under Chapter 6, Part 4: 'Removal powers for animals' of the PPRA where a QP 703A: 'Notice to owner re seizure of animal' is to be issued by the reporting officer (see also s. 4.9.4: 'Publication of a notice on the QPS website' of this chapter).

Animals taken are to be returned or disposed of in accordance with the provisions of the PPRA and s. 4.6.11: 'Disposal of animals' of this chapter as soon as allowed.

Also see s. 450EB: 'Application for stock disposal order' of the Criminal Code.

Caring for animals in police possession

Reporting officers who take possession of an animal are to ensure the animal is correctly cared for until it has been lawfully disposed of (see s. 689: 'Particular provision about handling animals in the possession of the police service' of the PPRA). Also see s. 4.8.7: 'Minimum storage requirements' of this chapter.

If an officer seizes an animal the Service is obliged to meet the costs of its transportation, housing, feeding and veterinary care. Although, in some cases, the Department of Primary Industries (DPI) and the Royal Society for the Prevention of Cruelty to Animals Inc. (RSPCA) may be able to assist in providing housing and veterinary care for seized animals.

If DPI or RSPCA take possession of an animal on behalf of the Service, the animal is still in the possession of the Service and the reporting officer is responsible for arranging the lawful disposal of the animal (see Chapter 21, Part 3: 'Dealing with things in the possession of police service' of the PPRA).

Officers are to seek advice and assistance from appropriate persons or organisations to ensure the correct level of care is given to such animals. Suitable advice or assistance with respect to the care of animals may be obtained from sources including:

(i) members of the Major and Organised Crime Squad (Rural);

(ii) DPI;

(iii) RSPCA;

(iv) local vets;

(v) Wildlife and Ecosystems, Department of the Environment, Tourism, Science and Innovation; and

(vi) local animal shelters, agistment services and kennels.

Where the caring of a seized animal incurs substantial costs (to either the Service or another agency such as the RSPCA/DPI) the reporting officer should consider whether the provisions of s. 697: 'Cost recovery for animal held in possession of police service' of the PPRA apply. If so, the reporting officer is to submit a report through their region/command finance manager/officer for consideration. Upon receipt of such report, finance managers/officers are to, if it is appropriate in the circumstances, attempt to recover costs in accordance with s. 697 of the PPRA and s. 13.30: 'Starting a civil proceeding' of this Manual.

OPM Issue 113 Public Edition

4.4 Temporary removal of property from property points

ORDER

A member who temporarily removes property, or part of some property from a property point is to:

(i) at the time of the removal, or

(ii) if not immediately available as soon as practicable,

updated the 'Stores Management' tab of the relevant property entry in the QPRIME occurrence, showing:

(i) the date the property is removed;

(ii) an indication that the property has been removed;

(iii) a description of the property removed;

(iv) their name and rank/designation; and

(v) the reason for removing the property.

Property should not be removed from a property point unless the removal is for:

(i) disposal;

(ii) court;

(iii) a test, examination or analysis which cannot be undertaken at the property point; or

(iv) appropriate public display to identify owners etc.

A member who removes property from a property point:

(i) is solely responsible for that property during the time that it is shown in the QPRIME occurrence as being out of the property point;

(ii) for the purpose of delivering that property to non-Service persons is to obtain a receipt for all property. The receipt is to be returned to the property point and scanned into the relevant QPRIME occurrence;

(iii) is to return that property immediately if it is no longer required to be out unless the property is finalised in accordance with s. 4.6.21: 'Finalising a property entry in QPRIME' of this chapter.

Also see s. 3.8.20: 'Delivery of documentary exhibits to the Office of the Director of Public Prosecutions' of this Manual.

4.4.1 Deleted

4.4.2 Exhibits retained by the court

When an item is tendered as an exhibit and the court intends to retain it for the duration of the proceedings, the depositions clerk will enter all such property into the court's property register. In the case of drugs, the police prosecutor is to apply to the court to have the drugs returned to the arresting officer at the end of each day the drugs are required as an exhibit. See s. 3.4.12: 'Drug exhibits' of this Manual.

An officer who receives possession of drugs because of a court order is to deliver those to a suitable property point. The officer is responsible for returning the drugs to the court on the next court day if required by the court.

At the completion of a matter, the courts usually make a direction for the disposal or return of property that has been used as exhibits. The reporting officer should make inquiries to ensure that all exhibits have been accounted for and removed from the court as directed and disposed of in accordance with any order of the court, any legislative requirement, or Service policy.

4.4.3 Retention of exhibits after person committed for trial or sentence

To ensure the security of exhibits to be produced at superior court proceedings, arresting officers should retain possession in accordance with the requirements of this chapter. Documentary exhibits tendered during committal proceedings should remain with the file on the proceedings for forwarding to the appropriate office of the Director of Public Prosecutions (State).

Documentary exhibits include exhibits such as photographs, certificates, audio/video tapes and transcripts.

At the conclusion of committal proceedings where a person is committed for trial or sentence, police prosecutors are to request the presiding magistrate to make an order that all non-documentary exhibits be returned to the custody of the arresting officer for production at any future proceedings.

Arresting officers are to ensure that property returned to their possession by a court at the conclusion of a committal proceeding is promptly dealt with in accordance with this chapter.

4.5 Examination of property

ORDER

Property officers are to be present for the examination of property within their property point. This excludes examinations conducted on a vehicle held in a property point which is a vehicle holding yard.

4.5.1 Forensic examination

Property may be forensically examined at a:

(i) property point;

(ii) forensic laboratory;

(iii) location agreeable to a forensic officer; or

(iv) in situ, where the attendance of the forensic officer is desirable or convenient.

Forensic examination is to be conducted in consultation with the relevant forensic and property officers. The reporting officer is to coordinate and be present at examinations where possible. Where this is impractical, the forensic officer and another member such as a property officer are to undertake the task. This ensures corroborative practices and evidence continuity is maintained.

OPM Issue 113 Public Edition

A member removing property for forensic examination is to comply with s. 4.4: 'Temporary removal of property from property points' of this chapter.

Where property is to be removed from a property point for forensic examination by:

(i) a member of the Service, the original reporting officer is to ensure that a general task or QP 0127 is generated within the QPRIME occurrence to the unit conducting the examination outlining:

(a) date and type of court proceedings (if known);

(b) court location and file no (if known);

(c) date exhibit seized;

(d) any known biohazard or high chemical risk;

(e) if the exhibit has been stored within fridge or freezer prior to submission;

(f) examinations required and order of testing priority; and

(g) exhibit return/disposal—authorisation (if appropriate); or

(ii) an organisation outside of the Service (e.g. Forensic Science Queensland), the original reporting officer is to ensure that:

(a) any photographic, fingerprint or other necessary examination are completed;

(b) a QP 0127: 'Submission of Articles for Forensic Examination' (available in QPRIME) is completed and where appropriate checked by a forensic officer, with the original to accompany the property and the property office copy to be added to the relevant QPRIME occurrence. See s. 2.19.6: 'Lodgement of forensic samples for testing' of this Manual;

(c) only items which require analysis are delivered;

(d) items are packaged appropriately;

(e) items are fully listed on property tags;

(f) where a receipt is issued, it is added to the relevant QPRIME occurrence; and

(g) they:

- provide the organisation with details of the court hearing date(s) and details of any subsequent adjournment(s) as soon as practicable; and
- immediately advise the organisation in cases where analysis is no longer required, e.g. plea of guilty, charges withdrawn.

Where property lodged and examined at another place, is required to be returned to the Service, the property officer at the original property point where the property was last held prior to lodgement is responsible for arranging for the return of the property to the property point.

OPM Issue 113 Public Edition

4.5.2 Forensic examination of drug exhibits

Analysis of Cannabis (plant matter) is conducted by certified analysts within Forensic Services Group (FSG)

Forensic Biology and Forensic Chemistry are part of Forensic Science Queensland (FSQ) that share a forensic property point at the Queensland Public Health and Scientific Services (QPHSS) campus at Kessels Road, Coopers Plains.

Forensic Chemistry, FSQ, are the entity responsible for issuing certificates of analysis of drug exhibits.

Certification is only required in specific circumstances, items should not be sent to Forensic Chemistry for analysis unless all conditions are met.

Presumptive analysis as per s. 4.5.5: 'Presumptive screening tests of suspected drugs and precursors' of this chapter must be conducted (where possible) to minimise the need for analysis by Forensic Chemistry.

If a reporting officer is unable to arrange presumptive analysis by an authorised Service member, they may submit the drug exhibits to Forensic Chemistry for presumptive analysis only in the first instance. The QP 0127 (available in QPS Forms Select) must indicate the drug exhibit is being sent for presumptive analysis to enable charges to be preferred.

Prior to forwarding drug exhibits for analysis at Forensic Chemistry, the QP 0127 (available in QPS Forms Select) must be checked by the OIC to verify analysis (either presumptive or full certification) is required.

Analysis of drug exhibits

A certificate of analysis or identification is **not** required for drug exhibits, unless:

(i) an application for a forfeiture order is to be made, or destruction is authorised under the PPRA (see s. 4.6.14: 'Disposal of drug matter' of this chapter) under the following sections:

(a) 705: 'Destruction of drug matter soon after it is seized' (see 'Safe destruction of drugs to prevent further offences' of this section);

(b) 713: When drug matter may be destroyed' of the PPRA (see 'Destruction of drug matter if notice required' of this section);

(ii) the defendant has pleaded not guilty, and a date has been set for committal or hearing;

(iii) a request has been made by a judge or magistrate, police prosecutor or Crown Law officer or the defence; or

(iv) charges that relate to the drug exhibit can only be dealt with by way of indictment (see ss. 13: 'Certain offences may be dealt with summarily' and 118: 'Proceedings for offences' of the *Drugs Misuse Act*).

A member may remove drug matter from a property point if necessary for forensic examination. However, an officer, in the presence of the member, is then responsible for:

(i) opening the property bag;

(ii) removing and handling of the drug matter;

(iii) returning of the drug matter to the property bag;

(iv) resealing of the original property bag; and

(v) noting on the property bag the time and date the property bag was resealed.

The member is to then:

(i) return the property bag to the property point, if it has been removed;

(ii) ensure the QPRIME property entry is noted indicating the time, date and reason the property bag was opened or removed; and

(iii) ensure, if applicable, an entry is noted on a running statement, see s. 4.2.7: 'Continuity of possession' of this chapter.

Prioritisation of forensic examination of drug matter

Drug matter submitted to the FSQ are to be prioritised according to the following schedule:

(i) **Priority One**—urgent and extenuating circumstances with the approval of a commissioned officer (or AO8 and above) e.g. unknown drugs causing serious illness or death (to ensure appropriate public health messaging), major drug operations and seizures, or significant covert seizures, or for provision of critical evidence to an ongoing investigation;

(ii) **Priority Two**—scheduled trial, pre-trial, committal and sentencing hearings (when and if required) in a magistrates or higher court;

(iii) **Priority Three**—analysis required by ODPP or court, or required by prosecutor/court to determine court jurisdiction;

(iv) **Priority Four**—unknown drugs where no admissions made and presumptive test inconclusive and analysis required for charging; and

(v) **Priority Five**—the offender has failed to appear or a warrant for the offender's arrest has been issued and the Service is relying on Chapter 21, Part 3, Division 3, Subdivision 3: 'Destruction of drug matter if notice required' of the PPRA.

ORDER

Officers submitting drug matter for analysis are to ensure that the appropriate priority and justification is included on the QP 0127, and that the QP 0127 (available in QPS Forms Select) has been checked by the OIC and property officer to ensure sufficient justification for analysis exists.

Forensic Science Queensland

Drug matter submitted to Forensic Science Queensland (FSQ) for examination is to be packaged separately in appropriate packaging ensuring:

(i) only the drug matter in its primary container, e.g. white powder in a plastic bag, or a liquid contained in a vial, is to be forwarded; and

(ii) excess packaging is removed. The outer heat-sealed package which contains the entire exhibit or a plastic bag which encloses another container which is leaking or damaged is not considered to be excess packaging.

Hypodermic syringes, needles and utensils

Officers must not decant the contents of a hypodermic syringe with needle attached. Any syringes with needles must be packaged inside an Australian Standard AS/NZ 4261:1994 compliant container. If a syringe does not contain a needle, the contents may be expelled into another container to prevent spillage.

OPM Issue 113 Public Edition

Hypodermic syringes and needles should not be sent to the FSQ for analysis unless sufficient justification exists (e.g. offences of unlawful killing, serious assault or trafficking). Offences or suspected offences of possession of minute quantities of a dangerous drug in a hypodermic syringe or needle do not constitute sufficient justification. Generally, if a quantity of the suspected substance is not visible, analysis is not justified.

Officers believing the analysis of any hypodermic syringe, needle or utensil is required, are to forward an email request (through their OIC) with justification for the approval. A copy of the email approval for analysis, must be attached to the exhibit prior to lodging the exhibit at the FSQ.

Offences of the possession of utensils (such as items that can be used for the administration, consumption and preparation of a dangerous drug) are not to be sent for analysis unless justifications exist, such as the analysis is required to support a charge other than possession; e.g. scales to support a charge of supply dangerous drug.

Photographs

Photographs are to be taken of drug matter and tendered as secondary evidence in court proceedings see s. 4.2.6: 'Retention of exhibits' of this chapter. Drug matter should be disposed of at the earliest opportunity to reduce health and safety risks associated with its storage.

Transferring drugs from packaging

Where forensic examination of drug packaging is required, the reporting officer should transfer the drug matter into new packaging. Where this is impractical, the reporting officer is to coordinate another officer to undertake the task.

Drug transfers should consist of the following:

(i) the transfer must be electronically recorded;

(ii) the drugs are to be returned to a property point;

(iii) the drug packaging is to be retained and lodged as an exhibit;

(iv) handling of the exhibit must be minimal to avoid destruction or contamination of evidence; and

(v) if DNA examination is required the transfer must be conducted at an appropriate forensic facility.

Officers should exercise extreme caution when conducting a drug transfer and wear appropriate PPE (gloves and face mask). Officers should be familiar with the use of Naloxone for potential opioid exposure (see s. 14.28.5: 'First aid response and Service First Aid kits' of this Manual).

Cannabis analysis

A certificate of analysis for Cannabis is issued by a person appointed as an analyst (see 'Appointments as analysts under the Drug Misuse Act' of s. 2.19.6: 'Forensic Services Group (FSG)' of this Manual). Brisbane and South East Regions may arrange cannabis examinations via emailing cannabisbookingbris@police.qld.gov.au, while all other regions can arrange examinations by contacting their local Forensic Manager, Scientific or SOCO to request their nearest cannabis analysts.

The Cannabis analyst is to issue a certificate as to the results of the analysis or examination and provide that certificate to the member requiring the examination.

Forensic facilities are not to be used for the storage of dangerous drugs. Dangerous drugs will only be examined in the presence of the delivery officer. At the completion of the forensic examination, all drug matter is to be returned to the delivery officer.

For further information see 'Botanist Appointment – Cannabis Examinations and Certification' site located on the Analytical Services Unit SharePoint page.

Certificate of analysis

A member who receives a certificate from an analyst is to:

(i) modify the QPRIME property entry relating to those drugs by inserting the information taken from the certificate of analysis relating to drug type and weight or quality of the drugs;

(ii) provide a copy of the certificate of analysis to the relevant prosecuting authority as soon as practicable; and

(iii) scan the certificate as an attachment to the relevant QPRIME occurrence;

4.5.3 Saliva analysis

For improved viability, saliva samples should be forwarded urgently and received by Forensic Services Queensland (FSQ), at the Queensland Public Health and Scientific Services (QPHSS) campus (see SMCD) within seven days from the time the sample was obtained.

If unavoidable delays are expected, saliva samples are to be refrigerated and timeframes documented appropriately.

A property officer responsible for the dispatch of saliva samples should:

OPM Issue 113 Public Edition

(i) check for saliva samples each business day;

(ii) where a QP 0694: 'Running statement' has been used, (see s. 4.2.7: 'Continuity of possession' of this chapter) complete the relevant sections, appropriately retain and file the document; and

(iii) ensure that both the sample and applicable QP 0779: 'Saliva analysis (traffic) notice' or QP 1009: 'Saliva analysis (relevant assault) notice' is forwarded in person, or via tracked postage to FSQ at the QPHSS campus.

See also s. 7.9: 'Handling of blood, urine and saliva specimens' of the TM.

4.5.4 Substances not requiring examination under Drugs Misuse Act

ORDER

An investigating officer is to use the provisions of:

(i) s. 130: 'Evidence of controlled substance by label';

(ii) s. 131: 'Evidence of equipment being used to produce particular dangerous drugs'; or

(iii) s. 131A: 'Evidence of medicine or poison or veterinary chemical product by container',

of the *Drugs Misuse Act* (DMA), if they apply, to prove an allegation that:

(i) a substance is a controlled substance;

(ii) particular equipment was used in the production of a relevant dangerous drug; or

(iii) a substance is a medicine or poison or veterinary chemical product,

for proving an offence against the DMA.

Advice on these provisions can be sought from State Drug Squad, Drug and Serious Crime Group, Crime Command or another suitably experienced officer.

To use the provisions above, investigating officers are to:

(i) serve a QP 0669: 'Prosecution information notice (available in QPRIME) on the offender as soon as practicable and within 28 days after commencing the prosecution;

(ii) complete the oath of service (see s. 56: 'Service of summonses' of the *Justices Act*); and

(iii) deliver a completed copy to the:

(a) prosecuting authority responsible for matter; and

(b) property officer at the property point where the exhibit is stored.

Notice challenged

A defendant can challenge the QP 0669 by serving on the Commissioner a 'challenge notice' within 28 days of service or as extended (see s. 131B: 'Evidence for ss 130, 131 and 131A—notice of challenge' of the DMA).

ORDER

A member of the Service receiving a 'challenge notice' on behalf of the Commissioner is to ensure the notice is delivered as soon as possible to the investigating officer named on the form.

The investigating officer upon receipt of the 'challenge notice' is to:

(i) deliver a copy of the 'challenge notice' to the:

(a) relevant prosecuting authority; and

(b) relevant property officer; and

(ii) arrange for the property to be examined (see s. 4.5.2: 'Forensic examination of drug exhibits' of this chapter).

Notice not challenged

ORDER

Where a challenge notice is not received within the relevant period the investigating officer is to ensure a statement(s) addressing the requirements of the relevant provision is completed and delivered, as soon as practicable, to the prosecuting authority.

A statement prepared for this purpose:

(i) can be made by:

(a) the investigating officer;

(b) a member of the State Drug Squad, Drug and Serious Crime Group, Crime Command; or

(c) other suitably experienced person (e.g. an Environmental Health Officer);

OPM Issue 113 Public Edition

(ii) should refer to the:

(a) maker's reasonable belief the:

- container contained a controlled substance;
- equipment was used in the production of the relevant dangerous drug; or
- sealed medicine or poison container contained a medicine or poison or veterinary chemical product; and

(b) evidence which supports that belief;

(c) defendant having been served with the QP 0669; and

(d) non-receipt of a challenge notice from the defendant.

Court rulings on evidentiary provisions

The court will decide whether or not to accept allegations without the need for examination.

ORDER

The prosecuting authority is to notify the investigating officer of the outcome of any court ruling on the evidentiary provisions being proof of the allegations as soon as practicable.

Where the court rules that the provisions are not sufficient to prove the allegation, the:

(i) prosecuting authority is to seek an adjournment of sufficient length to allow the substance or equipment to be examined; and

(ii) investigating officer is to, as soon as practicable, ensure the property is examined (see s. 4.5.2: 'Forensic examinations of drug exhibits' of this chapter).

Where the court rules the provisions are sufficient the investigating officer is to consider whether the items should be retained as evidence until conclusion of proceedings or whether secondary evidence (i.e. photographs) alone is sufficient.

4.5.5 Presumptive screening tests of suspected drugs and precursors

Presumptive tests of suspected drugs and precursor materials are only to be conducted by TruNarc analyser qualified officers. The TruNarc analyser cannot test trace amounts such as film or powder and requires a sample at least the size of a grain of rice.

Where an officer locates a suspected drug or precursor material that they consider should be presumptively tested with the TruNarc analyser, they are to:

(i) contact a TruNarc analyser qualified officer within their respective command, region or district;

(ii) follow the advice of the TruNarc analyser qualified officer as to the safe handling procedures and storage procedures; and

(iii) consider contacting specialist units such as Synthetic Drug Operations Unit (see s. 2.6.6: 'Clandestine illicit drug laboratories' of this Manual) or Emergency Ordnance Response Team (see s. 17.10.1: 'Explosive Ordnance Response Team (EORT)' of this Manual) where doubt exists as to the nature of the item or how it should be handled.

Forensic Science Queensland (FSQ) also has the capability to conduct presumptive screening tests of substances to determine whether the substance is a dangerous drug. Officers are to only request a presumptive screening test by FSQ if they are unable to source appropriate QPS resources to undertake the presumptive testing.

TruNarc analyser qualified officers

The TruNarc analyser is a presumptive hand-held device, designed for law enforcement, to analyse substances including liquids, solids, and powders even through sealed packaging. The device can provide an onsite result under certain circumstances and is designed to be used in a typical field environment.

A TruNarc analyser qualified officer includes:

(i) an officer;

(ii) a member of the Drug Laboratory Response Team (DLRT); and

(iii) a property officer,

who has completed the prerequisite initial user training (Ignite Code QC1468_01 TruNarc Device or QE0453_01 TruNarc Analyser).

Each district and command is to nominate a qualified officer to oversee the safe storage, software updates and compliance/equipment management of each TruNarc analyser.

OPM Issue 113 Public Edition

Using the TruNarc analyser

The TruNarc analyser is not intrinsically safe, and qualified officers are to take all necessary safety precautions when using the device to ensure its safe operation as incorrect use can be unsafe. The TruNarc analyser uses a class IIIB level laser energy, which can be hazardous. Exposure to levels of laser energy above the maximum permissible exposure (MPE) can be harmful to the eye.

Safety precautions when using the TruNarc analyser include:

(i) qualified officers wearing appropriate personal protective equipment (PPE) which includes the wearing of:

(a) eye safety glasses which comply to Australian Standards AS/NZS 1336:2014: 'Eye and face protection—Guidelines'; and

(b) protective gloves which comply to Australian Standards AS/NZS 2161.1:2016: 'Occupational protective gloves—Selection, use and maintenance'. Black gloves are not to be used;

(ii) avoiding exposure to the beam, including exposure to specular (mirror-like) reflections;

(iii) never pointing the TruNarc analyser at any person;

(iv) no person being within 120cm of the TruNarc analyser's laser beam during a scan. This distance is measured from the laser's aperture;

(v) never scanning anything that is suspected to be thermally sensitive material, e.g. explosives, gun powder, triacetone triperoxide (TATP), phosphorous (white/red);

(vi) always minimising the size of the sample when scanning any items including liquids, solids and powders;

(vii) when scanning any substance contained in a sealed vessel (e.g. capped jar or vial) making sure the lid is undone and released as pressure build up could occur during scanning with a subsequent explosion of the vessel occurring;

(viii) not using it within an environment which holds volatile or flammable gases;

(ix) only using it within a clandestine drug laboratory if the operator is:

(a) trained and qualified to enter clandestine drug laboratory;

(b) trained in the safe, proper use of the TruNarc analyser in a clandestine drug laboratory; and

(c) directly authorised by the site control officer (SCO) at a clandestine drug laboratory investigation to use the TruNarc analyser; and

(x) not using it on any material/substance which contains dark matter, nor should the device be used to test anything which is on a background which is itself dark in colour.

The limitation of the TruNarc analyser is that its accuracy is dependent on the purity of the substance being analysed. Therefore some "inconclusive results" will appear with materials/substances that have been either cut or mixed with other substances, chemicals or diluted to a low percent.

Officers using the TruNarc analyser should always be reminded of their obligations placed upon them under the *Work Health and Safety Act* with emphasis on s. 28: 'Duties of workers'.

Queries regarding the TruNarc analyser device can also be directed to the on-call number located on the Synthetic Drug Operations Unit SharePoint page.

OPM Issue 113 Public Edition

4.6 Disposal of property

4.6.1 General requirements of disposal

ORDER

Members who dispose of a property item are to:

(i) before disposing of the property ensure that the correct authority for the disposal is used;

(ii) forward the documentation generated by the disposal to the relevant property officer; and

(iii) where disposal is not by destruction, a QP 0034: 'Indemnity receipt' should be signed by the recipient and scanned into the relevant QPRIME occurrence.

Reporting officers are to dispose of property as soon as statutory provisions allow and ensuring for exhibits, as soon as reasonably practicable:

(i) photographs are taken;

(ii) necessary scientific or other examinations are made; and

(iii) other available secondary evidence is gathered.

The property should then be returned to the owner, destroyed, or otherwise disposed of as appropriate unless other provisions of this chapter or legislation apply (see ss. 623: 'Right to inspect seized documents' and 691: 'Return of relevant things' of the PPRA and s. 4.2.5: 'Retention of exhibits' of this chapter).

Methods of disposal

The method of disposal of property:

(i) may include:

(a) destruction;

(b) discarding as refuse;

(c) donation to a charitable body;

(d) donation to a particular group, e.g. a school;

(e) donation to an individual who is apparently deserving of the property, or who, in the case of animals, may be prepared to care for the animal;

(f) appropriation for use of the Service or another government department. (see s. 4.6.17: 'Things of use to the Service or a government department' of this chapter);

(g) sale at public auction (see s. 4.6.18: 'Public auction procedures' of this chapter);

(h) sale by tender only on a specific court order (see s. 4.6.19: 'Sale by tender procedures' of this chapter);

(i) assigning to an individual or company in lieu of an outstanding debt which has accrued in relation to the storage or handling of the property, where the property is of little value, or the debt is of a value comparable to that of the property;

(j) returning the property to the owner or other person who has a clear and lawful claim to the property (see s. 4.7: 'Change of ownership' of this chapter); or

(k) transfer of an item to another agency for testing, where it is likely the item will be completely consumed (for example, a swab for DNA testing sent to FSQ).

(ii) where not specified in this chapter or elsewhere for a particular class of item should be:

(a) lawful;

(b) fair and equitable;

(c) not attract undue criticism of the Service; and

(d) minimise or eliminate any risk of injury or illness to any person, or damage to any property not subject of the disposal.

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Responsibilities of reporting officer

Reporting officers have responsibility for:

(i) undertaking all inquiries necessary so that the property may be disposed of. In some cases, this may include actually disposing of the property;

(ii) updating the relevant QPRIME occurrence showing all inquiries made and the results of those inquiries. Negative inquiries should also be included;

(iii) submitting a supplementary report within QPRIME to the officer in charge advising of the status of the property and recommendation for disposal; and

(iv) disposing of the property. Property will normally be disposed of by the property officer as designated by local arrangements.

Exercise of discretion

ORDER

Where officers are authorised to dispose of property at their discretion and an apparent conflict of interest arises, officers are not to dispose of the property. Officers are to forward a report setting out the circumstances of the matter to the next most senior officer in line control, who is to then assume responsibility for disposal.

Establishing value of property

Authorisation for disposal of property is, in some instances, based on value. An officer who exercises any authority based on an estimate of property value must be satisfied that the estimate is substantially accurate. The nature of the property will dictate how the valuation is made. It may be necessary, in the case of rare items or items which require a

professional valuation, to seek that estimation from a person with appropriate knowledge or qualifications in a particular field (see also s. 4.6.3: 'Direction for disposal of forfeited property' of this chapter).

For property that has no value refer to 'Forfeiture of property considered to have no value' in s. 4.6.2: 'Forfeiture of property including orders' of this chapter.

Indemnity receipt

A member who disposes of property by lawfully giving it to a person is to obtain a QP 0034: 'Indemnity receipt' from them. Where a QP 0034 is not available at the time of disposal an acknowledgement of receipt for the property is to be obtained in an official police notebook. The items of property are to be accurately described in the receipt prior to the person signing it.

Receipts are to be retained:

(i) where property has been recorded in a property point, by scanning the receipt as an attachment to the relevant QPRIME occurrence; or

(ii) in all other cases, by:

(a) filing in a book or register kept for that purpose at the station or establishment, or

(b) scanning the:

- indemnity receipt; and
- property receipt,

and filing in the relevant Corporate records management system i.e. Objective (see s. 5.2: 'Corporate records management' of the Management Support Manual).

4.6.2 Forfeiture of property including orders

Forfeiture of property considered to have no value

A reporting officer for a relevant thing under Chapter 21, Part 3: 'Dealing with things in the possession of police service' of the PPRA, which:

(i) excludes drug matter (see s. 4.6.14: 'Disposal of drug matter' of this chapter); and

(ii) has no value (see 'Establishing value of property' of s. 4.6.1: 'General requirements of disposal' of this chapter),

is to apply in writing (including email) to their OIC (see Delegation D 24.18), as soon as practicable, but within 24 hours, for the property to be forfeited under s. 690: 'Forfeiture in particular cases' of the PPRA with justification as to why the thing is considered to be of no value, including why the thing:

(i) is not in a saleable condition and therefore cannot be sold at auction;

(ii) has no practical intrinsic value;

(iii) has no evidentiary value; and

(iv) has no known owner or lawful claimant.

Whilst awaiting a determination of the OIC, there is no requirement for the reporting officer to lodge the property item but must ensure it is retained in a secure location as deemed suitable by their OIC.

When making a determination the OIC should consider the nature, condition and saleability of item(s) and whether they have no value. If the OIC determines the item(s) has no value, the thing is forfeited to the State and the OIC is to specify in writing (including email):

(i) how the item(s) is to be destroyed (see s. 721: 'Dealing with forfeited things' of the PPRA and Delegation D 24.24); and

(ii) the officer authorised to witness the destruction in accordance with s. 4.6.17: 'Destruction procedures' of this chapter.

Where a reporting officer, who has applied to dispose of property considered to be of no value:

(i) receives authorisation from the OIC, they are to comply with the OIC directions as soon as practicable and ensure s. 4.6.17 of this chapter is complied with; or

(ii) does not receive authorisation, lodge the property, complying with s. 4.2.4: 'Lodging property' and other requirements of this chapter.

Prosecutor to request forfeiture order at end of hearing or trial

Prosecutors presenting a case, where property has been retained by police at the completion of the hearing, are to:

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(i) make an application for an order under s. 701: 'Disposal of seized things at end of proceeding' of the PPRA for disposal of the property;

(ii) where an order is made, send a QPRIME task to the arresting officer's QPRIME Org Unit advising of the order and the terms;

(iii) ensure, when property is forfeited to the State, the correct section and Act under which the property was forfeited is recorded on the Court Brief (QP9) at the time the forfeiture is made; and

(iv) where substantial assets have been identified, the Office of the Director of Public Prosecutions' Confiscation Unit should be advised. See also Guideline 55: 'Conviction based confiscations' of the Office of the Director of Public Prosecutions (State) Director's Guidelines.

Forfeiture orders

Where property has not otherwise been forfeited to the State:

(i) a reporting officer or, where appropriate, property officer should make an application for a property forfeiture order under:

(a) s. 719: 'Order for forfeiture of relevant things connected with offences' of the PPRA, if

- the conditions of the section apply;
- an application is not outstanding or order has not been made under s. 693: 'Application by owner etc. for court order for return of relevant thing' of the PPRA; and
- a notice is required, a QP 0702: 'Notice to owner regarding order for forfeiture of particular relevant thing connected with offences' (written notice) is to be used; and

(b) s. 718: 'Order for forfeiture of particular relevant things' of the PPRA, if

- the conditions of the section apply; and
- a notice is required, a QP 0726: 'Notice to owner regarding order for forfeiture of particular relevant thing' (written notice)' is to be used,

as soon as practicable after becoming aware that the property is suitable for forfeiture (see also s. 4.9.4: 'Publication of a notice on the QPS website' of this chapter);

(ii) the application should:

(a) contain:

- how the property applies to the section;
- the details of compliance with the requirements of the section; and
- an approximate value of the property, including any supporting documents; and

(b) be submitted to the member's OIC;

(iii) an OIC receiving a forfeiture order application is to:

(a) check:

- all conditions required under ss. 718 or 719 of the PPRA, have been complied with; and
- the stated approximate value of the property, were appropriate, is reasonable and supported by documentation (for example an extract of the market value of the vehicle from Glass's Guide, Red Book or reference to average prices in online sales sites i.e. Gumtree, eBay, Facebook); and

(b) consider making the forfeiture order where authorised or refer the matter to the appropriate officer.

(iv) a forfeiture order can be made under ss. 718 or 719 of the PPRA by:

(a) any officer authorised under Delegation D 24.22 for property that is drug matter of any value where the officer has not been directly involved in the seizure of the thing; or

(b) an officer of a class under Delegation D 24.22 for property of the value specified as follows:

Class of officer	Value of property
Commissioner Deputy commissioner	No limit
Assistant commissioner Chief superintendent	Up to $50,000.00

OPM Issue 113 Public Edition

Class of officer	Value of property
Superintendent Inspector	Up to $25,000.00
Detective senior sergeants (operations leader), Crime Command OIC of a: • station • criminal investigation branch • child protection investigation unit • tactical crime squad • regional drug squad	Up to $5,000.00

(v) the forfeiture order is:

(a) to be made in writing;

(b) to identify the relevant section of the PPRA it has been made under; and

(c) may include a direction as to how the property is to be dealt with under Delegation D 24.24 (see s. 4.6.3: 'Direction for disposal of forfeited property' of this chapter);

(vi) reporting officers or property officers on receive a forfeiture order are to:

(a) ensure a copy is scanned as an attachment to the relevant QPRIME occurrence; and

(b) comply with s. 4.6.3: 'Direction for disposal of forfeited property' of this chapter for the property.

4.6.3 Direction for disposal of forfeited property

When required, reporting officers are to make an application for a direction on how property, in possession of the Service that has been forfeited, can be disposed of or destroyed by sending a QPRIME Property Disposal task to the relevant property office.

The member receiving a QPRIME task seeking a disposal direction for forfeited property should, where:

(i) authorised, make an appropriate direction; or

(ii) not authorised, refer the application to a suitable member for consideration.

A disposal or destruction direction, excluding appropriating (see s. 4.6.16: 'Things of use to the Service or a government department' of this chapter):

(i) may be made under Delegation D 24.24 by:

(a) any authorised member for a drug matter (see s. 4.6.14: 'Disposal of drug matter' of this chapter);

(b) an authorised class of member for a firearm as specified as follows:

Class of member
Assistant commissioner Chief superintendent Superintendent Inspector Detective senior sergeants (operations leader), Crime Command OICs of • stations • CIB • CPIU • tactical crime squad

(see s. 4.6.10: 'Disposal of weapons and weapons related things' of this chapter); or

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(c) an authorised class of member for other property where the value of the property as specified as follows:

Class of member	Value of property
Commissioner Deputy commissioner	No limit
Assistant commissioner Executive director Chief superintendent	Up to $50,000.00
Superintendent Director, Capital Assets and Facilities Management Group Inspector	Up to $25,000.00
In respect of disposal of monies retained in a suspense 'Trust Account' e.g. cash exhibits to be disposed of at the conclusion of a prosecution, the following class of member are authorised where the value of the property is as specified in the adjoining column: Detective senior sergeants (operations leader), Crime Command OIC of a • station • CIB • CPIU • tactical crime squad	Up to $15,000.00
All other property: Detective senior sergeants (operations leader), Crime Command OIC of a • station • CIB • CPIU • tactical crime squad	Up to $5,000.00
Property officers	Up to $1000

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(ii) and should specify the method of disposal or destruction and be consistent with other policy or legislation for the class of property specified, including:

(a) s. 4.3: 'Receiving property of a particular class';

(b) s. 4.6.5: 'Disposal of items of a particular class';

(c) relevant sections of s. 4.6: 'Disposal of property';

(d) other appropriate sections; and

(e) also refer to s. 4.3.1: 'Accounting for Trust Accounts Practice' of the Financial Management Practice Manual policy, relating to QPS Trust Accounts.

4.6.4 Disposal where not appropriate to return item

ORDER

Reporting officers who believe because of the nature of a thing it may not be appropriate to return it to:

(i) the owner; or

(ii) the person who had lawful possession of it,

are to request their officer in charge:

(i) make an order that the thing be forfeited to the State (see s. 4.6.2: 'Forfeiture of property including orders' of this chapter); and

(ii) direct that the thing be disposed of by destruction (see s. 4.6.5: 'Direction for disposal of forfeited property' of this chapter).

4.6.5 Disposal of items of a particular class

Where items of a particular class can't be returned to the owner or other person who has a clear and lawful claim to the property it should be disposed of as listed below:

Class of item	Conditions	Disposal method
Animals	Nil	Public auction, see s. 4.6.11: 'Disposal of animals' of this chapter
Branding instruments	Nil	Destruction
Bicycles	If there are significant safety concerns because of design or defects	Destruction
	If considered appropriate	Donate to a charitable, welfare or similar organisation
	otherwise	Public auction
Clothing	Where clothing is soiled or in poor condition	Disposal at a local waste disposal facility
	Good condition	Donated to a charitable organisation
Currency	Counterfeit	See s. 11.9.1: 'Investigations regarding counterfeit money' of this Manual.
Deceased person's property		See s. 4.6.9: 'Disposal of deceased person's property' of this chapter
Documents	Physical	Destroyed by shredding or similar
	Electronic	see s. 4.6.12: 'Disposal of electronic devices and storage media' of this chapter
Drugs		See ss. 4.6.14: 'Disposal of drug matter' and 4.6.15: 'Retention and use of dangerous drugs for training' of this chapter
Incapacitated person's property	As defined by s. 64: 'Definitions' of the *Public Trustee Act*	Contact the Public Trustee and advise them of the existence of the property and forward the property to the appropriate Public Trustee Office.
Keys	Nil	Destruction
Liquor	In a sealed container which can be legally sold in Queensland	Public auction (see s. 4.6.18: 'Public auction procedures' of this chapter)
	Unsealed, home-made or prohibited liquors	In accordance with s. 4.6.7: 'Destruction procedures' of this chapter
		See also s. 13.7.12: 'Seizure and disposal of liquor' of this Manual
Mentally ill person's property	Certified as mentally ill and incapable of managing their estates	Property of mentally ill persons is managed by the Public Trustee in terms of Part 6: 'Management of estates of incapacitated persons' of the *Public Trustee Act*. Contact the Public Trustee and advise them of the existence of the property and forward the property to the appropriate Public Trustee Office.
Passport	Australian	Sent via registered post with an indemnity receipt and request for the return of the signed indemnity receipt, to the Manager, Australian Passport Office, DFAT (see SMCD)

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Class of item	Conditions	Disposal method
	Foreign	Personally delivered or where this is not practicable, send by registered post (with an indemnity receipt and for the return of the signed indemnity receipt), to the particular embassy, consulate or other representative office, of the issuing country and where there is no representative office in Australia to Protocol Officer, Brisbane State Office, Department of Foreign Affairs and Trade (DFAT) (see SMCD)
Personal items	Suitable for sale to the public that have some obvious value	Public auction
Recyclable materials	destroyed property	Disposed via an appropriate recycling organisation, facility, depot or deposit bin whenever practicable and where appropriate disposal facilities exist
Valuable items	Items valued great than $10,000.00	Public auction
Vehicles		Public auction, see s. 4.6.13: 'Disposal of vehicles including loads or other things' of this chapter.
Weapons or weapon related item		Destruction, see s. 4.6.10: 'Disposal of weapons and weapon related items' of this chapter.

4.6.6 Disposal of property to finder

A person who finds property and hands it to the Service may make a claim for that property.

Found property may be returned to its finder who wishes to claim it only:

(i) after reasonable inquiries and efforts have failed to locate its owner or any other person who may claim to be entitled to possession of the thing;

(ii) after the expiry of thirty days from the date the property came into possession of the Service;

(iii) if it is lawful for its finder to possess the property; and

(iv) if it is considered appropriate that the thing be returned to its finder.

Found property which cannot be returned to its owner or finder should be treated as unclaimed property.

4.6.7 Disposal of unclaimed property

Unclaimed property should be disposed of as soon as statutory provisions allow.

Generally, unclaimed property is to be disposed of under the provisions of ss. 718: 'Order for forfeiture of particular relevant things' and 719: 'Order for forfeiture of relevant things connected with offences' of the PPRA in accordance with s. 4.6.2: 'Forfeiture of property including orders' of this chapter.

Where a lawful claimant to or the finder of property indicates that they do not wish to claim the property, the member authorised to dispose of the property should obtain a relinquishing order (see s. 4.6.8: 'Disposal of property under a relinquishing order' of this chapter).

4.6.8 Disposal of property under a relinquishing order

ORDER

Property that has been seized as an exhibit, where a signed relinquishing order has also been obtained, is not to be disposed of unless approval has been obtained by the investigating officer, or their supervisor, to which the property relates.

Where property is relinquished/forfeited voluntarily to the Service:

(i) at the time of receipt, a relinquishing order should be obtained in accordance with s. 4.2.2: 'Completing a property receipt' of this chapter;

(ii) at a time after receipt, a:

(a) QP 0368: 'Relinquishing order'; or

(b) QP 0368A: 'Relinquishing order (weapon(s))' (see s. 4.6.10: 'Disposal of weapons and weapons related things' of this chapter),

is to be completed and scanned into the relevant QPRIME Occurrence; and

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(iii) and disposed of under s. 4.6.3: 'Direction for disposal of forfeiture property' or other relevant section of this chapter.

4.6.9 Disposal of deceased person's property

ORDER

Where property subject to a coronial investigation is no longer required to be retained as evidence, reporting officers are to seek an order from the Coroner (see ss. 60: 'Returning physical evidence' and 61: 'Forfeiting physical evidence' of the *Coroners Act*).

Where exhibits have been seized as part of a coronial investigation and the coroner has made findings and a determination not to hold an inquest in relation to the matter, the exhibits are to be retained for a period of 60 days after such findings and determination, prior to disposal.

Officers seeking to dispose of property subject to a coronial investigation should seek an order from the coroner by:

(i) completing a QP 0528: 'Supplementary Form 1 (police report of death to a coroner)' within the relevant QPRIME occurrence seeking an order specifying the property and the reason for returning the property to its nominated owner; or

(ii) where it is not lawful for the owner to possess the physical evidence or given the nature, condition and value of the physical evidence, it is not desirable that the physical evidence be returned to its owner, seek an order on a QP 0528 within the relevant QPRIME occurrence that the physical evidence be forfeited to the State in accordance with s. 61 of the *Coroners Act* specifying the property and the reason for the forfeiture; and

(iii) forwarding a signed QP 0528 through their chain of command to the relevant coroner.

When an officer has taken possession of the property of a deceased person:

(i) not subject to a coronial investigation and has not otherwise been destroyed pursuant to this section; or

(ii) an appropriate order has been obtained from the coroner,

the property should be disposed of:

(i) in the case of a deceased who leaves a will, by returning the property to the administrator or executor of the estate; or

(ii) in the case of a deceased who dies intestate, by handing the property to the Public Trustee of Queensland or as directed by the Public Trustee.

Where property removed from the body of a deceased is contaminated or damaged to an extent that it would be deemed inappropriate to return it to a relative or lawful claimant (e.g. blood or excreta stained, etc.) it may be destroyed by the officer at this time (see s. 795: 'Disposal of clothing of deceased person' of the PPRA).

Prior to the destruction of any such property the officer should, where practicable and considered necessary:

(i) obtain verbal approval from a suitable next of kin or relative of the deceased to destroy the property; and

(ii) ensure that the property is photographed.

Where property is to be destroyed the officer should locate the property for disposal in QPRIME and ensure a Property Disposal Task is forwarded to the relevant property section. Officers should include the reason for the destruction of the property and why it was considered inappropriate to dispose of the property as otherwise provided for in this section. The property should be destroyed by placing it in the receptacle designed for contaminated waste or by burning it.

Members seeking advice concerning the disposal of property seized whilst investigating a reportable death should contact the Coronial Support Unit (Coroners Court of Queensland), Forensic Services, Security, Counter-Terrorism and Forensic Services Command.

4.6.10 Disposal of weapons and weapon related things

Officers should utilise the provision of ss. 714: 'Disposal of weapons' and 715: 'What is the appointed day for disposal of weapons under s 714' of the PPRA to require owners to store firearms at a licensed firearm dealer or other authorised person until such time as they receive the requisite approvals to hold the firearms. The storage at licensed firearm dealers is to be at the cost of the owner, not the Service.

Officers should note that it is not the responsibility of the Service to continue to store firearms on behalf of owners while they seek a licence or permit to hold such firearms.

Officers can seek to have firearms, not retrieved within the specified timeframe, forfeited to the State and destroyed pursuant to ss. 714 and 715 of the PPRA.

When a weapon (as defined in SMD, which does not include a knife unless a category M weapon):

(i) has been seized by an officer (including where it has been relinquished to the Service by its owner or lawful claimant, refer to s. 4.6.8: 'Disposal of property under a relinquishing order' of this chapter);

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(ii) is found by a person other than an officer and given to an officer as apparent lost property; or

(iii) otherwise comes into the possession of an officer in the course of performing the officer's functions;

officers are to deal with the weapon in accordance with the provisions of ss. 714: 'Disposal of weapons' and 715: 'What is the appointed day for disposal of weapons under s 714' of the PPRA.

A weapon is not to be delivered to a person authorised to possess it if:

(i) its further retention is required to prevent:

(a) a person using the weapon to cause harm to themselves or some other person;

(b) an offence;

(c) a breach of the peace; or

(d) an act of domestic violence or associated domestic violence;

(ii) a court or justice otherwise orders the destruction, forfeiture or disposal by other than returning it to the owner or person lawfully entitled to possess it;

(iii) a domestic violence order (including a police protection notice (PPN) or release conditions) is made or exists naming the owner of the weapon as the respondent (see s. 29B: 'Arrangements for surrender of suspended or revoked licences and weapons' of the *Weapons Act* (WA)); or

(iv) the weapon is subject of a coronial investigation under the *Coroners Act*. See also s. 4.6.9: 'Disposal of deceased person's property' of this chapter.

Where a weapon is in the possession of an officer because of a domestic violence incident, refer to s. 9.9.2: 'Disposal of weapons' of this Manual.

If the weapon cannot be delivered to a person under s. 714(1) of the PPRA within three months after the 'appointed day' or if s. 29B of the WA applies and the owner of the weapon has not made arrangements with an officer for a licensed dealer or licensed armourer in company with the owner to collect the weapon within three months of the weapon being given to the officer, the weapon is forfeited to the State (see s. 714(3) of the PPRA and SMD).

Disposal of proscribed things

A proscribed thing as defined in Schedule 6: 'Dictionary' of the PPRA includes:

(i) a weapon:

(a) generally means:

- a firearm;
- another thing prescribed under a regulation to be a weapon or within a category of weapon; or
- a thing that would be a weapon as above if it were not temporarily inoperable or incomplete; and

(b) includes a restricted item;

(ii) an antique firearm, explosive tool, captive bolt humane killer, spear gun, longbow, sword or knife;

(iii) an explosive;

(iv) a replica of a weapon (see s. 6A: 'What is a *replica*' of the *Weapons Act*);

(v) a replica of a thing mentioned in paragraph (ii) or (iii);

(vi) a slingshot or shanghai;

(vii) a laser pointer;

(viii) a thing made or adapted, or intended for use by the person possessing the thing, to injure or incapacitate another person;

(ix) a thing made or adapted, or intended for use by the person possessing the thing, to:

(a) assault another person, other than by injuring or incapacitating the other person;

(b) damage property; or

(c) disrupt business conducted by the State, or a non-commercial authority of the State, in a State building, including, for example, interrupting court proceedings; and

(x) another thing in the unlawful possession of the person possessing the thing.

When a proscribed thing:

(i) has been seized by a protective services officer (PSO) (including where it has been relinquished to the Service by its owner or lawful claimant, refer to s. 4.6.8: 'Disposal of property under a relinquishing order' of this chapter);

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(ii) is found by a person other than a PSO and given to a PSO as apparent lost property; or

(iii) otherwise comes into the possession of a PSO in the course of performing their functions,

PSOs are to deal with the proscribed thing in accordance with the provisions of ss. 715AA: 'Disposal of proscribed thing' and 715AB: 'What is the appointed day for disposal of proscribed thing under s 715AA' of the PPRA.

A proscribed thing is not to be delivered to a person authorised to possess if:

(i) its further retention is required to prevent:

(a) a person using the weapon to cause harm to themselves or some other person;

(b) an offence;

(c) a breach of the peace; or

(d) an act of domestic violence or associated domestic violence;

(ii) a court or justice otherwise orders the destruction, forfeiture or disposal by other than returning it to the owner or person lawfully entitled to possess it;

(iii) a domestic violence order (including a police protection notice (PPN) or release conditions) is made or exists naming the owner of the weapon as the respondent; or

(iv) the weapon is subject of a coronial investigation under the *Coroners Act*. See also s. 4.6.9: 'Disposal of deceased person's property' of this chapter.

If the proscribed thing cannot be delivered to a person under s. 715AA(1) of the PPRA within three months after the 'appointed day' the proscribed thing is forfeited to the State (see s. 715AA(3) of the PPRA).

Responsibilities when returning weapons

Officers and PSOs considering delivering a weapon to a person should ensure that Part 3: 'Acquisition, sale and disposal of weapons' of the WA is complied with.

ORDER

Prior to delivery of the weapon to a person mentioned in:

(i) s. 714(1) of the PPRA officers; and

(ii) s. 715AA(1) of the PPRA PSOs,

are to ensure that the person may lawfully possess the weapon.

Responsibility of the prosecutor in a proceeding involving a weapon, weapon related thing or ammunition

The prosecutor at the conclusion of a proceeding is to seek an order from the court as to the disposal of the weapon, weapon related thing or ammunition. In most instances the order sought should be that the thing be destroyed. Where a thing may be of use to the Service or another government department, an appropriate order should be sought. At the conclusion of the proceedings, prosecutors should 'expire the exhibit' in the relevant QPRIME occurrence.

Weapon forfeited to the State

Where a category R weapon is surrendered under the National Firearms Amnesty, officers should also consider the section 'Weapons surrendered to approved licenced dealers and stations under the National Firearms Amnesty' in s. 4.3.7: 'Weapons' of this chapter. See also the National Firearms Amnesty policies and procedures available on the National Firearms Amnesty SharePoint page on the Weapons Licensing Group (WLG) SharePoint page.

When a weapon is forfeited to the State, the reporting officer is to commence a property disposal workflow task in the relevant QPRIME occurrence for the disposal of the weapon, to be approved by an authorised officer (see Delegation D 24.24 and s. 4.6.3: 'Direction for disposal of forfeited property' of this chapter).

The task should outline the brief circumstances surrounding the weapon including:

(i) how the weapon came to be in police possession;

(ii) relevant legislative provisions under which the weapon:

(a) was seized; and

(b) may be disposed of; and

(iii) refer to all relevant correspondence including any:

(a) forfeiture orders;

(b) court orders;

(c) relinquishing orders; and

(d) certificate of convictions.

OPM Issue 113 Public Edition

Weapons destruction

District officers and commanders (DO) are responsible for ensuring the coordination and supply of sufficient resources and equipment to facilitate destruction, appropriate training of members to use any equipment for weapons destruction and identifying suitable destruction facilities within their geographical area.

A suitable disposal facility includes:

(i) a metal recycling facility which has a metal shredder;

(ii) industrial furnace; or

(iii) other facility,

approved for the destruction of weapons by the relevant DO.

Upon approval by an authorised officer for disposal of a weapon by way of destruction, the property officer at the property point where the weapon is stored is to:

(i) modify the property entry in the relevant QPRIME occurrence indicating the weapon is held pending destruction;

(ii) If not all of the information is known for the QP 0554: 'Weapon/firearm destruction schedule', ensure a QPRIME supplementary report is entered that provides the following details:

(a) weapon inspected by <name of inspecting officer> on <inspection date>; and

(b) if the model cannot be determined—model unknown;

(c) if the weapon is homemade—no factory serial number; and

(d) if the serial number:

- cannot be located—no factory serial number; and
- is illegible—serial number obliterated;

(iii) where the weapon is a firearm:

(a) enter details of the firearm, including a unique weapon number obtained from QPRIME into a QP 0554: 'Weapon/Firearm destruction schedule' (available in QPRIME);

(b) at least 28 days prior to planned destruction date, email a copy of the QP 0554 to WLG Enquiries, advising of the planned destruction and include the date planned destruction (if known);

(c) await advice from WLG before destruction and ensure any firearm deemed by WLG to be unsuitable for destruction is retained and the details of that firearm are removed from the QP 0554;

(d) prior to destruction, ensure the authorised member or independent person inspects the firearm(s) to be destroyed against the details recorded in the QP 0554;

(e) after destruction, ensure the authorised member or independent person signs and dates the QP 0554 certifying that they observed the destruction of the firearm(s);

(f) email a copy of the signed and completed QP 0554 to Weapons Licensing Enquiries and retain the original copy at the property point; and

(iv) finalise the property entry in the relevant QPRIME occurrence in accordance with s. 4.6.21: 'Finalising a property entry in QPRIME' of this chapter.

Supervision of weapons destruction

ORDER

Category A, B, C, D, H and R weapons (see Weapons Categories Regulation) destruction is to be conducted by:

(i) a property officer;

(ii) a member of Evidence Management, Crime Command; or

(iii) another person nominated by a district officer, commander or director,

under the supervision of:

(i) a commissioned officer; or

(ii) the OIC, Evidence Management, excluding weapons held at Evidence Management; or

(iii) another member authorised by a district officer, commander or director, or in designated remote and rural locations, an independent person authorised by the relevant district officer or equivalent.

The supervising member must ensure the weapons are destroyed to the extent that the weapon or its parts are unable to be reused in any way.

OPM Issue 113 Public Edition

Method of destruction

ORDER

Only members who have received the appropriate training are to use any equipment in the destruction of weapons. Equipment is to be operated at all times in accordance with the manufacturer's instructions.

Weapons are to be destroyed by:

(i) crushing or cutting the centre point of the action/breech and in close proximity to the firing mechanism as to render those inoperable; and

(ii) placing those in a metal shredder or industrial furnace or where these facilities are not available, compacting and/or burying those in a Service-approved waste facility.

Weapon related things

Generally weapon related things coming into the possession of an officer in the course of performing their duty should be dealt with in accordance with the general provisions of the PPRA relating to property and this chapter.

Weapons Licensing to be notified

Weapons Licensing:

(i) require notification of all lodged or disposed of:

(a) firearms;

(b) major firearm components;

(c) ballistic vests;

(d) crossbows; and

(e) category M bladed weapons,

(see the Weapons Categories Regulation); and

(ii) generate a daily QPRIME report which records the movement of all weapon transactions e.g., lodged and disposed weapons from police establishments. This information is captured from the Property Tags in QPRIME.

An occurrence and property tag number for each lodged weapon must be generated in QPRIME:

(i) by searching for the serial number against the owner and the address where the firearm was located to determine if the weapon is:

(a) registered, the weapon and the owner must be linked to the occurrence; or

(b) unregistered, all relevant details of the firearm or weapon must be entered into QPRIME, including:

- the description;
- make;
- model;
- serial number;
- calibre;
- magazine capacity;
- action;
- barrel length and auxiliary serial number if applicable; and
- remarks for further information about the weapon, e.g. firearm has been shortened, or bolt/magazine missing,

and where any details are unknown, they should be entered as unknown; and

(ii) when it is discovered the weapon had previously been recorded i.e. two entries for the same weapon, WLG are to be advised immediately.

All weapon details should be verified against QPRIME to ensure the Commissioner's Weapons Register is maintained. Serial numbers should be physically verified with the actual weapon against QPRIME so that all details are accurate. If any modifications are required to the weapon details, members should forward an email to weaponslicensing@police.qld.gov.au. Only members of WLG are authorised to make changes.

In the event that QPRIME is not updated on receipt of the weapon being lodged or disposed WLG should be notified within 48 hours.

Notification to WLG can be made by entering the information into QPRIME and is to include:

OPM Issue 113 Public Edition

(i) details of the property point:

(a) where the weapon was lodged; or

(b) if disposed of to another property point, this location;

(ii) date of lodgement or disposal;

(iii) QPRIME occurrence number and if relevant, Field Property Receipt number;

(iv) the reason the weapon:

(a) came into the possession of the Service (e.g. surrendered, seized, relinquished or found); or

(b) was disposed of;

(v) the name and address, date of birth and, if applicable, the WA licence number of the person:

(a) who surrendered or relinquished the weapon;

(b) from whom the weapon was seized; or

(c) if the weapon was not disposed of to another property point, to whom the weapon was disposed;

(vi) the name and registered number of the responsible officer and, if a different officer, the investigating officer.

4.6.11 Disposal of animals

Disposal under s. 140 of the PPRA

Reporting officers are to arrange disposal of animals seized under s. 137: 'Removal of animals from roads and other places' of the PPRA:

(i) in compliance with Chapter 6, Part 4: 'Removal powers for animals' of the PPRA;

(ii) where a QP 703A: 'Notice to owner re seizure of animal' has been served;

(iii) the animals have not recovered by the owner,

(iv) by making an application in writing to their OIC for a written direction under s. 140: 'Recovery of seized animal' of the PPRA by the Commissioner or an authorised delegate (see Delegation D 24.10) as to how that animal is to be disposed of;

(v) on receipt of a direction ensure:

(a) a copy of the direction is scanned as an attachment to the relevant QPRIME occurrence;

(b) the property is dealt with as soon as practicable; and

(c) where being sold, a notice of the proposed sale is published on the Public Notices page of the QPS internet (see s. 4.9.4: 'Publication of a notice on the QPS website' of this chapter).

OPM Issue 113 Public Edition

The OIC or other officer who receives an application for a direction is:

(i) ensure ss. 139: 'Steps after seizing animal' and 140 of the PPRA, have been complied with;

(ii) ensure the stated approximate value of the animal is reasonable, and if deemed appropriate, supported by documentation; and

(iii) where authorised make a written direction, or refer the matter through the chain of command to the appropriate authorised officer, where the value of property is within their authorised limit:

Class of officer	Value of property
Commissioner Deputy commissioner	No limit
Assistant commissioner Chief superintendent	Up to $50,000.00
Superintendent Inspector	Up to $25,000.00
Officer in charge of a station	Up to $5,000.00

Generally, animals are to be disposed of by public auction.

Disposal under the Animal Care and Protection Act

A reporting officer who seizes an animal under s. 146(2)(d): 'Power in relation to offences involving animals' of the PPRA, can under the conditions of s. 154: 'Power to forfeit' of the *Animal Care and Protection Act* apply to the Chief Executive of the Department of the Environment, Tourism, Science and Innovation (DETSI) for forfeit of the animal by:

(i) completing a report which includes:

(a) the circumstances of seizure;

(b) the grounds on which the forfeiture is sought addressing s. 154(2), (3) and (4) of the *Animal Care and Protection Act*;

(c) the name and address of the owner, if known; and

(d) copies of the Property receipts and any the animal welfare direction; and

(ii) forwarding the completed report to the officer in charge of their region or command who should seek a direction, in writing, from the Chief Executive, DETSI (see SMCD).

4.6.12 Disposal of electronic devices and storage media

There remains a risk of data remaining on computers and electronic storage devices after sanitisation actions have been completed.

ORDER

Computers and electronic storage devices are to be disposed of in accordance with this section, unless the item is to be disposed of by:

(i) returning the item to the owner; or

(ii) sanitising and appropriating the item to the Service.

Any decision to sanitise and appropriate a device to the Service is to be made on a cost versus benefit basis and officers are to seek the specialist technical advice of the Electronic Evidence Unit (EEU) or their district electronic evidence technician when making any determination.

Removable electronic storage media such as floppy disks, flash cards, SIM cards and memory sticks are to be removed and destroyed prior to disposal of the computer or electronic storage device.

Due to the risk of an explosion or fire, members are not to physically destroy computers or electronic storage devices by striking the device with a hammer or similar.

Court proceedings and orders

ORDER

Where an electronic device and storage medium in possession of the Service is believed to or contains illegal data, reporting officers are to seek an order under s. 719: 'Order for forfeiture of relevant things connected with offences' of the PPRA (see also s. 4.6.2: 'Forfeiture of property including orders' of this chapter).

To allow prosecutors to make submissions to the court, when a defendant makes application under s. 701: 'Disposal of seized things at the end of proceeding' of the PPRA officers are to include on the Court Brief (QP9) an instruction to prosecutor as to the nature of illegal data contained within the electronic device or storage media and the intended disposal method.

Prosecutors who receive no instructions or an application is made under s. 701 of the PPRA are to seek an adjournment to seek the specialist technical assistance of the EEU.

Disposal of mobile telephones, wearable devices, and tablets

The Service has entered into an agreement with Mobile Muster, a nationally accredited not-for-profit recycling program to recycle:

(i) mobile telephones;

(ii) 'wearable' accessories, e.g. earphones, fitness watches, etc.;

(iii) charging devices and accessory cords; and

(iv) 'tablet' style devices, e.g. iPads etc.

The devices will be either dismantled or shredded and recycled destroying the data, at no cost to the Service.

ORDER

Property points are to dispose of mobile telephones, wearable devices, and tablets through the Mobile Muster collection system. A receipt will be emailed to the property point on receipt of the devices, as well as an annual certificate provided to the Service, confirming the total number of devices received by Mobile Muster.

OPM Issue 113 Public Edition

Small stations can dispose of mobile telephones, wearable devices, and tablets by using the Mobile Muster satchel, available at Post Offices.

Mobile telephones, wearable devices, and tablets are not to be disposed of through the Mobile Muster recycling points at telecommunications outlets.

Mobile phones and other devices may also be transferred to a Digital Evidence Hub to allow a catalogue to be built for training, development and repair purposes.

Disposal of laptop and office computers

Laptop and office computers should be disposed of using the Whole of Government Standing Offer Arrangement, managed by Frontline and Digital Division.

4.6.13 Disposal of vehicles including loads or other things

See also s. 128A: 'Immediate disposal in particular circumstances' of the PPRA.

The reporting officer or, where appropriate, property officers should dispose of unclaimed or uncollected vehicles from property points which may be lawfully returned to the owner:

(i) under ss. 4.6.2: 'Forfeiture of property including orders' and 4.6.3: 'Direction for disposal of forfeited property' of this chapter unless seized under s. 124: 'Removal of vehicle or load or other thing' of the PPRA; or

(ii) by sending a QPRIME task, requesting a direction under s. 127: 'Disposal of seized or moved vehicle, load or other thing' of the PPRA to the officer in charge as to how that vehicle, load or other thing is to be disposed of.

Officers who receive a QPRIME task requesting a disposal direction under s. 127 of the PPRA are to:

(i) satisfy themselves that:

(a) all conditions relating to the making of the direction, as required under the relevant provisions ss. 126 and 127 of the PPRA, have been complied with or fulfilled; and

(b) the stated approximate value of the vehicle, load or other thing is reasonable, and if deemed appropriate, supported by documentation;

(ii) make a disposal direction if:

(a) authorised under Delegation D 24.47; and

(b) the value of property is within their authority as follows:

Class of officer	Value of property
Commissioner Deputy commissioner	No limit
Assistant commissioner Chief superintendent	Up to $50,000.00
Superintendent Inspector	Up to $25,000.00
Officer in charge of a station	Up to $5,000.00

or

(iii) refer that matter to an appropriately authorised officer.

The method of disposal of vehicles and other property seized should generally be by public auction (see s. 4.6.18: 'Public auction procedures' of this chapter).

Reporting officers or property officers on receipt of a disposal direction under s. 127 of the PPRA are to ensure that if the vehicle, load or other thing is to be sold, a public notice of the proposed sale is to be published on the QPS internet (see s. 4.9.4: 'Publication of a notice on the QPS website' of this chapter).

4.6.14 Disposal of drug matter

The decision to retain or dispose of drug matter—including representative samples—are to be weighed against the risk of failed prosecution and judicial criticism. To manage the associated risks, drug matter is to be disposed of in accordance with the PPRA and *Drugs Misuse Act* (DMA) as soon as possible. The decision to dispose of or retain drug matter is to be made on a case-by-case basis.

In all circumstances, drug matter must be photographed prior to destruction.

Drug matter may be disposed of under:

OPM Issue 113 Public Edition

(i) s. 705: 'Destruction of drug matter soon after it is seized etc.' of the PPRA by an officer (see 'Safe destruction of drugs to prevent further offences' of this section);

(ii) s. 705A: 'Disposal of things used for administering etc. dangerous drugs' of the PPRA, which authorises delegates (including investigating officers and property officers) to dispose of drug utensils (see Delegation D 24.50);

(iii) s. 707: 'Alternative to destruction if drug matter is thing used in the commission of a drug offence' of the PPRA (see 'Alternative disposal of drug offence thing' of this section);

(iv) s. 713: 'When drug matter may be destroyed' of the PPRA (see 'Destruction of drug matter if notice required' of this section);

(v) s. 701: 'Disposal of seized things at end of proceeding' of the PPRA; where a court has made an order with respect to the forfeiture, destruction or disposal of that matter (see 'Prosecutor to request forfeiture order at end of hearing or trial' in s. 4.6.2: 'Forfeiture of property including orders' of this chapter); and

(vi) s. 721: 'Dealing with forfeited things' of the PPRA, where it has been forfeited to the State under:

(a) s. 690: 'Forfeiture in particular cases' of the PPRA, for small quantities of drug matter where there is no or minimal likelihood of detecting an offender are automatically forfeited upon determination of the authorised delegate (see Delegation D 24.18);

(b) s. 719: 'Order for forfeiture of relevant things connected with offences' of the PPRA, for large quantities of drug matter which have not been destroyed and for which there is no or minimal likelihood of detecting an offender, upon determination of the authorised delegate (see 'Forfeiture orders' in s. 4.6.2: 'Forfeiture of property including orders' of this chapter and Delegation D 24.22);

(c) ss. 379AB(5): 'Drug diversion agreement' and 378C(7): 'Drug diversion warning' of the PPRA (see s. 2.22.10: 'Forfeiture of minor drugs matter' of this Manual); or

(d) s. 32(8): 'Forfeiture of dangerous drugs' of the DMA (see 'Applications for Drugs Misuse Act forfeiture orders' of this section),

(see s. 4.6.3: 'Direction for disposal of forfeited property' of this chapter).

ORDER

OICs are to ensure that any drug matter held at property points under their control is disposed of as soon as statutory provisions allow.

Safe destruction of drugs to prevent further offences

When drug matter is found and the officer is satisfied:

(i) it is impracticable or dangerous to transport it to or keep at a property office; and

(ii) unless it is destroyed, there is a risk it may be used in the commission of an offence;

the officer may destroy it pursuant to s. 705 of the PPRA.

Officers must, before destroying the drug matter:

(i) comply with s. 706: 'Steps police officer must take before destroying drug matter under s 705' of the PPRA including photographing the drug matter;

(ii) for dangerous drugs, either at the scene—if practicable—or otherwise, request an analyst:

(a) examine it. In the case of plantations, examine each plant, where practicable. Where the size of the plantation makes this impracticable, the analyst is to examine a selection of plants which constitutes a representative sample of the plantation;

(b) take a representative sample of the dangerous drug; and

(c) issue a certificate which identifies the type of dangerous drug and either it's weight or volume, or in the case of plants, the height and number of plants;

(iii) destroy the drug matter in accordance with 'Who may destroy drug matter' of this section.

The senior officer present is responsible for:

(i) the destruction; and

(ii) where a decision is made to move it to another place, where it can be safely destroyed, ensuring the packaging and transport of the drug matter, in a manner which is safe to persons and property,

(see also 'Safety and additional considerations' of this section).

Destruction of utensils without lodgement at property office

When drug matter is located where the provisions of s. 705A of the PPRA apply and is:

OPM Issue 113 Public Edition

(i) for use or has been used in the administration, consumption or smoking of a dangerous drug (i.e. is a drug utensil); and

(ii) no longer required as evidence in a proceeding,

it may be destroyed without the need for lodgement at a property office. Officers who elect to destroy drug utensils must:

(i) seize the drug utensil at the scene;

(ii) issue a property receipt (see s. 4.2.1 'Property receipt' of this chapter);

(iii) photograph the drug utensil, using Axon Capture on a QLiTE, if available;

(iv) destroy the drug utensil on site, in the presence of the suspect/occupant, if safe to do so and with BWC activated. If not safe, destroy it at another location with BWC activated;

(v) transport to the station and dispose of the destroyed drug utensil parts in a waste bin;

(vi) create a relevant QPRIME occurrence and include the drug utensil in the property field (do not tag or add to a drop safe);

(vii) list the items destroyed in the 'General Report'; and

(viii) upload photos and BWC footage to Evidence.com and link QPRIME occurrence number.

Alternative to destruction

Section 707 of the PPRA authorises the Commissioner to dispose of drug matter in the way the Commissioner considers appropriate instead of destroying it, e.g. the Commissioner may give a hydroponics system previously used for growing dangerous drugs to a school for use for an agricultural purpose.

Where a thing used or intended for use in the commission of a drug offence:

(i) for example:

(a) lighting, pots, fertiliser, irrigation systems, thermometers, test kits, power leads, generators etc. used in hydroponics systems or plantations; or

(b) glassware, bottles, chemicals, apparatus and other items used in clandestine laboratories;

(ii) is located where the provisions of s. 705 of the PPRA apply, officers may seek a direction for disposal under s. 707: 'Alternative to destruction if drug matter is thing used in the commission of a drug offence' of the PPRA, from an authorised delegate (see Delegation D 24.17); and

(iii) the authorised delegate under Delegation D 24.17, if satisfied the conditions have been met, may direct that the thing be:

(a) photographed; and

(b) disposed of in a way they think appropriate:

- is lawful;
- is fair and equitable;
- does not attract undue criticism of the Service; and
- minimises or eliminates any risk of injury or illness to any person, or damage to any property not subject of the disposal.

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Destruction notices

An officer who gives a Form 049: 'Destruction notice (drugs)' (available in QPRIME) under s. 710(1): 'Destruction notice may be given to person' of the PPRA to a person reasonably suspected of having committed an offence in which drug matter is involved, is to:

(i) give the document:

(a) by delivering it to the person personally; or

(b) by leaving it at, or by sending it by post, or facsimile or similar facility to, the address of the place of residence or business of the person last known to the person serving the document (see ss. 39: 'Service of documents' and 39A: 'Meaning of service by post etc.' of the *Acts Interpretation Act*); or

(c) if the person's name and location are not known or the person cannot be located, by:

- making the information required to be stated in the approved form available on the Service website to the extent the information is known; and
- ensuring, if being given to a child s. 710(4) of the PPRA is complied with,

(see s. 4.9.4: 'Publication of a notice on the QPS website' of this chapter for details as to how to give notice on the Service website); and

(ii) ensure it is endorsed with a declaration of service or records are made of the details of its posting.

If a written request (analysis request) under s. 711: 'What destruction notice must state' of the PPRA is received in response to the service of a Form 049:

(i) the receiving member is to ensure it is delivered to the OIC of the officer who served the form;

(ii) the OIC, if not an authorised delegate (see Delegation D 24.17) forward to an authorised delegate in the chain of command;

(iii) the authorised delegate is to exercise the functions and powers of the Commissioner under Chapter 21, Part 3, Division 3, Subdivision 3: 'Destruction of drug matter if notice required' of the PPRA.

A representative sample is only to be made available to an independent analyst appointed or declared as an analyst under s. 4C: 'Analysts' of the DMA at Forensic Science Queensland (FSQ) or the Queensland Herbarium.

Where a sample of drug matter, at a property point, is to be made available to a person from whom it was seized, the investigating officer, or other member required by the authorised delegate, should:

(i) take a representative sample of the drug (see 'Taking representative sample of drugs' of this section). The investigating officer should conduct a drug transfer and ensure appropriate corroborative practices are used (see s. 4.2.5: 'High risk property' of this chapter);

(ii) appropriately package and describe the representative sample in accordance with ss. 4.8.6: 'Minimum storage requirements' and 4.5.2: 'Forensic examination of drug exhibit' of this chapter. Any queries concerning the correct packaging of items for analysis should be directed to FSQ or the relevant independent analyst;

(iii) ensure the representative sample is clearly identifiable with the relevant QPRIME occurrence number and attach a copy of the property evidence report' for the relevant QPRIME property entry;

(iv) complete the relevant property movement in the QPRIME occurrence see 'Property Management: Relocate Property' of the QPRIME User Guide;

(v) convey or arrange for the conveyance of the drug to the independent analyst in line with local arrangements ensuring continuity is maintained. The drug is not to be handed to the independent analyst unless a receipt for the drug is issued;

(vi) ensure only items which require analysis are delivered to the independent analyst;

(vii) deliver or arrange for the delivery of the receipt for the representative sample to the property officer of the property point from which the drugs were taken. The receipt together with the written requirement is to be scanned as an attachment to the relevant QPRIME occurrence; and

(viii) ensure details of the requirement are entered in the appropriate field of the relevant QPRIME occurrence report.

OPM Issue 113 Public Edition

Applications for Drugs Misuse Act forfeiture orders

Where applications for the forfeiture of drug matter may be made under the DMA and PPRA, the PPRA is to be used.

Where circumstances require that an application for the forfeiture of dangerous drugs or drug related property be made under ss. 32: 'Forfeiture of dangerous drugs' and 34: 'Forfeiture orders' of the DMA, officers are to:

(i) commence a civil proceeding by using a Form 005: 'Originating application (generic)';

(ii) follow the procedures referred to in s. 13.30: 'Starting a civil proceeding' of this Manual;

(iii) ensure any certificate of analysis and dangerous drugs with respect to s. 32 of the DMA applications or, where practicable, drug related property with respect to s. 34 of the DMA applications, is available for production in court;

(iv) when the order is issued and, following appeal period, initiate action to destroy dangerous drugs or otherwise dispose of the drug related property in accordance with the order and the provisions of the DMA;

(v) notify the OIC of the relevant property point of the order and any other action taken; and

(vi) where the offender, listed as a respondent in the Form 005, is interstate refer to s. 14.29.6: 'Interstate service of an originating process' of this Manual.

Where the application is made by a member, other than the investigating officer, two affidavits are required. One by the investigating officer as to how the investigating officer came to be in possession of the dangerous drug or drug related property and subsequent dealings by that officer and one by the applicant as to the applicant's part in the proceedings.

Taking representative samples of drugs

An investigating officer or a property officer who is required to retain or make available a representative sample of drug matter under 705: 'Destruction of drug matter soon after it is seized' and 710: 'Destruction notice may be given to person' of the PPRA or otherwise is to first contact a scientific officer for advice on the taking of the sample.

Who may destroy drug matter

With the exception of drug matter destroyed pursuant to s. 705 of the PPRA, forfeited drug matter, or drug matter directed to be destroyed, drug matter is to be destroyed:

(i) by the property officer, in the presence of:

(a) a commissioned officer; or

(b) another person authorised by the district officer; or

(ii) by the property officer, in the presence of:

(a) an analyst at FSQ;

(b) an officer or employee of the department within which the *Medicines and Poisons Act* (MPA) is administered (i.e. Queensland Health); or

(c) a local government employee appointed by the chief executive officer of the local government to enforce relevant health and environment legislation and local laws; or

(iii) at FSQ by:

(a) a property officer; or

(b) an officer or employee of the department within which the MPA is administered who is authorised under the MPA or another Act or Regulation to carry out the destruction of dangerous drugs.

When personally destroying drug matter, the property officer is to maintain control of that drug matter at all times. However, for practical reasons, another person present at the destruction may be required to handle the drug matter for brief periods of time e.g. placing the drug matter into an incinerator.

Wherever practicable, the above provisions also apply to drug matter to be destroyed pursuant to s. 705 of the PPRA.

Methods of destruction

Where drug matter is to be disposed of by destruction, the drug matter must be destroyed in a way that prevents it being used in the commission of an offence. If the drug matter is:

(i) a dangerous drug:

(a) by high or low temperature incineration;

(b) burial in an industrial waste facility; or

(c) other effective method as determined by the property plan (see s. 4.8.4: 'Property plans');

(ii) a controlled substance:

(a) in a way decided by an analyst or other suitably qualified person; or

(b) by a person suitably licensed under the *Environmental Protection Act* (EPA) to dispose of or destroy regulated waste (see Chapter 1, Part 3, Division 2, Subdivision 4: 'Environmentally relevant activities' of the EPA and Chapter 3: 'Environmentally Relevant Activities' of the Environmental Protection Regulation);

(iii) something that has been used in the administration, consumption or smoking of a dangerous drug, the matter is to be destroyed in a way that prevents it being used in the commission of an offence. For such matter incineration may be suitable, however may not be environmentally sound for some types of things—for example, it may be preferable to cut plastic products into pieces;

(iv) something used in or for manufacturing of a dangerous drug, and is not a controlled substance (e.g. a hydroponics system, or the components of an illicit drug laboratory), the matter is to be destroyed in a way that prevents it being used in or for manufacturing of a dangerous drug; and

(v) a hypodermic syringe or needle, it is to be disposed of in a way prescribed under s. 3: 'Prescribed procedures for the disposal of hypodermic syringes and needles' of the Drugs Misuse Regulation and in accordance with the provisions of s. 64: 'Disposal of needles and other sharps' of the Waste Reduction and Recycling Regulation (WRRR).

Safety and additional considerations

An officer who destroys drug matter is to, before destroying the matter, consider:

(i) the *Work Health and Safety Act*;

OPM Issue 113 Public Edition

(ii) waste management legislation, i.e. the WRRR;

(iii) the safety of the community generally;

(iv) how effective the way of destroying the drug matter will be in preventing it from being used in or for the commission of an offence;

(v) the impact destroying the drug matter may have on the environment; and

(vi) any other considerations (for example, in the cases of fire bans it may not be appropriate to use incineration).

Additionally, where considered necessary, such officers are to obtain advice concerning any personal and environmental health and safety issues which may arise from the destruction of the drug matter from:

(i) a State environmental health officer;

(ii) a local authority health inspector;

(iii) the medical superintendent of a public hospital;

(iv) a government medical officer; or

(v) the Department of the Environment, Tourism, Science and Innovation (see SMCD).

An officer or property officer who destroys drug matter is to, as soon as practicable after the destruction:

(i) obtain a suitable receipt from the person supervising the destruction (see s. 4.6.21: 'Finalising a property entry in QPRIME' of this chapter); and

(ii) ensure the receipt is scanned as an attachment to the relevant QPRIME occurrence relating to the relating to the destroyed drugs.

Regional and local considerations

Destruction of drug matter should be specified in the station property plan, and include, where applicable, identification of persons authorised to supervise the destruction of drug matter.

Arrangements for the destruction of drug matter are to be developed locally by the OIC, and include:

(i) locations of suitable high-temperature and low-temperature incineration facilities within their district or division;

(ii) contact details of suitable persons licensed under the EPA to dispose of or destroy regulated waste within their district or division;

(iii) contact details of suitable officers or employees of the department within which the MPA is administered within their district or division who may destroy drug matter; and

(iv) contact details of suitable persons within their district or division from whom advice with respect to environmental health and safety issues which may arise from the destruction of the drug matter may be sought.

Drug matter may be destroyed at any waste disposal facility which has the capability to comply with the provisions of this section.

OPM Issue 113 Public Edition

4.6.15 Retention and use of dangerous drugs for training

The Service can retain possession of dangerous drugs for training purposes under Chapter 21, Part 4: 'Use of dangerous drugs for training' of the PPRA, with the powers under this part of the PPRA with the exception of s. 734: 'Making commissioner direction' having been delegated to the Assistant Commissioner (AC), Emergency Response and Coordination Command (ERCC) (see Delegation D 24.38).

Record retention

The AC, ERCC is to maintain copies of:

(i) instruments of appointment for drug control officers (DCO);

(ii) agency arrangements;

(iii) applications for Commissioner direction for a specific batch of a dangerous drug for training purposes;

(iv) specific agency arrangements;

(v) Commissioner directions issued; and

(vi) all documents relating to batches of dangerous drugs to be used or used for training purposes.

Application for Commissioner direction

Where a need exists for a batch of a dangerous drug to be used for training and a suitable batch of a dangerous drug is in the possession of the Service, as prescribed under s. 734 of the PPRA:

(i) the OIC, for a station or establishment; or

(ii) the Inspector, Specialist Services Coordinator (ISSC), for Specialist Services Group (SSG),

is to liaise with the Superintendent, SSG, ERCC to establish availability of the required dangerous drugs.

The OIC or ISSC, is to ensure an QP 0621: 'Application for Commissioner Direction for a specific batch of a dangerous drug for training purposes' is fully and accurately completed and submitted to the OIC of their region or command.

Where the drugs are to be obtained through an agency arrangement, the OIC of a station or establishment or ISSC in addition to an application, is ensure that a QP 0620: 'Specific Agency Arrangement' is completed.

The relevant OIC of the region or command is to consider the application. If the application is supported it is to be forwarded to the AC, ERCC with appropriate recommendations and, if required, conditions which should be included in a Commissioner direction.

The AC, ERCC may in cases where the batch of the dangerous drug:

(i) identified, is to come into the possession of the Service under an agency arrangement, issue a fully completed QP 0620 relating to the identified batch of the dangerous drug; and

(ii) is to be used for training is in the possession of the Service, including under an agency arrangement, ensure that a QP 0623: 'Commissioner Direction', relating to the specific batch of the dangerous drug is completed and submitted to the Commissioner for consideration and signature.

A Commissioner Direction may be amended or repealed and a new one issued by the Commissioner.

Drug vaults

The OIC of a region or command may establish and designate a drug vault for the keeping of dangerous drugs for training purposes within their area of responsibility after consulting with the AC, ERCC for requirements associated with the design and construction of the proposed vault.

Audit of drug vaults

ORDER

The commissioned officer who has responsibility for the supervision of a drug vault is to ensure that an audit of the drug vault is conducted:

(i) at least once every three months;

(ii) at the time of relinquishment of the role and functions of a DCO; and

(iii) by an officer not otherwise directly associated with the keeping or use of dangerous drugs for training purposes;

(iv) in accordance with the requirements of s. 736: 'Requirements for keeping of dangerous drugs for training purposes' of the PPRA; and

(v) includes examination of all documentation and records relating to a particular batch of a dangerous drug.

OPM Issue 113 Public Edition

The accuracy of scales used in measuring the batches of dangerous drugs or part thereof stored in a drug vault are to be certified in accordance with the requirements of Technical Note 13: 'User checks of balance calibration' published by the National Association of Testing Authorities (NATA) (available from the OIC, Forensic Services Group, Security, Counter-Terrorism and Forensic Services Command).

A copy of the three monthly audit report is to be forwarded to the AC, ERCC and the AC, Ethical Standards Command.

Recording movement

A QP 0622: 'Record of movement of dangerous drugs' is to be used by a DCO to record the movement of a batch of a dangerous drug as required under s. 738(2): 'Information to be recorded in the register of dangerous drugs for training' of the PPRA. The DCO is to ensure that a signed acknowledgement is obtained from a DCO or authorised officer taking possession of the batch of the dangerous drug or part thereof.

Members taking possession of dangerous drugs from a drug vault and returning dangerous drugs to the drug vault are to ensure that the relevant QP 0622 is appropriately completed and signed as required.

Authorised officers, subject to the conditions of the relevant commissioner direction, are to ensure that while the batch of a dangerous drug is in their effective control that appropriate security is maintained.

Appointment of DCOs

DCOs are to be appointed in relation to established drug vaults in accordance with the provisions of the PPRA and this policy.

Where considered necessary, the OIC of a region or command are to nominate an appropriate member for appointment as a DCO for each designated drug vault within their area of responsibility. Nominations are to be forwarded to the AC, ERCC for consideration addressing the requirements in s. 727: 'Appointment and qualifications' of the PPRA.

The AC, ERCC, if satisfied the nominated person is qualified for appointment as a DCO, may appoint the person by issuing an:

(i) instrument of appointment in accordance with s. 728: 'Appointment conditions' of the PPRA; and

(ii) identity card in accordance with s. 729: 'Issue of identity card';

To issue an identity card, the AC, ERCC is to ensure a copy of the instrument of appointment is forwarded to the Manager, Building Services at Police Headquarters for production of the card. The completed identity card is to be forwarded to the AC, ERCC for issue to the DCO unless otherwise arranged with the AC, ERCC.

A DCO is to ensure:

(i) that prior to the expiry date of the relevant identity card, necessary arrangements are made with the AC, ERCC for renewal of the identity card; and

(ii) compliance with s. 731: 'Return of identity card' of the PPRA.

Although legislation does not restrict the number of officers that may be appointed as a DCO, consideration should be given to the risks and security issues that may arise from having multiple DCOs for specific drug vaults.

Responsibilities of DCOs

ORDER

A DCO is:

(i) to comply with the conditions of appointment and the provisions of Chapter 21, Part 4 of the PPRA;

(ii) is responsible for the transport, security, storage, control and destruction of a batch of a dangerous drug;

(iii) is to comply with the applicable QP 0620 where issued, and the relevant QP 0623 when taking possession of a batch of a dangerous drug; and

(iv) where a batch of a dangerous drug is obtained from the Australian Federal Police (AFP), through a QP 0620:

(a) ensure a copy of the QP 0620 is handed to the Drug Registrar, Brisbane Office, AFP prior to the actual release of the dangerous drugs;

(b) ensure a copy of the QP 0623 under a QP 0620 is supplied to the Team Leader, Drug and Property Registry, Brisbane Office, AFP within 14 days of receipt; and

(c) as soon as practicable following the receipt, ensure a copy of the AFP Drug transfer form is given to the AC, ERCC.

(v) not to act as the DCO for a particular batch of a dangerous drug used for training that the DCO is directly involved in. The DCO duties related to the removal from and return to, of the dangerous drug, to the drug vault for the purpose of training, are to be performed by an authorised officer, who is not involved in the training; and

(vi) to ensure when destroying a batch of dangerous drugs that:

(a) are destroyed by, or in the presence of, an officer or employee:

- of the department within which the *Medicines and Poisons Act* is administered; and
- authorised under the *Medicines and Poisons Act* or another Act or Regulation;

(b) they obtain a receipt for destruction from the above mentioned officer or employee which includes the applicable reference numbers (i.e. AFP seizure number(s), property item number, sub-item number, QPRIME Occurrence number) of the dangerous drugs being destroyed; and

(c) where a batch of the dangerous drug has been obtained from the AFP, through a QP 0620 they forward a copy of the receipt to the Team Leader, Drug and Property Registry, Brisbane Office, AFP within 28 days of the destruction.

Retention of drug matter other than dangerous drugs

For the retention of drug matter, other than dangerous drugs see s. 4.6.16: 'Things of use to the Service or a government department' of this chapter.

4.6.16 Things of use to the Service or a government department

Where property may be of use to the Service or another government department and is:

(i) to be disposed of either under ss. 702: 'Commissioner to decide way of destruction or disposal' or 721: 'Dealing with forfeited things' of the PPRA, and

(ii) fit and safe for use,

the reporting officer or property officer is to submit a report, through their OIC, to their district officer or supervising commissioned officer outlining:

OPM Issue 113 Public Edition

(i) the proposed intended use for the thing (e.g. drug matter other than a dangerous drug to be used for training purposes or display);

(ii) the reason(s) why the thing is considered to be fit and safe for the use intended. This may involve attaching details of any mechanical, electrical or other appropriate examinations. Where the thing is a weapon, antique firearm or restricted item under the *Weapons Act*, a report from the Service armourer regarding its suitability and serviceability is to be attached; and

(iii) the unit of the Service or other government department who may benefit from having the thing. If a weapon, ensure the department has the legislative authority to possess the weapon.

The commissioned officer receiving a report is to, if satisfied the thing is safe and fit for its intended purpose, forward the report through the chain of command to the authorised delegate.

The values of property (not including drug matter) which specified members under Delegation D 24.24 may make a direction regarding forfeited property that may be appropriated for use by the Service or to another government department are as follows:

Class of member	Value of property
Assistant commissioner Executive director	$10,000.00 or more
Chief superintendent Superintendent Director, Capital Assets and Facilities Management Group	Less than $10,000.00

The delegated officer is to:

(i) decide if the property is to be appropriated having regard to whether the:

(a) retention of the property by the Service may be seen as unfair to any person;

(b) decision may otherwise attract criticism of the Service;

(c) facilities exist to maintain the condition of the thing; or

(d) property is regarded as unsafe; and

(ii) direct the manner in which the property is to be dealt with. This may include a direction that the property be appropriated to the use of either the Service or another government department, or be disposed of in any other way consistent with the provisions of this chapter.

ORDER

OICs of a region or command are to maintain a register of all property appropriated for the use of the Service or another department. Such a register is to include, in respect to each item of property:

(i) a full description;

(ii) an estimated value;

(iii) a description of the circumstances under which the property came into possession of the Service;

(iv) the name of the member who took possession of the property;

(v) all correspondence numbers associated with the property, including the QPRIME occurrence number;

(vi) the station or establishment at which the property has been put to use, or the government department to which it has been forwarded; and

(vii) the date on which the decision to retain the property was made.

All appropriated property of a value of $1000 or more is to be entered into the register of assets of the region or command the property is appropriated to.

Where a weapon or restricted item is appropriated for use by the Service or another government department, a copy of the relevant correspondence is to be forwarded to the Director, Weapons Licensing Group for updating of the relevant registers.

4.6.17 Destruction procedures

Where property, other than drug matter, is to be disposed of by way of destruction, it is to be destroyed in the presence of the officer in charge, or person nominated by the officer in charge.

A reporting officer or property officer who destroys property pursuant to this chapter should, as soon as practicable after destruction:

OPM Issue 113 Public Edition

(i) complete a suitable receipt (see s. 4.6.21: 'Finalising a property entry in QPRIME' of this chapter) including in it the name and relevant contact details of the person witnessing the destruction, and where practicable, that person's signature; and

(ii) ensure the receipt is scanned as an attachment to the relevant QPRIME occurrence relating to the destroyed property.

Where property is to be destroyed by a contractor, the reporting officer or property officer should, wherever practicable:

(i) witness the destruction of the property; and/or

(ii) obtain relevant details, including the signature, of the contractor on the receipt for the destroyed property before scanning the receipt as an attachment to the QPRIME occurrence relating to the destroyed property.

See also s. 4.6.14: 'Disposal of drug matter' of this chapter.

4.6.18 Public auction procedures

The OIC of each region or command should put in place instructions for the disposal of property by auction, that includes:

(i) a nominated location(s) for a central auction facility (which should be an approved property point);

(ii) a nominated licensed auctioneer to conduct auctions on behalf of the Service; and

(iii) the approved means of advertising auctions.

Procedures should have arrangements which maximise returns to the State. Offering a large number of items for sale is likely to attract greater interest. Frequent auctions are only recommended when appropriate amounts of property are to be disposed of.

Things which are suitable for sale to the public

Property which can be offered for sale to the public includes anything which is:

(i) fit for the use for which it was intended;

(ii) safe to use; and

(iii) not:

(a) considered objectionable in nature;

(b) for use in the commission of an offence;

(c) of such a nature its sale may attract adverse criticism of the Service;

(d) of little or no value;

(e) an article of:

- a personal nature; and
- normally carried on or about the person.

This includes:

- wallets and purses;
- key rings, key cases and key tabs;
- spectacles and sun glasses; or
- handbags, small personal carry bags and articles of a like nature; or

(f) a potentially harmful thing (see s. 4.3.10: 'Potentially harmful things' of this chapter); or

(g) a weapon.

In exercising discretion in the disposal of this class of property, consideration should be given to the use to which the thing may be put by a charitable institution. Where it is considered unsuitable or inappropriate to donate the item to a charity, the thing should be destroyed.

Approved means of advertising an auction

The approved means of advertising an auction should:

(i) be aimed at attracting the maximum number of potential buyers to the auction;

(ii) as a minimum standard, include a paid advertisement in the public notices section of a newspaper circulating in the area; and

(iii) should appear:

OPM Issue 113 Public Edition

(a) no sooner than 14 days; and

(b) no later than five days,

prior to the date of the auction.

Responsibilities of property officer

The property officer assigned for an approved central auction facility is responsible for arranging auctions and is to:

(i) use QP 0352: 'Inventory of property for disposal by auction' (available in QPRIME) to itemise property;

(ii) engage the services of the approved licensed auctioneer;

(iii) arrange with the auctioneer for a suitable date and time for the holding of the auction;

(iv) make arrangements for the auction to be advertised as per local instructions; and

(v) arrange for the delivery of the property to the auctioneer's premises, or to the premises where the property will be sold.

At the conclusion of the auction, the agent should deduct fees from the proceeds of the auction and forward the balance to the property officer, or the OIC.

Officers in charge are to ensure the remaining proceeds are paid:

(i) firstly, in meeting expenses of the sale, if any, additional to the auctioneer's fees and valuations;

(ii) secondly, in meeting the expenses of the seizure and storage of the thing sold; and

(iii) lastly, into the police collections account for disbursement to the consolidated fund or unclaimed moneys fund (see s. 721(3)(c): 'Dealing with forfeited things' of the PPRA).

Also see s. 4.7.2: 'Banking of Collections Practice' of the Financial Management Practice Manual.

4.6.19 Sale by tender procedures

ORDER

Property is to only be disposed of by way of sale by tender at the specific order of a court.

A member with responsibility for disposing of property by tender is not to disclose to any other:

(i) member, regardless of the rank or position of the other member; or

(ii) person,

any information contained in a tender which has been received.

A member who is aware that a member has the responsibility for disposal of property by tender is not to seek details of any tender from that member, prior to the disposal of the property.

To disposal of property by sale by tender, the property officer should

(i) ensure there is a court order specifying sale by tender;

(ii) modify the QPRIME occurrence accordingly;

(iii) arrange for advertisements which:

(a) may include in:

- local newspapers; or
- special interest magazines or journals;

(b) invite persons to submit an offer to purchase the property;

(c) include:

- a date and time tenders will close; and
- the place tenders are to be lodged; and

(d) allow a period of at least one month between the time of advertising appears to closure of tenders;

(iv) at the time of closure of tenders, collect all tenders received. Late tenders should not be considered;

(v) examine all tenders and select the successful tender. Unless extraordinary circumstances exist, the highest tender should be accepted;

(vi) advise the successful tenderer by telephone, then in writing;

(vii) arrange a time when the tenderer may take delivery of the property and advise them of the method payment that will be excepted;

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(viii) on payment:

(a) issue a receipt;

(b) obtain an indemnity receipt; and

(c) hand over the property to the tenderer;

(ix) modify the QPRIME occurrence accordingly and treat the sale proceeds as if they were proceeds obtained through auction (see s. 4.9.2: 'Responsibilities of property officer' of this chapter); and

(x) as soon as possible, advise each unsuccessful tenderer by letter that the property has been sold. The letter should not contain any information which may identify the successful tenderer, price paid, or other identifying information.

Members of the Service tendering for property

ORDER

When a member responsible for disposing of property receives a tender from another member who is senior by rank or position, the responsible member is to forward all tenders received and a covering report outlining the circumstances of the matter to the officer next in line control who is senior to the tendering member.

4.6.20 Application for return of relevant thing

ORDER

Where a member receives:

(i) an application under s. 692: 'Application by owner etc. for return of relevant thing'; or

(ii) copies of an application under s. 693: 'Application by owner etc. for court order for return of relevant thing',

of the PPRA, they are to refer back the application or copies to the applicant for giving or servicing upon the Commissioner via the Director, QPS Legal Services, Office of the General Counsel.

The Director, QPS Legal Services is to forward, on receipt, a:

(i) s. 692 application to an authorised delegate (see Delegation D 24.19) where the property subject of the application is stored, who is to:

(a) make a determination pursuant to the provisions of s. 692(4) of the PPRA; and

(b) inform the applicant in writing of the decision; or

(ii) s. 693 application to the OIC of the prosecution corps where the application is to be heard and the:

(a) OIC is to make necessary arrangements and require the necessary information from members to ensure the Commissioner is appropriately represented at the hearing; and

(b) prosecutor attending the hearing of the application are to ensure:

- assistance is given to the court in making a determination; and
- submissions are made to the court as to whether or not the relevant thing should be returned to the applicant or delivered to a nominee; or whether any conditions should be placed on the return of the thing to the person.

4.6.21 Finalising a property entry in QPRIME

A property entry in QPRIME is considered finalised when:

(i) documentation:

(a) has been scanned;

(b) has been attached to the relevant QPRIME occurrence;

(c) indicates all items in the entry have been disposed of or stored at another property point; and

(d) includes, but is not limited to:

- an indemnity receipt from a person or member to whom the property has been delivered;
- a receipt:
  - showing the property has been received at Forensic Science Queensland (FSQ);
  - indicating that the property has been destroyed, from a:
    - member who has destroyed the property;
    - State environmental health officer;

OPM Issue 113 Public Edition

- local health inspector;
- hospital superintendent; or
- government medical officer; or

- from courthouse staff indicating that the property has been:
  - admitted as an exhibit; and
  - retained by the court; or

- a QPB32A from another property point; and

(ii) the 'Dispose' tab within 'Stores Management' for the QPRIME entry is fully completed.

A receipt for destroyed property, as required above may include:

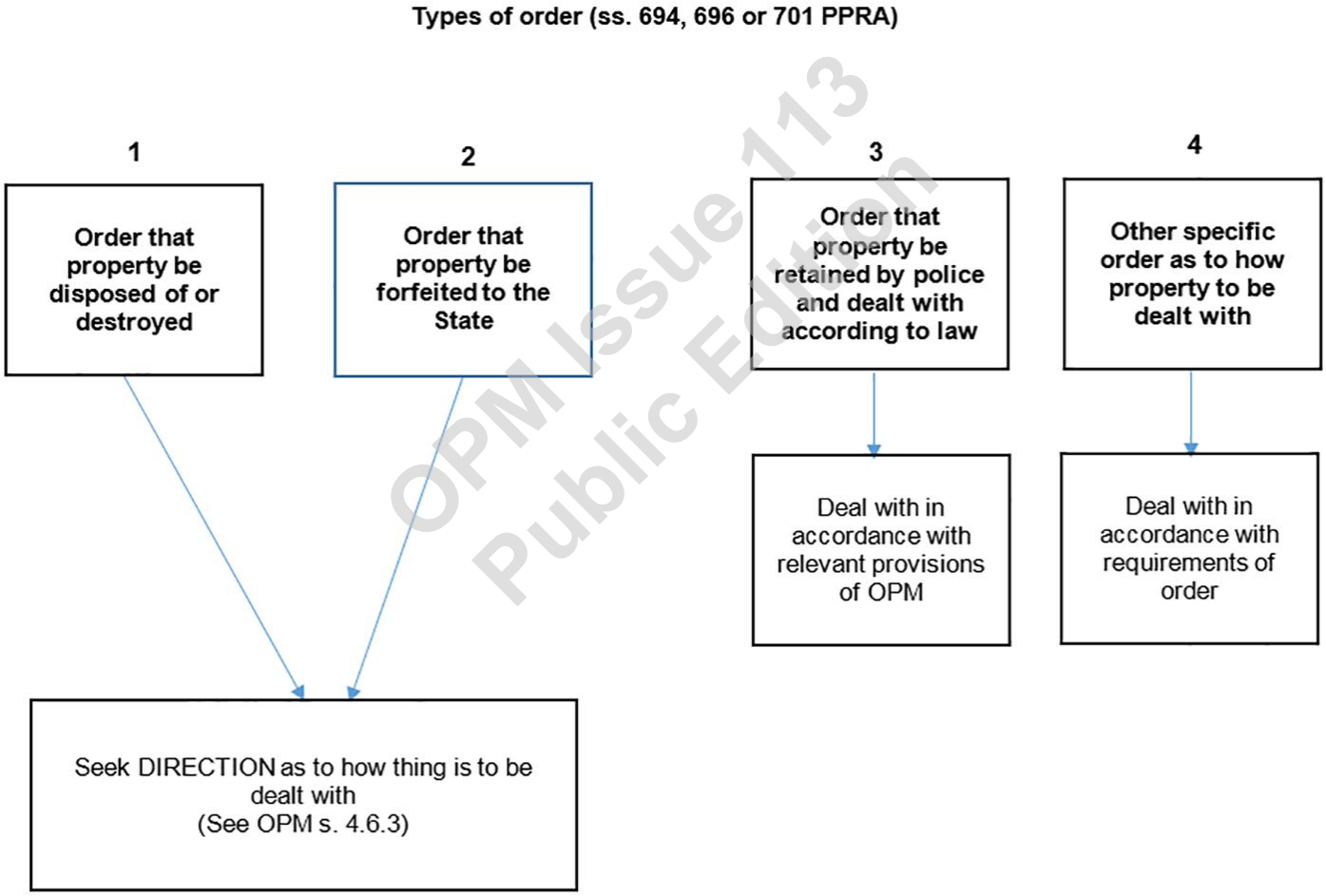
(i) a copy of a suitable entry in police notebook;

(ii) a direct entry in the 'Dispose' tab within 'Stores Management' for the QPRIME entry; or

(iii) a separate document,

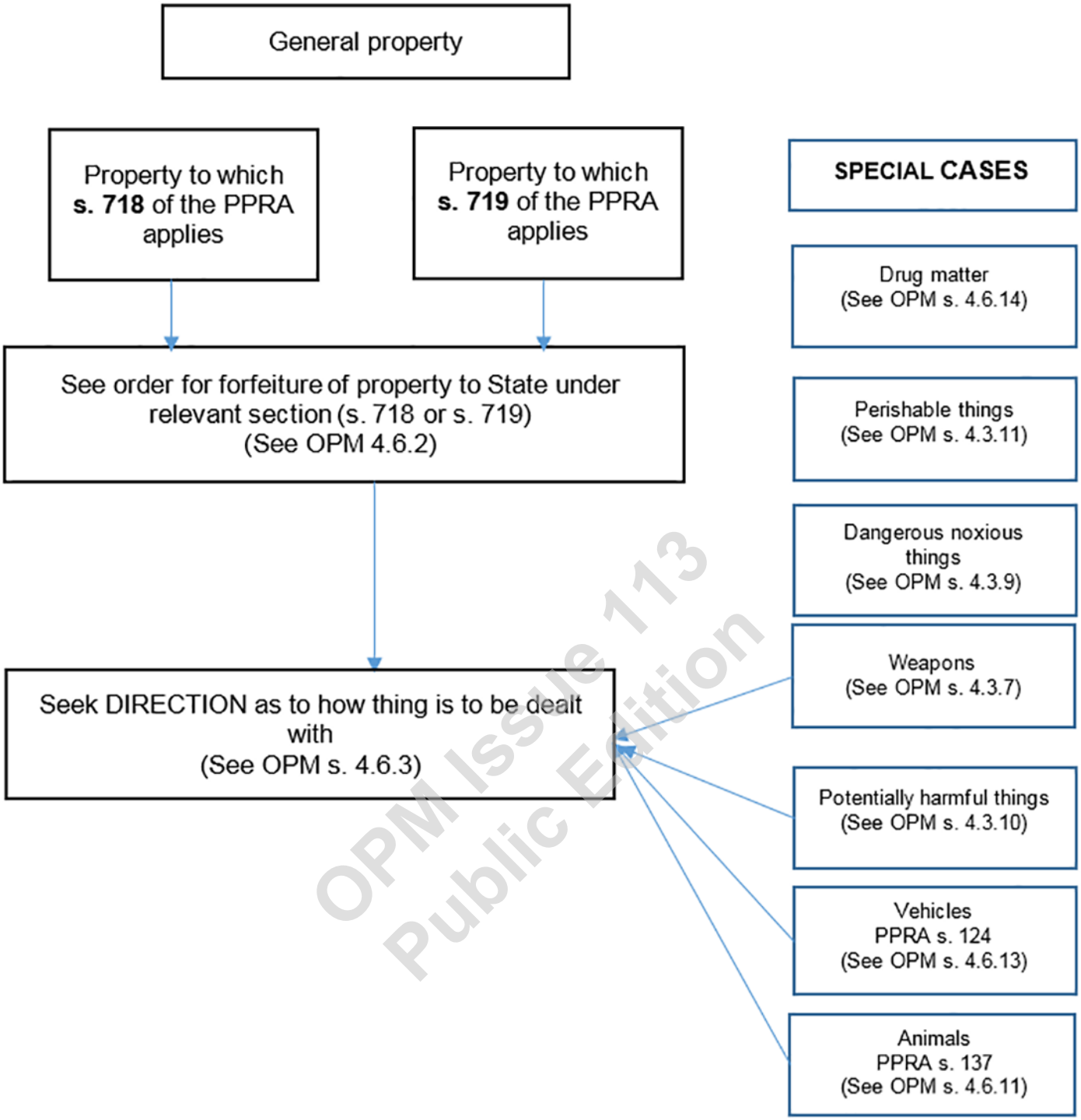
signed by the person declaring the property, listed in the relevant entry, has been destroyed.

4.6.22 Disposal flow chart (court order)



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4.6.23 Disposal flow chart (no court order)



OPM Issue 113 Public Edition

Disposal flow chart for property coming into possession of the Service for which no lawful claimant can be located and is not subject of a court order

4.7 Ownership of property

4.7.1 Disputed ownership (disposal)

When considering to whom property is to be disposed, difficulties often arise in identifying the rightful claimant. It is possible that more than one person may have a rightful claim to the property. This situation often arises in the case of property which is stolen, then later sold, or where ownership changes in the case of some fraud matters.

ORDER

When disposing of property, members are to satisfy themselves that any person the property is disposed of to, is the person with a lawful claim to that property.

A reporting officer who becomes aware of a dispute about the ownership of property is to:

(i) make an application:

(a) before a magistrates court for an order under s. 694: 'Application by police officer for order if ownership dispute' of the PPRA; and

(b) under the Uniform Civil Procedure Rules (see Horne v. Frank [2001] QDC 029);

(ii) commence the civil proceeding by using a Form 005: 'Originating Application (Generic)';

(iii) follow the procedures referred to in s. 13.30: 'Starting a civil proceeding' of this Manual; and

(iv) where a claimant to the property, listed as a respondent in the Form 005, is interstate refer to s. 14.29.6: 'Interstate service of an originating process' of this Manual.

Reporting officers should seek advice as to the identity of a lawful claimant from local prosecutors in the first instance, or from Operational Legal Advice, Legal Division (see s. 1.13: 'Operational Legal Advice' of this Manual) where a matter remains unsettled.

Property officers who become aware of a dispute about the ownership of any property held at a property point are to send a task from the QPRIME occurrence to the reporting officer, advising of the nature of the dispute.

4.7.2 Letters of subrogation

ORDER

An OIC of a station or establishment who receives a letter of subrogation from an insurance company or loss adjuster is to forward the letter to Policelink (see Appendix 3.1: 'Factors for consideration in restitution/compensation' of this Manual).

4.7.3 Restraining or confiscation orders under the Criminal Proceeds Confiscation Act

The Crime and Corruption Commission's (CCC) Proceeds of Crime unit is responsible for the non-conviction based scheme (see Chapter 2: 'Confiscation without conviction' of the *Criminal Proceeds Confiscation Act* (CPCA)) and serious drug offender confiscation order scheme (see Chapter 2A: 'Serious drug offender confiscation order scheme' of the CPCA).

The Office of the Director of Public Prosecutions (ODPP) is responsible for the conviction-based scheme (see Chapter 3: 'Confiscation after conviction' of the CPCA) and acts as solicitor on the record for all confiscation actions brought by the CCC on behalf of the State.

The non-conviction scheme allows the restraint of a person's property if there is a reasonable suspicion the person engaged in serious crime related activity—there is no need for actual or imminent charge.

Restrained property may be forfeited to the State if a court is satisfied on the balance of probabilities that it is:

(i) derived from serious crime related activity (forfeiture order); or

(ii) required to satisfy an assessment made of the:

(a) benefit a person has derived from illegal activity (proceeds assessment order); or

(b) unexplained wealth of a person who has engaged in serious crime related activity (unexplained wealth order).

Where a court issues a serious drug offender certificate upon the sentencing of a person for a qualifying offence, within six months and upon application, the person's assets may be subject to a serious drug offender confiscation order and be confiscated by the State, even where the assets may have been lawfully acquired.

The conviction-based scheme administered by the ODPP relies on a person being charged and convicted of a confiscation offence.

The CCC starts proceedings on behalf of the Service for Chapters 2 and 2A schemes of the CPCA.

The ODPP starts proceedings on behalf of the Service for Chapter 3 scheme of the CPCA.

To engage the CCC to commence proceedings under Chapters 2 or 2A of the CPCA:

(i) complete a Form QP 0503: 'Application for Criminal Proceeds Confiscation Assistance';

(ii) obtain approval to disclose the QP 0503 to the CCC (see s. 10.2: 'Authorisation of disclosure' of the PSAA, s. 5.6: 'Release of information' of the MSM and Delegation D 15.46); and

(iii) email the application and any supporting documentation to Proceeds_Mailbox@ccc.qld.gov.au.

To engage the ODPP to commence proceedings under Chapter 3 of the CPCA contact the ODPP.

See s. 55(iv): 'Conviction based confiscations' of the Office of the Director of Public Prosecutions (State) Director's Guidelines.

Where the Supreme Court makes a:

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(i) restraining order;

(ii) unexplained wealth order;

(iii) serious drug offender confiscation order;

(iv) forfeiture order; or

(v) proceeds assessment order,

under the CPCA in relation to property seized by the Service, the ODPP will forward a copy of the order to the OIC, Evidence Management Unit (EMU).

The OIC, EMU is to ensure that when any order under the CPCA is received:

(i) it is recorded in the relevant QPRIME occurrence by attachment as an external document;

(ii) each item on the order in possession of the Service:

(a) is 'lodged' as a property/vehicle item in the relevant QPRIME occurrence; and

(b) has the QPRIME Property Link window updated with:

- 'Proceeds of crime' entered into the classification field; and
- 'Subject of a restraining order' entered in the Remarks field; and

(iii) if a direction is made that the Public Trustee of Queensland (PTQ) take possession of item(s) (see s. 35: 'Restraining order may direct public trustee to take control of property' of the CPCA), that:

(a) for money, a QP 0087D: 'Collections refund voucher—Trust' is:

- completed containing details of the originating station and relevant QPRIME occurrence number.
- checked and authorised by the OIC, EMU; and
- forwarded with the restraining or forfeiture order and letter of request from the PTQ to the Shared Service Agency, who will arrange payment to the PTQ; and

(b) after payment is made, ensure a QPRIME task, advising the property has been dealt with in accordance with the order i.e., disposal of the property or transfer of the property to the PTQ, is assigned to:

- the investigating officer; and
- the relevant property points and request they update the status of the property on the QPRIME occurrence,

(see 'Transfer of property from Service to Public Trustee of Queensland' of this section below).

Transfer of property from the Service to the Public Trustee of Queensland

The court can impose a condition on a restraining order that the PTQ take possession or control of some or all of the property under the CPCA.

The PTQ:

(i) is empowered under the CPCA and *Public Trustee Act* (PTA) to do anything necessary or desirable to give effect to a restraining order including:

(a) taking receipt of property from the Service;

(b) investing any restrained money; and

(c) where applicable, disposal of property,

(see Chapter 6, Part 1, ss. 217 to 226: 'Powers of public trustee' of the CPCA and s. 19: 'Common fund and investment thereof and of other moneys' of the PTA);

(ii) has advised that, if the court order under the CPCA:

(a) expressly directs them to take possession of property, they will; or

(b) directs them to take control of property (including money), they will not; and

(iii) will be responsible for payment of any costs associated with transport and storage of the property unless the court order otherwise orders, or unless otherwise agreed with the Service. Any significant costs incurred by the Service in transferring property into the control of the PTQ are to be considered and agreed upon between the region actually incurring the costs and the PTQ, on a case-by-case basis.

Officers are to be mindful that failure to transfer money to the PTQ in a timely manner may result in another party seeking damages from the Service in the form of lost interest or income.

OPM Issue 113 Public Edition

Members are to comply with a court order issued under the CPCA and any reasonable request of the PTQ in a reasonable time period.

District officers are responsible for the monitoring and coordination of responses to:

(i) restraining order;

(ii) unexplained wealth order;

(iii) serious drug offender confiscation order;

(iv) forfeiture order; or

(v) proceeds assessment order,

received from the EMU or PTQ for matters within their area of responsibility.

OICs of stations or establishments should liaise with, and provide regular advice of the status of compliance with court orders, to:

(i) EMU;

(ii) their district officer; and

(iii) the relevant PTQ officer.

4.7.4 Restraining orders under the Drugs Misuse Act

Reporting officers taking possession of property which is liable to forfeiture (see s. 33: 'Liability of property (other than a dangerous drug) to forfeiture' of the *Drug Misuse Act* (DMA)) and not seized as evidence, should:

(i) make every possible inquiry to establish:

(a) the ownership and value of the property; and

(b) whether any individual or organisation has any control or a vested interest in the property;

(ii) determine if it is appropriate to make an application for a restraining order, by considering:

(i) the need to retain the property in police custody, especially motor vehicles; and

(ii) when no objections exist, whether the application should be for a restraining order which vests control of the property to the Commissioner but permits the owner to retain custody;

(iii) in appropriate circumstances, make application to a court for a restraining order (see s. 41(1): 'Restraining order' of the DMA) in respect of that property within fourteen days of the time of seizure, by:

(a) liaising with the local prosecutor and clerk of the court to establish a suitable date for hearing;

(b) completing and lodging to the clerk of the court:

- a QP 0246: 'Application for restraining order';
- a QP 0247: 'Notice of application for restraining order';
- a 'schedule of property'; and
- any other appropriate attachments;

(c) ensuring the QP 0247 is signed by the clerk of the court or magistrate;

(d) serving (preferable wherever possible personal service) on all parties with an interest in the property:

- a copy of the QP 0247; and
- the 'schedule of property';

(e) completing the oath of service (if applicable);

(f) providing to the prosecutor a copy of all documentation, including a completed QP 0248;

(g) as required, attending and giving evidence at the magistrates court on the hearing date;

(iv) if applicable, depending on the value of the property, make the application to the Supreme Court.

4.8 Property points

ORDER

Property is only to be stored or held at a declared property point designated by the OIC of the region or command or a district officer, by these instructions as a point for the storage of that class of property.

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4.8.1 Designation of property points

An OIC of a region or command or a district officer is to designate, in writing, stations, establishments or other places as points at which property or particular class of property, which comes into possession of the Service, is to be stored. However, a district officer can only designate a property point within the officer's own district, group, or equivalent functional unit.

Property points may be maintained jointly for the use of more than one division, district, or region.

A property point at a place other than a station or establishment:

(i) can only to be designated with the consent of the occupier of the place; and

(ii) meets the needs of the region or command; and

(iii) provides a safe and secure place for storage of property or a particular class of property.

Property points may include:

(i) a secure room or rooms within a police station or establishment;

(ii) vehicle holding yards, whether owned by the Commissioner or otherwise;

(iii) livestock holding areas;

(iv) bank night-safe facilities;

(v) safes and drop safes installed at police stations or establishments; or

(vi) other secure static or mobile locations, which meet the needs of a region or command for the safe storage of property, either permanently or for a limited period. An example may be the use of a mini storage shed for a limited period after the closure of an operation.

4.8.2 Establishing property points

ORDER

When required by the OIC of a region or command or the district officer, OICs of stations or establishments are to identify locations within the division which are suitable for use as property points, and to provide a report outlining the following:

(i) the location of the proposed property point;

(ii) a description of the construction materials;

(iii) internal layout, if the location is a room or facility;

(iv) a description of all possible entry points;

(v) security measures in place;

(vi) an assessment of any security installations which may be required, inclusive of any cost associated with establishing those arrangements;

(vii) if the property point is, or includes a safe, the type and description of the safe;

(viii) proposed access arrangements, including hours during which access will be available;

(ix) staff required to operate the property point and access to analysis facilities;

(x) types of property which would be suitable or unsuitable for storage at that point, the reasons for this assessment and disposal arrangements;

(xi) recommendations as to which station or establishment the property point should be attached;

(xii) recommendations as to which member is to be the property officer for a particular property point if a member other than the officer in charge is to be appointed as such;

(xiii) availability of property handling equipment (e.g. night safe, heat sealing machine); and

(xiv) any other budgetary considerations.

In the event that an OIC of a station or establishment is unable to identify any possible property points within the division, a report outlining that fact is to be submitted to the OIC of the region or command or the district officer.

If conditions at a property point change so that security, storage capability, access or safety is significantly affected, or if existing facilities are known to be inadequate, the OIC of the station or establishment should advise the OIC of the region or command or the district officer as soon as possible.

The OIC of a region or command is responsible for implementing a system for the storage and handling of property within the region or command, or in the case of district officer, district, group, or equivalent functional unit, that is consistent with the standards in this chapter.

OPM Issue 113 Public Edition

4.8.3 Evidence Management (Exhibits)

The Officer in Charge, Evidence Management, Homicide Group, Crime Command is the property officer with respect to Evidence Management (Exhibits) or any other storage facility under their control.

4.8.4 Property plans

Where deemed appropriate, officers in charge of regions, command, districts, groups, divisions or units should consider formulating a property plan, by conducting an evaluation, which involves:

(i) identifying any property storage and transport needs created by geographical factors which are peculiar to the area of responsibility;

(ii) identifying and considering any classes of property which are likely to come into possession of members under their control;

(iii) reviewing locations presently in use as property rooms and identifying locations and sites which are potentially useful as property points;

(iv) evaluating locations and sites, and identifying those suitable for use as property points;

(v) considering the occupational health and safety aspects of handling various classes of property, e.g. completion of the hazardous substances register and hazardous substance risk assessment;

(vi) determining whether any potential property point is unsuitable for the storage of any particular class of property, e.g. for dangerous/noxious or hazardous substances;

(vii) considering staff arrangements which allow the lodging of any class of property in accordance with the provisions of this chapter; and

(viii) identifying the resources which are required to give effect to the provisions of this chapter, e.g. appropriate safety equipment, adequate storage facilities, and signage for dangerous/noxious or hazardous substances.

Format of property plans

Officers in charge should consider formulating written procedures which address local issues in implementing the instructions in this chapter. The procedures should be based on the requirements identified during the evaluation and are to comply with the provisions of this chapter. The procedures could designate:

(i) the places, locations, or sites which are to be used as property points;

(ii) the member who is to act as the property officer at each property point;

(iii) the classes of property that are not to be stored at each property point, e.g. drugs or dangerous/noxious or hazardous substances;

(iv) the procedures for dealing with classes of property with no practical intrinsic value;

(v) procedures for the transport and storage of property which will enable members to lodge property at a property point without delay;

(vi) the security arrangements which are to be in place at each property point;

(vii) any safety procedures to be followed, e.g. emergency response plans, the use of ventilation equipment, the addition of signage or placards; and

(viii) the procedures to be adopted for disposal of property by auction.

Provision of resources

Officers in charge of regions or commands should ensure that all resources necessary for property storage and disposal system are provided at the appropriate locations.

The following resources may be required to facilitate property plans:

(i) appropriate forms;

(ii) a supply of polytubing and a heat-sealing machine;

(iii) appropriate scales at all suitable property points designated for the storage of drugs or drug utensils;

(iv) a supply of property bags;

(v) drop safes at police stations and establishments;

(vi) vehicle holding areas;

(vii) property handling and safety equipment; or

(viii) a safe.

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4.8.5 Responsibilities of district officers

ORDER

District officers (which includes superintendent who is in charge of a group or equivalent functional unit, see SMD) have responsibility for:

(i) maintaining the integrity of property points and the property handling system by ensuring:

(a) compliance by members with any legislation, the procedures in this Manual and local procedures;

(b) suitability of Service procedures to local needs;

(c) efficiency and suitability of local procedures; and

(d) resources allocated to support property handling systems are appropriately allocated and used efficiently;

(ii) where they become aware of non-compliance with property procedures that appropriate action is taken to rectify the situation, or report matters that can't be remedied with available resources to the OIC of the region or command;

(iii) auditing or delegating a commissioned officer to conduct or administer an audit of:

(a) every property point within their control district at least once in every financial year

(b) all property point holdings at the time of relinquishment of the role and functions of a property officer; and

(iv) ensuring any property point audit involves:

(a) an independent officer, where possible conducting the audit, i.e. an officer from another station or section;

(b) where possible a physical security inspection of:

- the property points;
- safes;
- strong rooms; and
- other security containers;

(c) an evaluation of any workplace health and safety issues and safeguards which are in place, or which should be put in place;

(d) ensuring that all unfinalised property entries recorded in QPRIME in relation to property items stored at their particular property point correspond to property which is held there or that an entry identifies the location of where the property is held;

(e) in cases where the property recorded in the unfinalised property entry is being held elsewhere, the audit officer is to be satisfied of the veracity of the entry and whether the property should be returned with a view to disposal;

(f) ensuring that all property held at the property point is recorded in an unfinalised QPRIME property entry, or are at court, or at a place for the purposes of analysis (including any weapons and dangerous drugs);

(g) inspection of all receipt books and books of account relating to cash handling;

(h) ensuring that no property is stored or left in or around the property point which has not been processed according to the provisions of this chapter;

(i) ensuring that the combination of any safe is changed more than once annually and when a property officer is transferred, or relieved of the duties of an appointed property officer;

(j) district officers must ensure that all property points within the control district have been audited at least once each financial year. The district officer has the discretion to conduct or authorise a complete audit of a property point or multiple audits that amount to a 100 percent audit of property points within their control; and

(k) audits of property points should include an audit of property that has been temporarily removed under s. 4.4: 'Temporary removal of property from property points' of this Chapter.

See 'Property Management: Audit Inventory Property' of the QPRIME User Guide.

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4.8.6 Minimum storage requirements

The following table outlines the minimum storage requirements for various classes of property:

Class of property	Minimum standard of storage facility
Animals	Adequate space or arrangements to allow the animal sufficient exercise consistent with the needs of that species. Shelter and sleeping area consistent with the needs of the particular species and relevant husbandry practices. Consideration should be given to the storage of animals in a local government pound. Also see s. 4.3.12: 'Animals' of this chapter.
Money and easily transportable valuables	A keyed or combination safe to which only the property officer and/or officer in charge of the station or establishment has access. This does not preclude the use of a drop safe or bank night safe for after-hours lodgement of money. Secured in heat-sealed plastic bag or envelope with seal signed by investigating officer and property officer.
Drug matter	A lockable area separate from other property storage areas. In the case of smaller items of drug matter, this need may be met with the use of a keyed or combination safe. The storage requirements for drugs should be considered in the light of the purpose and length of time that the drugs are required to be stored. Storage facilities at property points used for dangerous drugs should be ventilated using a suitable continuous exhaust fan and be isolated from any air conditioning used for general workplaces. The exhaust outlet for the fan should be situated well away from any inlet used for air conditioning. Exposure to airborne fungal spores in drug storage facilities which do not have suitable exhaust fan(s) installed is to be considered a high risk, and appropriate precautions should be taken. Cannabis plants or samples which still contain noticeable moisture are to be stored in 'Gar bags (DRY)' or paper envelopes. The open ends of these bags or envelopes are, wherever possible, to be folded, stapled and sealed with tape. Wherever possible, cannabis (particularly plants) should have all surface moisture removed by air drying before storage. All other types of drug matter are to be secured in heat-sealed polytubing or a property bag. Drug matter is to be packaged in a way which avoids cross-contamination. Individual items for analysis are to be packaged in separate plastic bags and the packaged items are then to be placed together in one heat sealed plastic bag. Items which are made up of a number of parts, such as a smoking utensil consisting of a bottle, a cone and a hose, are to be packaged as one item unless the parts were separate when originally seized.
Clandestine drug laboratory exhibits	Due to the potential impacts of chemicals, police stations and property points generally are not equipped to store clandestine drug laboratory exhibits. The Kessels Road Police Annex at Coopers Plains has been designated to safely store clandestine drug laboratory exhibits. Additionally, purpose built secondary facilities are established at Rockhampton, Mackay, Townsville and Cairns.
Vehicles	A fenced yard with lockable gates.

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4.8.7 Safety considerations

OICs should ensure that safe practices and property handling procedures (e.g. contaminated waste removal, procedures relating to hazardous property and communicable diseases) are in place at stations or establishments under their control. This includes the provision of resources (e.g. sharp receptacles, gloves, signage/placards).

Members should refer to the following Service documents relating to health and safety:

(i) 'Blood and Body Fluids Policy' within Safety and Wellbeing Policies SharePoint page;

(ii) s. 2.8.2: 'Search of a place', Appendix 16.9: 'Guidelines for conducting personal searches', and Appendix 2.8: 'Risk control measures for conducting searches of places' of this Manual; and

(iii) QCW 007: 'Work Health and Safety: Practices and Procedures' OLP available in Ignite.

See also s. 4.3.9: 'Dangerous/noxious things' of this chapter.

ORDER

To prevent or minimise exposure to risks associated with handling and storage of dangerous drugs and drug related things, members are to:

(i) ensure drug storage areas are well ventilated;

(ii) seal drugs in suitable bags as soon as possible;

(iii) place syringes and other sharp objects in sharps disposal containers, or other suitable hard packaging;

(iv) wear suitable protective gloves at all times when handling any drugs or drug related things; and

(v) wear Australian Standard AS 1716 active chemical cartridge type breathing masks at all times in unventilated property storage areas, and for any exposure to mouldy cannabis plants or material, or air borne particles of powders and vapours of liquids.

Hazard control (use of personal protective equipment)

The hierarchy of hazard control methods, from most desirable to least desirable, is generally regarded to be:

(i) removal of the hazard by design and engineering controls;

(ii) substitution of the source of the hazard with a safer source;

(iii) changing the process by which the source of the hazard is handled;

(iv) enclosure or isolation of the process which creates the hazard;

(v) removal of the source of the hazard;

(vi) segregation of personnel from the source of the hazard; and

(vii) providing personal protective equipment to minimise risk of exposure to the hazard.

Whilst levels of risk may vary with particular circumstances, members should always adopt the highest level of personal protection available. If a member has any doubts as to the suitability of personal protective equipment available to them for exposure to a particular drug, they should seek advice before subjecting themselves to such exposure.

OPM Issue 113 Public Edition

4.9 Property officers

4.9.1 Appointment of property officers

Officers in charge (OIC) of regions, commands, districts and groups are to, when appropriate, appoint a property officer (see Schedule 6: 'Dictionary' of the PPRA and Delegation D 24.2) for each designated property point within their area of responsibility.

Where no property officer is appointed, the OIC of the station or establishment where the property point is established, is also the property officer.

Where a property point is not at a station, the property officer is also responsible for the duties of the OIC of the station or establishment under this chapter.

4.9.2 Responsibilities of property officers

Some responsibilities of property officers are contained in s. 75: 'Responsibilities of property officers' of the Responsibilities Code.

ORDER

Property officers are responsible for:

(i) the efficient management of the property points under their control, including:

(a) establishing and/or maintaining procedures for recording the movement of all property coming into and leaving the property point;

(b) subject to available resources, for storing all property in a manner which is secure and safe; and

(c) providing advice to their officer in charge (OIC) regarding any inadequacies of the property point;

(ii) on discovery of any discrepancies or signs of tampering with lodged property:

(a) immediately advise their OIC; and

(b) where property consisting of drugs or drug related utensils, additionally immediately advise the regional duty officer or other commissioned officer in charge;

(iii) when required or they elect to destroy property—when authorised under this chapter—its disposal by destruction;

(iv) depositing money in the Queensland Police Service collections account, as soon as practicable, after it is lodged; and

(v) the management of property in possession of the Service at the property point, including handling systems that maintain accountability and preserve the integrity and security of property storage areas.

4.9.3 Action on receipt of property

ORDER

Where property is lodged at a property point the property officer should:

(i) if accompanied by a QPB32A: 'Field property receipt', ensure:

(a) the 'property tag' (buff copy) is attached and completed; and

(b) the description corresponds with the lodged property and, if any inconsistencies are found:

- advise the reporting officer, requesting they make and initial any necessary changes; and
- countersign the change to the entry;

(ii) ensure an appropriate QPRIME occurrence has been created;

(iii) ensure each property item has been tagged within 'Stores Management';

(iv) update each individual item of property in QPRIME indicating its movement;

(v) where drug or drug related utensil property, ensure:

(a) it is in a property bag(s);

(b) it is sealed;

(c) it shows no signs of being tampered with;

(d) it is endorsed by the reporting officer; and

(e) where the seal(s) are not intact:

- make inquiries to determine if broken unlawfully or in contravention of Service policy;
- if satisfied there has been no contravention of Service policy or anything unlawful:
  - accept the property and make an appropriate notation in the QPRIME occurrence;
  - seal the property in another property bag or, where possible, reseal the original property bag; and
  - have the reporting officer endorse the property bag accordingly;
- if any doubt exists to the reason for the broken seal or where the bag other than the seal shows signs of being tampered with avoid handling the bag without gloves; and
- immediately advise the regional duty officer or commissioned officer in charge; and

(vi) ensure utensils are sealed separately from drugs;

(vii) ensure for drug matter (high-risk medicine (see Medicines and Poisons (Medicines) Regulation), controlled substances or dangerous drugs (see *Drugs Misuse Act*)) they record:

(a) the weight or volume of the drug matter; or

(b) the number and height of plants;

(viii) a copy of the QP 0760: 'Property Receipt' from the QPRIME entry is to be:

(a) handed to the lodging officer; and

(b) securely attached to the property in a conspicuous place and joined to any QPB32A;

(ix) store the property;

(x) scan any QPB32A that has been issued as an attachment in the QPRIME occurrence;

(xi) update the storage details for the property in the QPRIME occurrence; and

(xii) in the case of property seized in connection with a coronial investigation, ensure the QPRIME expected disposal date for the property is changed from 60 days to 180 days, from the date the property was taken possession of, to allow for finalisation of the coronial findings and for the Coronial Support Unit to upload coronial findings to the relevant QPRIME occurrence.

OPM Issue 113 Public Edition

Consideration on receipt of drug matter

ORDER

A property officer who believes that keeping drug matter about to be lodged at a property point would be dangerous should immediately advise the reporting officer of this fact and advise and assist them to deal with the drug matter in accordance with the provisions of s. 705: 'Destruction of drug matter soon after it is seized etc.' of the PPRA (see 'Safe destruction of drugs to prevent further offences' in s. 4.6.14: 'Disposal of drug matter' of this chapter).

Responsibilities at vehicle property points

ORDER

Property officers who have control of a vehicle property point are to ensure that a vehicle is not accepted at that property point unless the vehicle:

(i) is required for tests, examinations, or is to be photographed and the required tests and examinations are noted in the relevant QPRIME property entry;

(ii) is located subsequently to being stolen; or unlawfully used where the owner cannot be located;

(iii) is seized as evidence of the commission of an offence or for use as evidence in a forfeiture proceeding, and its retention is required; or

(iv) is impounded or to be forfeited for a type 1 or type 2 offence (see ss. 16.8: 'Impounding of motor vehicles' and 16.16: 'Disposal of impounded and forfeited motor vehicles' of the Traffic Manual).

On the completion of all tests, examinations and photographing as indicated by the reporting officer, the property officer is to send a task in QPRIME to, or otherwise notify, the reporting officer advising that all tests, examinations and any photographing have been completed.

Property received from another property point

ORDER

Where property officers receive property which has previously been stored at another property point, they are to update the movement details for the property item in 'Stores Management' within QPRIME. Where appropriate, include the name of the corresponding station/establishment.

4.9.4 Publication of a notice on the QPS website

The property officer is to, where a notice is required to be published on the QPS website, such as but limited to:

(i) s. 126: 'Steps after seizing vehicle, load or other thing';

(ii) s. 139: 'Steps after seizing animal';

(iii) s. 710: 'Destruction notice may be given to person';

(iv) s. 718: 'Order for forfeiture of particular relevant things'; and

(v) s. 719: 'Order for forfeiture of relevant things connected with offences',

of the PPRA, complete the relevant 'Public Notice Facilitated Submission' on the Service Intranet.

Sections 718(5) and 719(5) of the PPRA do not require the giving of a notice if the cost of giving the notice is more than the value of the property involved.

The following details are to be included in the public notice in respect of each:

(i) drug matter under s. 710 of the PPRA:

(a) date the notice is published;

(b) QPRIME occurrence number;

(c) date the drug matter was seized;

(d) place seized (i.e. suburb, town or city where the drug matter was seized. This is not to include street address details); and

(e) analyst's certificate's description (e.g. 1 gram of cannabis sativa);

(ii) relevant thing under ss. 718 or 719 of the PPRA:

(a) date the notice is published;

(b) station or establishment where the relevant things are held;

(c) date the relevant things are liable for forfeiture (i.e. at least 30 days from date notice is given (see s. 718(3) of the PPRA);

(d) QPRIME occurrence number;

OPM Issue 113 Public Edition

(e) description of the property, including only identifiable features that will assist a rightful owner in identifying their property and avoid false claims of ownership;

(f) photograph of the property, if available; and

(g) contact details of the relevant member at the station or establishment, including the preferred method of contact.

Notices under ss. 710, 718 and 719 of the PPRA are to be published and appear on the QPS Internet website for a minimum of 30 days prior to removal.

4.9.5 Authorisation for members to possess dangerous drugs and weapons

Staff members performing duties of a property officer are authorised under s. 125: 'Prescribed persons permitted to receive and dispose of dangerous drugs' of the *Drugs Misuse Act* to have possession of a dangerous drug whilst actually performing these duties.

For possession of weapons by staff members see s. 14.4.3: 'Staff members (authorisation to possess or use weapons as part of the performance of their duty)' of this Manual.

4.9.6 Finalising property in QPRIME

ORDER

When each and every entry of property is finalised, the property officer is to ensure that all property items within the relevant QPRIME occurrence are appropriately finalised using the 'Dispose' tab within 'Stores Management' see also 'Property Management: Audit, Inventory Property' of the QPRIME User Guide.

Members cannot complete the 'Dispose' tab within 'Stores Management' for a QPRIME property entry unless they are the appointed property officer for that property point, or are acting in that position. Members are not to complete the 'Dispose' tab within 'Stores Management' for a QPRIME property entry unless they have received documentation which indicates that all items of property to which that entry refers has been disposed of, moved to another property point, or has been disposed of by a court.

OPM Issue 113 Public Edition

4.10 Recording personal identification numbers

OICs of stations or establishments should maintain a portable engraving machine available for loan to any member of the public on request, for such time as the OIC deems appropriate.

Members of the public who make use of Service engraving machines should be:

(i) be supplied with a crime prevention property brochure, form or card on which that person may record details of their name, address, telephone numbers and the unique identification mark used by them to engrave their property.

(ii) encouraged to engrave property with an identification number which is consistent with Australia-wide standards agreed to by police commissioners. The number should be constructed of nine characters in the following manner:

(a) the first two characters consist of the initials of the property owner;

(b) the third to eighth characters consist of the date of birth of the property owner; and

(c) the letter Q as the final character. This serves to identify that property is of Queensland origin,

(for example for John SMITH, born on 23 July 1959, who should use the identification number 'JS230759Q').

ORDER

Officers supplied with the personal details and identification number or mark of a person are to enter the details in the Misc ID field of the person's QPRIME record.

4.11 Transmission and return of seized things between states and territories

Section 722: 'Ministerial arrangements for transmission and return of seized things' of the PPRA provides for the making of arrangements between Queensland and other states and territories to allow transfer of seized things which may be relevant to the investigation of an offence or to a proceeding:

(i) for an offence against the law of Queensland (with respect to thing seized under relevant legislation of another state or territory); or

(ii) for an offence against the law of another state or territory (with respect to things seized under the PPRA).

This section is supplemented by corresponding laws in all jurisdictions (see Schedule 7: 'Corresponding laws' of the Police Powers and Responsibilities Regulation) and by a series of ministerial arrangements. An appropriate authority for the purposes of these arrangements includes assistant commissioners (see Delegation D 24.30).

These mechanisms allow a member of any police agency in Australia to have property in another jurisdiction seized and transmitted to the jurisdiction in which the investigation is taking place.

Register of property seized

It is the responsibility of the OIC, Evidence Management, Crime Command to:

(i) maintain a register of property seized in this State for the purposes of s. 722 of the PPRA, or seized at the request of the Service under corresponding legislation in another jurisdiction;

(ii) forward all status reports required by the ministerial arrangements.

4.11.1 When Queensland is the receiving state

Seeking the issue of a warrant

The Service will support an application for the issue of a warrant under corresponding legislation when:

(i) the matter under investigation is an indictable offence;

(ii) the seriousness of the offence is such that a prison term or a substantial monetary penalty is likely to result from a conviction arising from the investigation; and

(iii) the circumstances surrounding the matter indicate that the public interest would be served by seeking a warrant under corresponding legislation in another jurisdiction.

An officer who becomes aware that property is located in another jurisdiction and is satisfied that the conditions outlined above are met, may make application for the issue of a warrant under the relevant corresponding legislation. To make an application, they should:

(i) make contact with the OIC of the police station or establishment from which the warrant will be sought and request they nominate an appropriate liaison officer;

(ii) contact the liaison officer and advise them of the intention to seek the issue of a warrant. The liaison officer cannot seek the issue of the warrant at this time, but must wait until a formal request has been made by the appropriate authority;

(iii) prepare and have sworn a QP 0731: 'Request for a search warrant in a reciprocating state—affidavit' and scan it as an attachment to the relevant QPRIME occurrence;

(iv) prepare a QP 0733: 'Authority to request issue of a search warrant in another jurisdiction' and scan it as an attachment to the relevant QPRIME occurrence;

(v) complete a QPRIME general report from within the occurrence, outlining the details of the matter and include the name, rank and station of the liaison officer; and

(vi) forward a QPRIME general task with the general report, QP 0731 and QP 0733 through the chain of command to the authorised delegate for their region or command.

The authorised delegate, on receipt of a QP 0731 should:

(i) examine the matter;

(ii) decide whether the offence under investigation falls within the criteria outlined;

(iii) determine, on the basis of all the circumstances of the matter, whether the issue of a warrant is to be pursued in the other state or territory;

(iv) if of the opinion the warrant should be pursued, sign the QP 0733 as provided by the requesting officer; and

(v) ensure that the QP 0731, QP 0733 and general report provided are forwarded to the appropriate authority in the reciprocating jurisdiction.

Taking possession of the property

On arrival in the reciprocating jurisdiction, the documentation should normally be forwarded to the liaison officer, who will become responsible for applying for and executing the search warrant.

At this time, the liaison officer should seek the issue of a warrant, using the information provided by the requesting officer. The liaison officer should then advise the requesting officer that the warrant has been issued.

In most instances, it is desirable for the requesting officer to travel to the other jurisdiction to accompany the liaison officer when the warrant is executed. This is particularly desirable when the property sought, such as documents, is not well identified. The need to be present at execution of the warrant is lessened when the property is well defined and easily identifiable.

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In either case, the property may not be handed to the requesting officer until it has been recorded in a property register in the other jurisdiction, and an authority to take possession of the property has been received from the appropriate authority in Queensland.

After receiving advice that a warrant has been issued in another jurisdiction, the requesting officer should:

(i) discuss the necessity and timing of travel with the liaison officer from the other jurisdiction, and, subject to the approval of the relevant authorising delegate, make suitable travel arrangements;

(ii) on arrival in the other jurisdiction, take up with the liaison officer and proceed to the facility at which the property is stored;

(iii) compile a list of all property seized and forward the list via email, facsimile or other appropriate method to the relevant authorising delegate; and

(iv) on receipt of an authorisation to receive the property signed by the relevant authorising delegate, provide this authority to the liaison officer, who should then hand the property, together with a copy of the property register entry in which the property is recorded, to the requesting officer.

Action on return to Queensland

ORDER

On returning to Queensland, the requesting officer is to:

(i) immediately lodge the property at a property point;

(ii) ensure the QPRIME occurrence entry is updated and each item of property in the QPRIME occurrence is tagged indicating the current location of the property see 'Property Management: Lodge Property' of the QPRIME User Guide;

(iii) complete a general report within the QPRIME occurrence, which is to:

(a) outline details of the property seized; and

(b) be accompanied by a scanned copy of:

- the authority to take possession of the property as signed by the relevant authorising delegate; and
- any relevant register entry received from the other jurisdiction; and

(iv) forward the report as a General task through the OIC of the region or command to the OIC, Evidence Management, Crime Command.

After an officer has conveyed property into Queensland as a result of the execution of a warrant under corresponding legislation in another jurisdiction, that officer remains responsible for the property while it remains in Queensland.

Status reports

An officer who has responsibility for property which has been seized in another jurisdiction and conveyed into Queensland, should complete supplementary reports:

(i) at regular intervals showing the current status of the property in terms of why the property is still required in Queensland;

(ii) that are tasked in QPRIME so that they reach the OIC, Evidence Management at intervals of not more than 60 days, commencing from the date on which the property was first brought into Queensland; and

(iii) that include some indication of when the property is likely to be released.

Responsibilities of property officer

When property which has been seized under the PPRA or any corresponding Act is lodged at a property point, it is the responsibility of the relevant property officer to advise the OIC, Evidence Management of any action taken in relation to that property by tasking a general report on any occasion:

(i) where any person is given access to the property for any reason;

(ii) where any test or analysis is carried out on the property; or

(iii) if the property is removed from the property point for any reason.

Responsibilities of assistant commissioner

On receipt of advice that property has been seized by virtue of a corresponding Act in another jurisdiction, the relevant authorising delegate will cause a QP 0734: 'Authority to receive property seized in a reciprocating state' to be completed and sent to the requesting officer by email.

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4.11.2 When Queensland is the seizing state

The procedures to be followed when a request is received to seize property in Queensland on behalf of another state (see s. 33A: 'References to States includes Territories' of the *Acts Interpretation Act*) are essentially the reverse of the procedures when a Queensland officer makes a request. An officer from another state will make informal contact with an officer in this State and will nominate that officer as the responsible officer. The grounds relied upon in any formal request received are to be in the form of a sworn affidavit.

The responsible officers is to ensure the offence being investigated by a:

(i) search warrant, is an indictable offence; or

(ii) crime scene warrant, is a crime scene threshold offence (see s. 149A: 'Definitions for chapter' of the PPRA).

Before a warrant can be sworn, authorisation from an authorised delegate needs to be obtained (see Delegation D 24.30).

If authorised, the delegate is to forward requests to the nominated responsible officer, who should:

(i) determine the most appropriate warrant type and if a:

(a) search warrant:

- prepare a:
  - QP 0711: 'Application for search warrant';
  - QP 0712: 'Search warrant'; and
  - Form 011: 'Statement to occupier—search warrant';
- make application before a magistrate for the issue of the warrant (see s. 2.8.3: 'Obtaining a search warrant' of this Manual); and
- execute the warrant and seize the property (see s. 2.8.4: 'Execution of search warrants' of this Manual); or

(b) crime scene warrant:

- prepare a:
  - QP 0706: 'Application for crime scene warrant';
  - QP 0709: 'Crime scene warrant'; and
  - Form 008: 'Statement to occupier—crime scene warrant';
- make application before a Supreme Court judge or magistrate for the issue of the warrant (see s. 2.4.5: 'Major investigations' of this Manual); and

(ii) following the application and execution or authorisation of the warrant:

(a) enter an interstate assistance occurrence [1800] on QPRIME in relation to the execution of the warrant;

(b) tag each item of property in the occurrence indicating the current location of the property; and

(c) take the property immediately to a property point and lodge it.

The requesting officer from the other state does not need to be present for the execution of the warrant. However, this can be desirable for identifying all property required.

After obtaining the warrant, the responsible Queensland officer should contact the requesting officer to determine if they wish to be present for the execution of the warrant. If they wish to be present, they are to be afforded the opportunity.

After the warrant is executed and where the requesting officer:

(i) was present, they will notify the appropriate authority in their state, to obtain an authority to take possession of the property; or

(ii) was not present, the requesting officer should be advised when the warrant was executed so they can obtain an authority to take possession of the property before attending the relevant property point.

ORDER

The seized property is not to be handed to the requesting officer until an authority to take possession of the property has been received from the appropriate authority for the requesting state.

A property officer who hands seized property to the requesting officer is to:

(i) scan the appropriate authority of the requesting state as an attachment to the QPRIME occurrence;

(ii) provide a copy of the QP 0760: 'Property receipt' for the property to the requesting officer; and

OPM Issue 113 Public Edition

(iii) obtain an indemnity receipt from the requesting officer and scan the receipt as an attachment to the relevant QPRIME occurrence entry.

The property officer is to update the QPRIME occurrence of the release of the property to the requesting officer.

The property officer is to update the QPRIME occurrence of the release of the property to the requesting officer. The property officer is to create a task from the QPRIME occurrence to the Evidence Management organisational unit and advise that the property has been transferred to another state.

4.12 Towing of motor vehicles

This section refers to motor vehicles as defined in Schedule 4: 'Dictionary' of TO(RUM)A.

For other vehicle types (personal mobility devices, power assisted bicycles, motorised mobility devices, etc.) refer to Chapter 4: 'Property' of this Manual.

For incidents resulting in towing of a Service vehicle, refer to ss. 5.13: 'Investigation of traffic crashes involving Service vehicles' and 5.14.4: 'Storage of vehicles awaiting inspections' of the Traffic Manual.

Driving of seized vehicles

ORDER

Officers are not to drive seized vehicles unless exceptional circumstances exist.

4.12.1 Definitions

Definitions

For the purposes of this section:

Authorised officers

means every police officer is an authorised officer (see s. 20: 'Appointment of authorised officers' of the TO(RUM)A).

Owner of a motor vehicle

includes, a person who:

(i) is a joint owner or part owner of the vehicle;

(ii) is recorded as being the registered owner of a vehicle;

(iii) has the use of a vehicle under a vehicle hire, hire-purchase or lease agreement; or

(iv) is authorised to operate the vehicle,

(see Schedule 3: 'Dictionary' of the *Tow Truck Act* (TTA)).

Regulated area

is defined as local government areas (pre-amalgamation). Detailed maps can be viewed on the Queensland Globe by selecting "Layers", selecting "Add layers", selecting "Transportation", click the arrow in the "Transportation" box, select "Tow truck regulated areas" checkbox. This will highlight regulated areas within Queensland on the interactive map.

(see Department of Transport and Main Roads—Tow Truck Scheme).

Regulated towing

see s. 8: 'Meaning of regulated towing' of the TTA.

Towing authority

see s. 11: 'Towing authorities' of the TTA.

Types of accreditation:

means;

(i) operator accreditation;

(ii) driver accreditation; and

(iii) assistant accreditation,

(see s. 16: 'Types of accreditation' of the TTA).

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Repossession of motor vehicles

A tow truck business (see s. 10: 'Meaning of *tow truck business*' of the TTA) or repossession agent may advise the Service when a motor vehicle is repossessed.

Officers receiving information from tow truck businesses or repossession agents about the repossession of a motor vehicle should, if the tow truck business or agent has not reported the tow on the Policelink 'Vehicle Tow Notification Form':

(i) take all relevant details of the motor vehicle, tow truck business or repossession agent, and contact telephone numbers;

(ii) check QPRIME to determine if the motor vehicle has been flagged and, if so, take all necessary action including advising the owner of a motor vehicle in cases where that motor vehicle had previously been reported stolen and updating QPRIME; and

(iii) if the motor vehicle is not flagged in QPRIME, enter a flag against the motor vehicle including all relevant details.

Notification of motor vehicle tows

Policelink have a 'Vehicle Tow Notification Form', which allows tow truck businesses to notify the Service when a motor vehicle has been towed without the knowledge or consent of the owner, including motor vehicles:

(i) illegally parked on a roadway (e.g. in a clearway);

(ii) parked on private property without the consent of the land owners or occupier; or

(iii) which have been repossessed.

4.12.2 Towing of motor vehicles following a traffic crash

Prior to towing a damaged motor vehicle, the holder of the driver accreditation is required to obtain consent through a towing authority, signed by the owner, owner's agent or an authorised officer (see s. 64(2): 'Requirements to obtain towing authority' of the *Tow Truck Act* (TTA)).

If the owner of a damaged motor vehicle following a traffic crash, or the owner's agent, is away from the motor vehicle or is incapacitated, an officer may sign a towing authority under the TTA pursuant to s. 129: 'Police officer may authorise tow after seizure under any Act' of the PPRA.

When an officer has been requested to sign a towing authority on behalf of the motor vehicle's owner or agent, if:

(i) the owner's details have not been recorded on the towing authority; and

(ii) the officer has access to the owner's name, mobile phone number and postal address,

the officer is to include the details on the towing authority.

Before an officer signs a towing authority pursuant to the TTA, the officer should:

(i) ensure that the authority is fully and accurately completed, including the owner's details if available;

(ii) sight the relevant driver's accreditation, issued pursuant to the TTA and record the licence number of the tow truck which is used to remove the motor vehicle;

(iii) inform the holder of the driver accreditation that any towing and storage costs are chargeable to the owner; and

(iv) advise the owner as soon as practicable of the location where the damaged vehicle is being stored.

4.12.3 Towing of motor vehicles seized by officers

For the purposes of this section, a reference to a motor vehicle also includes a reference to the motor vehicle's load where applicable.

An officer should not seize or impound, and tow away a motor vehicle unless:

(i) the motor vehicle is required for forensic, mechanical or other examination, and the examination cannot reasonably be undertaken without taking the motor vehicle into police possession;

(ii) the motor vehicle is a located stolen or unlawfully used motor vehicle and it is not, at that stage, possible to arrange for the owner or a representative of the owner to collect the motor vehicle and it is not reasonable to leave the motor vehicle where it was located (see 'Stolen motor vehicles and other vehicles of interest' of s. 1.11.2: 'Recording an offence in QPRIME' of this Manual);

(iii) the motor vehicle has been impounded for a type 1 or type 2 offence under Chapter 4: 'Motor vehicle impounding and immobilising powers for prescribed offences and motorbike noise direction offences' of the PPRA (see s. 16.8: 'Impounding of motor vehicles' of the TM);

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(iv) the motor vehicle has been left on a road in a position which:

(a) creates an actual and immediate danger; or

(b) constitutes an offence against the Heavy Vehicle National Law (Queensland), TO(RUM)A or other Act prescribed in s. 125(1)(d): 'Prescribed circumstances for s 124' of the PPRA; and

- its driver cannot be readily located or fails to remove the motor vehicle when required to do so;
- it is necessary to move the motor vehicle off the road for the safety or convenience of people using the road; and
- the motor vehicle cannot be moved except by towing the motor vehicle (see s. 124: 'Removal of vehicle or load or other thing' of the PPRA); or

(v) the seizing of the motor vehicle is authorised by law (see s. 129: 'Police officer may authorise tow after seizure under any Act' of the PPRA).

ORDER

Other than for motor vehicles impounded for type 1 and type 2 offences (see s. 16.8 of the TM), or where a district or regional instruction provides otherwise, commissioned officer approval (unless delegated lower) is required to seize and tow a motor vehicle.

District officers may delegate the level of officers who can authorise the seizure and towing of motor vehicles as appropriate for their district, e.g. DDO, OIC of stations.

Officers who intend to seize or impound, and tow away a motor vehicle are to:

(i) ensure that sufficient grounds exist for such seizure and towing away; and

(ii) obtain the permission of a commissioned officer (or delegated officer) prior to any seizure and towing away.

Officers requested to authorise the seizing or impounding and towing away of a motor vehicle are to consider the necessity for the seizure and towing away. Considerations should include:

(i) the possibility of pushing to a place of safety in preference to towing;

(ii) in cases of located stolen or unlawfully used motor vehicles, whether an authority by or on behalf of the owner of the motor vehicle exists for the police to tow away the motor vehicle, and what attempts have been made to contact the owner; and

(a) if the owner does not wish for the motor vehicle to be towed, it will be left in situ at the owner's risk. An officer is to:

- ensure the vehicle is secure and arrange for the owner, or a representative of the owner, to collect the motor vehicle as soon as reasonably practicable;
- notify the owner that if the vehicle is not collected, it may be moved or disposed of in accordance with local government procedures for abandoned vehicles;
- consider treating the vehicle as abandoned by notifying an appropriate officer of the local government that the owner or representative of the owner of the motor vehicle have been advised that the vehicle can be collected (see s. 4.12.5: 'Abandoned vehicles (as distinct from being stolen and abandoned)' of this chapter);
- ensure a QPRIME supplementary report is furnished if the motor vehicle remains in situ (see s. 4.12.5: 'Abandoned vehicles (as distinct from being stolen and abandoned)' of this chapter);

(b) whether the vehicle can be towed to the owner's nominated address, the owner or representative of the owner must be present to accept the motor vehicle; and

(c) consider whether the motor vehicle should be seized as evidence and towed under s. 196: 'Power to seize evidence generally' of the PPRA.

(iii) the location of the motor vehicle; and

(iv) alternative means of dealing with the motor vehicle in preference to the seizing or impounding, and towing away of the motor vehicle (e.g. use of immobilisation powers, see s. 16.3: 'Alternatives to impounding motor vehicles (Immobilisation powers)' of the TM).

Storage of seized, impounded and/or towed away vehicles

Other than motor vehicles lodged at a suitable property point for a forensic, mechanical or other examination, motor vehicles which have been seized should be taken to the premises of the tow truck business engaged to tow the motor vehicle.

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Motor vehicles should not be retained as exhibits. Where a vehicle is seized for evidentiary purposes, in most situations secondary evidence can be offered in any subsequent court hearing and the motor vehicle itself should be disposed of as soon as practicable.

Officers seizing or impounding motor vehicles are to comply with the legislative provisions which authorise seizure and disposal.

Responsibilities of reporting officer or seizing officer

For the purposes of this section, when a motor vehicle has been seized or impounded and towed to a towing company's premises, if the premises is not a declared property point, the motor vehicle is deemed to be stored at the property point of the police division where the motor vehicle is being stored.

ORDER

For the purposes of this section, the officer who seizes, impounds or tows away a motor vehicle is to:

(i) immediately notify the local police communications centre of the particulars of the motor vehicle seized or impounded, reason for seizure or impoundment, and location to and from which the motor vehicle is being towed;

(ii) notify their OIC of the seizure or impoundment, towing away and location of the motor vehicle as soon as practicable;

(iii) ensure details of the seizure or impoundment, tow and location are entered as a flag to the motor vehicle in QPRIME as soon as practicable;

(iv) complete a Vehicle Tow Report in QPRIME when the motor vehicle has been towed without the owner's consent,

(v) when a motor vehicle is lodged or is deemed to be lodged at a property point:

(a) complete a QPB 32A: 'Field property receipt' (see s. 4.2: 'Receiving property' of this Manual);

(b) notify the property officer for the property point where the motor vehicle is lodged or is deemed to be lodged (see s. 4.9.3: 'Action on receipt of property' of this Manual);

(c) indicate in the relevant QPRIME property entry:

- the tests or examinations, if any, for which the motor vehicle is held; and
- any interior or exterior damage to the motor vehicle at the time of lodgement;

(d) as soon as possible thereafter arrange through normal local procedures for the motor vehicle to be photographed and for all other necessary tests and examinations to be conducted if applicable;

(e) if a motor vehicle is impounded for a type 1 or type 2 vehicle related offence, and when practicable, the impounding officer is to cause photographs to be taken depicting:

- each side of the motor vehicle from the corner;
- the interior of the motor vehicle
- the odometer of the motor vehicle.

These photographs are to be uploaded into the relevant occurrence within QPRIME, in order to assist with the management and disposal of the motor vehicle by the Service.

Where practicable and appropriate, impounding officers are to ensure all personal property is removed from within the motor vehicle by the driver or owner prior to it being impounded.

Impounding officers are to ensure that all necessary steps are taken in relation to any property or items that may have evidential significance (e.g. weapons, drugs etc.) contained within the motor vehicle in accordance with Chapter 4: 'Property' of this Manual, prior to the motor vehicle being impounded, or if necessary as soon as practicable following impoundment. The impounding officer retains responsibility for those items until lawfully disposed of in accordance with Service policy.

(f) make any inquiries necessary to identify the owner or other person with a lawful claim to the motor vehicle; and

(g) ensure the motor vehicle is returned to its owner as soon as practicable unless it is necessary to retain the motor vehicle as evidence;

(vi) if the motor vehicle was seized under s. 124 of the PPRA, notify the owner of the seized motor vehicle as soon as reasonably practicable, but within 14 days following the seizure (see s. 4.6.13: 'Disposal of vehicles including loads or other things' of this Manual);

(vii) if the motor vehicle was seized under the provisions of the PPRA, other than s. 124, seek an appropriate order with respect to the motor vehicle (see s. 4.2.6: 'Retention of exhibits' of this Manual);

OPM Issue 113 Public Edition

(viii) ensure a tow authority is completed for all tows in a regulated area (see 'Definitions' of this Chapter), and upload this tow authority into the occurrence; and

(ix) if it is identified a vehicle is a located stolen vehicle, officers are to:

(a) complete a PIR2 as soon as practicable (see 'Located stolen or unlawfully used motor vehicles' of s. 1.11.3: 'Amendments/updates of Policelink entered occurrences (supplementary reports)' of this Manual); and

(b) expire the stolen flag attached to the motor vehicle.

4.12.4 Towing of motor vehicles parked on private property

Generally, motorists may park or drive on private property only with the consent, express or implied, of the owner or occupier of the land. Parking or driving on private land without any such consent may constitute a civil trespass. The occupier of the land may:

(i) remove, or cause to be removed, from land a motor vehicle parked or left standing on private land; and

(ii) seek restitution from the owner for 'damages', known as distress damage feasant (see Criminal Law Bulletin 310 for a discussion of the relevant law (including distress damage feasant), and if necessary seek assistance from their OIC or local Prosecution Corps).

The right of distress damage feasant is vested, in general, only in the occupier of land.

Authority to tow motor vehicles parked on private property

In accordance with ss. 9: 'Meaning of private property towing' and 12: 'Private property towing consents' of the TTA, the occupier of private property may authorise a holder of an operator accreditation to remove a motor vehicle parked on private property in a regulated area (see Schedule 3: 'Dictionary' of the TTA), which has been parked on the occupier's land without consent. The holder of a driver accreditation is required to have a private property towing consent, prior to removing a motor vehicle without the owner's consent. The holder of a driver accreditation removing a motor vehicle must, if asked by an authorised officer, produce a private property towing consent (see s. 55: 'Producing private property towing consents to authorised officers' of the Tow Truck Regulation (TTR)).

When towing a motor vehicle, the holder of the driver accreditation is required to comply with Part 7: 'Provisions relating to private property towing' of the TTR, which includes the requirement to:

(i) before towing the motor vehicle, take reasonable steps to locate the motor vehicle's owner (see 'Definition' of s. 13.1: 'Towing of motor vehicles' of this chapter). If the motor vehicle's owner is located and:

(a) the owner refuses to move the motor vehicle; or

(b) the holder of a driver accreditation reasonably believes the owner cannot or will not move the motor vehicle from the property,

the holder of a driver accreditation may remove the motor vehicle from the private property;

(ii) not take longer than reasonably necessary to tow the motor vehicle;

(iii) tow the motor vehicle to the nearest holding yard owned or leased by the tow truck business; and

(iv) not move the motor vehicle from the holding yard without the written consent of the owner.

If the motor vehicle's owner returns to the motor vehicle and the driver accreditation holder:

(i) is in the process of lifting or securing the motor vehicle to the tow truck, the accredited driver is required to immediately release the motor vehicle without charge if the owner agrees to remove the motor vehicle from the private property within a reasonable time (see s. 57: 'On-site release of motor vehicles not yet secured to tow truck' of the TTR); or

(ii) has completely loaded and secured the motor vehicle to the tow truck but has not left the private property and, if the owner pays the 'on-site release charge' before the motor vehicle is removed from the property, the accredited driver is to immediately release the motor vehicle (see s. 58: 'On-site release of motor vehicles secured to tow truck—on-site release charge imposed' of the TTR).

The maximum fee an accredited operator may charge an owner for removing and holding a motor vehicle which had been parked on private property is provided in Schedule 2: 'Maximum amounts that may be charged' of the TTR.

Charges which a tow truck business or accredited driver are not to impose on a motor vehicle owner are provided for in s. 71: 'Towing charges' of the TTR.

Notification of Service

When a private property motor vehicle is towed from a private property, the holder of an operator accreditation is required to notify the Service by completing and submitting a 'Vehicle tow notification' to Policelink no later than one hour after the motor vehicle has been lodged in an authorised holding yard (see s. 61: 'Notice to police commissioner about private property towing' of the TTA).

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When a 'Vehicle tow notification' is received at Policelink, members are to create a vehicle tow report and vehicle tow flag against the motor vehicle in QPRIME.

When an owner contacts a member to report their motor vehicle as having been towed or stolen, the member receiving the call should conduct a check of QPRIME to determine whether the motor vehicle has been towed as a private property motor vehicle. Members should be aware there will be a delay between the towing of the relevant motor vehicle and the Service's notification.

If the motor vehicle has been towed, the member should advise where the motor vehicle has been towed to and the contact details of the relevant accredited operator.

4.12.5 Abandoned vehicles (as distinct from being stolen and abandoned)

This section refers to motor vehicles as defined in Schedule 4: 'Dictionary' of TO(RUM)A.

For other vehicle types (personal mobility devices, power assisted bicycles, motorised mobility devices, etc.) refer to Chapter 4: 'Property' of this Manual.

When a vehicle is found on a road and there are reasonable grounds for suspecting it has been abandoned (as distinct from being stolen or unlawfully used and abandoned), the officer should:

(i) query QPRIME using any attached number plate or vehicle identification number (VIN) and if appropriate flag the vehicle;

(ii) notify an appropriate officer of the local government for removal (see Release of information to local government of this section);

(iii) appropriately mark the vehicle to identify that police have been notified of the vehicle, e.g. tying police tape or attaching a 'police aware' sticker to an obvious part of the vehicle; and

(iv) if the registration is cancelled, seize the number plates if attached (see s. 11.3.1: 'Seizing and disposing cancelled number plates' of the TM).

Where it is apparent the vehicle may have been stolen or unlawfully used, officers should treat the vehicle as a located stolen vehicle and take all necessary action.

For serious indictable offences treat the vehicle as a crime scene.

See also s. 4.6.13: 'Disposal of vehicles including loads or other things' of this Manual.

Release of information to local government

With the approval of a supervisor, officers may release current or previous owner information, including licence address details, to an officer of a local government for the purpose of abandoned vehicle actions by the local government (see s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM).

The request must be in writing and the release of information is to be recorded (see s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM).

The release must be in writing and contain the caveat contained in Appendix 5.2: 'Example of caveat when responding to requests for information by government departments, agencies or instrumentalities' of the MSM.

OPM Issue 113 Public Edition

4.12.6 Payment of towing fees

When a motor vehicle, load or thing is seized or moved in accordance with s. 124: 'Removal of vehicle or load or thing' of the PPRA and a forensic or mechanical inspection is not required, the owner is liable for the costs for moving the motor vehicle, load or thing (see ss. 126(1)(b)(ii): 'Steps after seizing a vehicle, load or other thing' and 128: 'Application of proceeds of sale' of the PPRA).

When a vehicle is seized for the purpose of conducting forensic examinations or mechanical inspections, or the vehicle is to be held for investigative purposes, the service is responsible for the payment of the towing and storage costs until the vehicle is released from police hold. Any storage costs after the vehicle has been released will be the responsibility of the owner.

Payment of towing fees by insurance companies

Officers often seize and tow away motor vehicles, which are stolen or suspected stolen motor vehicles and re-identified, for the purpose of scientific examination, or some other reason. In some instances, insurance companies may have already paid out to the owner for the motor vehicle.

Insurance companies generally pay towing costs associated with stolen and recovered motor vehicles. Normally, the holder of an operator accreditation will invoice the insurance company directly for payment of their towing and storage fees.

Where a holder of an operator accreditation is seeking payment for towing, and storage if relevant, of a located stolen motor vehicle, which was towed for the purposes of conducting an examination, the holder of an operator accreditation should be referred to the relevant insurance company for payment.

If the holder of an operator accreditation is unable to obtain payment of their fees from the relevant insurance company, the investigating officer should initiate action to recover towing and/or storage fees associated with the motor vehicle incurred by the Service. In this respect the officer should submit a memorandum to the regional or command finance officer advising that officer of the applicable costs.

The regional or command finance officer upon receipt of the memorandum should then issue an invoice against the nominated insurance company.

Payment of towing fees by owners

Unless exceptional circumstances exist, towing fees and storage charges should be satisfied prior to the release of the motor vehicle. Whenever practicable, payment is to be made direct to the accredited operator by the owner or authorised agent.

4.12.7 Towing contracts

Wherever practicable OICs of regions and commands should endeavour to employ the services of appropriate numbers of suitable towing businesses for the performance of police authorised towing within their area of responsibility.

In this regard, OICs of regions and commands should call tenders for the engagement of such towing services in accordance with both the Queensland Procurement Policy (QPP) and the Service's local Procurement Policy.

ORDER

A clause is to be included in any contract entered into, requiring that the accredited operator provide a list of all motor vehicles held by that towing company to the region or command on a monthly basis, or more frequently if required.

OPM Issue 113 Public Edition

Appendix 4.1 Deleted

OPM Issue 113
Public Edition

Chapter 5—Children

5.1 Introduction 569

5.1.1 Who is treated as a child 569
5.1.2 References to legislation 569
5.1.3 Definitions 570
5.1.4 Additional resources 570

5.2 General policy 570

5.2.1 Suspected child abuse 571
5.2.2 Investigation of matters involving children 571
5.2.3 Children under 10 years of age 571
5.2.4 Children under 14 years of age 571
5.2.5 Official counselling 571

5.3 Diversion from the court system 572

5.3.1 Diversion options 572
5.3.2 Repeated use of diversion options 573
5.3.3 Police referral 573

5.4 Authority to caution 573

5.4.1 Training and experience requirements (authority to administer cautions) 573
5.4.2 Authority to administer a caution for any offence 573
5.4.3 Authority to administer caution for certain offences 573
5.4.4 Cautions administered by respected persons of Aboriginal or Torres Strait Islander communities 574
5.4.5 Deleted 575
5.4.6 Deleted 575

5.5 Cautioning process 575

5.5.1 Criteria for deciding to administer a caution 575
5.5.2 Preparation for administering a caution 576
5.5.3 Persons to be present for the administration of a caution 577
5.5.4 Electronic recording of cautions 577
5.5.5 Conducting the caution 577
5.5.6 QPRIME record 578
5.5.7 Disclosure of further offences during caution process 578
5.5.8 Apology to victim 578
5.5.9 Restitution or compensation after caution 579
5.5.10 Cautioning of child co-offender 579
5.5.11 Confidentiality 579
5.5.12 Children's Court may dismiss a charge if caution should have been administered or no action taken 580

5.6 Restorative justice process 581

5.6.1 Police referral to a restorative justice conference 581
5.6.2 Referral back to police from Chief Executive, Department of Youth Justice and Victim Support 582
5.6.3 Court referral to restorative justice conference 583
5.6.4 Attending a restorative justice conference 584
5.6.5 Outcomes of a restorative justice conference 584
5.6.6 Confidentiality of restorative justice conferences 584

5.7 Graffiti removal program 585

5.7.1 Purpose of graffiti removal program 585
5.7.2 Eligibility for a graffiti removal program 585
5.7.3 Offer to attend graffiti removal program after the commencement of proceedings 586
5.7.4 Receipt of agreement by Youth Justice Service 586
5.7.5 Completion of graffiti removal program 586
5.7.6 Property forfeiture 587

OPM Issue 113 Public Edition

5.8 Protected admissions 587

5.8.1 General information 587
5.8.2 Application of Protected Admission Scheme 588
5.8.3 Protected admission process 588
5.8.4 Further offences disclosed 589
5.8.5 Uses of a protected admissions interview 589

5.9 Commencing proceedings against a child 590

5.9.1 Persons to be present for an interview with a child who is suspected of committing an indictable offence (admissibility of child's statement) 590
5.9.2 Proceedings against a child by notice to appear 590
5.9.3 Proceedings against a child by complaint and summons 591
5.9.4 Taking a child into custody 592
5.9.5 Ensuring rights of children taken into custody 593
5.9.6 Parent and other notification requirements 593
5.9.7 Interested persons accompanying a child to a watch-house or visiting a child in a watch-house 593

5.10 Releasing children from custody 594

5.10.1 Child released to go at large 594
5.10.2 Child released on bail 595
5.10.3 Child in custody of the Commissioner pending court appearance 595

5.11 Taking children's identifying particulars 595

5.11.1 Taking identifying particulars of a child not arrested 596
5.11.2 Taking identifying particulars for an investigative purpose 597
5.11.3 Destruction of identifying particulars taken for an investigative purpose 597
5.11.4 Taking fingerprints upon a finding of guilt by a court 598
5.11.5 Access to detention centres to take identifying particulars 598

5.12 Miscellaneous 598

5.12.1 Handcuffing children 598
5.12.2 Electronic recording of interviews with a child 599
5.12.3 Failure of parent to exercise proper care or supervision over a child 599
5.12.4 International homestay school students 599
5.12.5 Children under 18 years leaving home 600

5.13 Escape of young people from Department of Youth Justice and Victim Support detention 600

5.13.1 Initial police action 600
5.13.2 Action to be taken on location of young person 601
5.13.3 Notifying persons at risk 601
5.13.4 Release of information to media 601

5.14 Electronic monitoring (children on bail) 602

5.14.1 Bail condition to wear electronic monitoring device 602
5.14.2 Action on grant of bail with an electronic monitoring device condition 602
5.14.3 Electronic monitoring device alerts 603
5.14.4 Removal of electronic monitoring device 603
5.14.5 Procedure for removal of electronic monitoring device 603
5.14.6 Variation of child's bail conditions 603
5.14.7 Officers requiring electronic monitoring device location data 603

5.15 Multi-Agency Collaborative Panels 603

5.15.1 MACP meetings—Tier 2 604
5.15.2 MACP information sharing 604
5.15.3 MACP membership 604
5.15.4 Criteria for MACP system referral 604
5.15.5 Responsibilities of a Service representative at MACP meetings 605
5.15.6 Investigation of offences committed by a child referred to MACP 605

OPM Issue 113 Public Edition

5.15.7 Escalation to Regional Oversight Group—Tier 3 605
5.15.8 Escalation to Senior Practitioners Group—Tier 4A 605
5.15.9 Escalation to Director General Interdepartmental Committee—Tier 4B 605
5.15.10 MACP role in the referral ecosystem 605

5.16 Youth crime coordination 606

OPM Issue 113
Public Edition

5.1 Introduction

This chapter provides procedures which are designed to ensure officers effectively administer the provisions of the YJA, the PPRA and other laws, when dealing with persons aged under 18 years involved in the commission of an offence.

5.1.1 Who is treated as a child

A person, who at the time of the alleged offending has not turned 18 years old, is to be dealt with under the youth justice system as a child.

A person, who is alleged to have committed an offence as a child but has since become an adult, is to be treated as a child for the purposes of the YJA, unless proceedings for the offence are commenced more than 1 year after the person has become an adult (see s. 140: 'When offender must be treated as an adult' of the YJA).

5.1.2 References to legislation

This chapter should be read in conjunction with the various statutes referred to throughout.

The YJA provides the laws for children who commit, or are alleged to have committed, offences and operates in conjunction with the PPRA and the *Bail Act.*

Officers should note:

(i) the YJA takes precedence over the PPRA wherever an inconsistency arises; and

(ii) Schedule 4 of the YJA provides specific definitions that apply when interpreting the YJA.

Charter of youth justice principles

Schedule 1 of the YJA provides a charter of youth justice principles which underlie the operation of the YJA.

Officers should apply these principles when dealing with children who may have been involved in the commission of an offence.

Human Rights Act 2019

At all times when dealing with a child, officers should act or make decisions in a way that is compatible with the following human rights:

(i) every person is equal before the law and is entitled to the equal protection of the law without discrimination (see s. 15 of the *Human Rights Act* (HRA));

(ii) every child has the right, without discrimination, to the protection that is needed by the child, and is in the child's best interests, because of being a child (see s. 26 of the HRA);

(iii) a person must not be subject to arbitrary arrest or detention, and a person must not be deprived of his or her liberty except on grounds, and in accordance with procedures, established by law (see s. 29 of the HRA);

(iv) a child charged with a criminal offence has the right to a procedure that takes account of the child's age and desirability of promoting the child's rehabilitation (see s. 32 of the HRA);

(v) a person charged with a criminal offence has the right to be presumed innocent until proven guilty and is entitled to the following minimum guarantees (see s. 32 of the HRA):

(a) to be informed promptly and in detail of the nature and the reason for the charge in language, or if necessary, a type of communication the person speaks or understands;

(b) to communicate with a lawyer or advisor chosen by the person;

(c) to be tried without reasonable delay;

(d) to be tried in person, and to defend themselves personally or through legal assistance chosen by the person, or if eligible, through legal aid;

(e) to examine, or have examined, witnesses against the person;

(f) to obtain the attendance and examination of witnesses on the person's behalf under the same conditions as witnesses for the prosecution;

(g) to have the free assistance of an interpreter if the person cannot understand or speak English; and

(h) to have the free assistance of specialised communication tools and technology, and assistance, if the person has communication or speech difficulties that require assistance;

(vi) an accused child who is detained, or a child detained without charge, must be segregated from all detained adults, and an accused child must be brought to trial as quickly as possible (see s. 33 of the HRA);

(vii) every child has the right to have access to primary and secondary education appropriate to the child's needs (see s. 36 of the HRA); and

OPM Issue 113 Public Edition

(viii) every person has the right to access health services without discrimination (see s. 37 of the HRA).

5.1.3 Definitions

For the purposes of this chapter:

Charter of youth justice principles

means the principles stated in Schedule 1 of the YJA.

Chief Executive DFSDSCS

means the Chief Executive, Department of Families, Seniors, Disability Services and Child Safety.

Chief Executive DYJVS

means the Chief Executive, Department of Youth Justice and Victim Support.

Identifying particulars

relates to the meaning in Schedule 6: 'Dictionary of the PPRA, except in the case of identifying particulars taken under the provisions of s. 255: 'Court may order sentenced child's identifying particulars to be taken' of the YJA. For the purposes of s. 255 of the YJA, the term 'identifying particulars' means fingerprints and palm prints (see s. 255(6) of the YJA).

Legal aid organisation

means Legal Aid Queensland and Aboriginal and Torres Strait Islander Legal Service.

Parent

means a:

(i) parent or guardian of a child;

(ii) person who has lawful custody of the child other than because of the child's detention for an offence or pending a proceeding for an offence;

(iii) person who has the day-to-day care and control of a child; or

(iv) person who is apparently a parent of a child.

The definition of 'parent' will include 'homestay provider' in the case of international homestay school students (see s. 5.12.4: 'International homestay school students' of this chapter).

Serious offence

means an offence as defined in s. 8: 'Meaning of *serious offence*' of the YJA.

5.1.4 Additional resources

A number of resources, flowcharts and other information to assist officers when investigating matters under the YJA, see 'Resources and training' on the Youth Crime Group SharePoint page.

5.2 General policy

The provisions of this chapter apply to all dealings with children involved in, or suspected of being involved in, a criminal offence. When considering what action should be taken against a child who is reasonably suspected of having committed an offence, officers are to consider the charter of youth justice principles.

Where a child comes to the adverse attention of an officer, the officer should:

(i) as soon as practicable, make all reasonable inquiries to contact a parent, guardian or another adult who can take responsibility for the child; and

(ii) encourage a parent of a child to fulfil the parent's responsibility for the care and supervision of the child and provide support in the parent's efforts to fulfil this responsibility.

Because a child tends to be vulnerable in dealings with a person in authority, officers are to comply with all safeguards contained in the YJA and PPRA during an investigation or proceeding in relation to an offence committed, or allegedly committed, by the child.

Where a prima facie case is established against a child in relation to an offence, officers should, wherever practicable divert the child from the court system, unless the nature of the offence and the child's criminal history indicate a proceeding for the offence should be commenced (see s. 5.3: 'Diversion from the court system' of this chapter).

Officers should provide a victim of an offence committed by a child with the opportunity to participate in the process of dealing with the child for the offence in a way allowed by law.

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When dealing with a child, an officer should explain procedures and other matters to the child in a way the child understands. Where practicable, any decision affecting a child should be made and implemented within a timeframe appropriate to the child's sense of time.

When making a decision relating to a child, an officer should consider the child's age, maturity and, where appropriate, cultural and religious beliefs and practices. Where practicable, a child of Aboriginal or Torres Strait Islander background should be dealt with in a way that involves the child's community.

5.2.1 Suspected child abuse

Where an officer identifies child abuse as a possible cause of the offending behaviour, officers should, as soon as practicable, refer the matter to the CPIU or a Child Abuse and Sexual Crimes Group officer for immediate action.

Where an officer believes a child has been harmed or is at risk of harm, the officer is to submit a 'Report of Suspected Harm to a Child' occurrence in QPRIME (see s. 7.3.1: 'Initial action for reports of child harm' of this Manual).

5.2.2 Investigation of matters involving children

Child Protection Investigation Unit

Where practicable, when children come to the adverse attention of officers, particularly for serious or sexual offences, such matters should be investigated by, or in consultation with, an officer of the CPIU.

The CPIU was established as a specialist unit to deal with matters involving children and officers appointed to a CPIU are selected and trained for this role.

In consultation with the OIC of the relevant CPIU, regions or districts should develop local instructions which outline the circumstances whereby officers, other than members of a CPIU, can investigate matters involving children in accordance with the provisions of the YJA and relevant Service policy (see s. 1.5.3: 'Regional, district and station/establishment instructions' of this Manual).

5.2.3 Children under 10 years of age

A child under the age of 10 years is not criminally responsible for any act or omission (see s. 29(1): 'Immature age' of the CC).

Where a child who is under the age of 10 commits an offence, the child may be officially counselled by an officer (see s. 5.2.5: 'Official counselling' of this chapter).

5.2.4 Children under 14 years of age

A child under the age of 14 years is not criminally responsible for an act or omission, unless it is proved at the time of doing the act or omission, the child had the capacity to know what the child was doing was wrong (see s. 29(2): 'Immature age' of the CC). Without proof of capacity, the prosecution of the matter will likely fail.

Where an officer is questioning a child under 14 years of age, the officer should question the child as to whether at the time of the offence, the child knew it was seriously wrong to do the act alleged. This issue should be investigated whether or not the child admits to the offence.

Where the child does not admit to knowing that doing the act was wrong, the officer should further investigate the issue of capacity and may seek evidence from a parent, teacher or other person who knows the child (see Guideline 6: 'Capacity of Child Offenders' of the Director of Public Prosecutions Guidelines).

Where evidence to show the child knew what the child was doing was wrong cannot be obtained, the child may be officially counselled by an officer.

5.2.5 Official counselling

Official counselling has no legal standing but may assist in diverting the child from future involvement with the criminal justice system. Officers are not to compel a child or their guardian to take part in official counselling.

Where an officer decides to officially counsel a child, the officer is to:

(i) adopt substantially similar processes as used for cautions (see s. 5.5: 'Cautioning process' of this chapter), making such allowances as are necessary to:

(a) emphasise the guidance aspect of counselling; and

(b) accommodate the level of understanding of a younger child; and

(ii) update the relevant QPRIME occurrence status to 'Behavioural Counselling' (see s. 1.11.11: 'QPRIME offender action status type and requirements' of this Manual).

Officers are not to complete a Form 003: 'Notice of caution' for behavioural counselling matters.

Where additional support to the child or parent would assist to divert a child from future offending, officers should consider offering a police referral (see s. 6.3.14: 'Police Referrals' of this Manual).

OPM Issue 113 Public Edition

5.3 Diversion from the court system

Diversion of children from the youth justice court system is an important component of reducing recidivism among young people. The Service supports the diversion of children from the court system in accordance with the charter of youth justice principles, noting:

(i) if a child commits an offence, the child should be treated in a way that diverts the child from the court's criminal justice system, unless the nature of the offence and the child's criminal history indicate a proceeding for the offence should be started;

(ii) a victim of an offence committed by a child should be given the opportunity to participate in the process of dealing with the child for the offence in a way allowed by law;

(iii) a parent of a child should be encouraged to fulfil the parent's responsibility for the care and supervision of the child, and supported in the parent's efforts to fulfil this responsibility;

(iv) a decision affecting a child should, if practicable, be made and implemented within a timeframe appropriate to the child's sense of time; and

(v) a child who commits an offence should be:

(a) held accountable and encouraged to accept responsibility for the offending behaviour; and

(b) dealt with in a way that allows the child to:

- be reintegrated into the community; and
- continue the child's education, training or employment without interruption or disturbance, if practicable.

5.3.1 Diversion options

Before deciding to charge a child with an offence, officers are to consider alternatives to commencing a proceeding in accordance with s. 11: 'Police officer to consider alternatives to proceeding against child' of the YJA, which are to:

(i) take no formal action (this decision is to be clearly articulated in the relevant QRIME occurrence);

(ii) administer a caution (see s. 5.5: 'Cautioning process' of this chapter);

(iii) refer the matter to a restorative justice process (see s. 5.6: 'Restorative justice process' of this chapter);

(iv) for a graffiti offence, offer the child the opportunity to participate in the graffiti removal program (see s. 5.7: 'Graffiti removal program' of this chapter); or

(v) for a minor drugs offence and where the child is eligible, offer the child the opportunity to:

(a) be given a drug diversion warning; or

(b) participate in and complete a Drug Diversion Assessment Program (initial or subsequent), (see s. 2.22: 'Police Drug Diversion Program' of this Manual).

Before a caution or other diversion action, except police drug diversion, can be taken against a child, the child must:

(i) admit to committing the offence to the officer; and

(ii) consent to the caution or other diversion action.

If a child does not admit to the offence, diversion options, except police drug diversion, are not available.

A child is not required to admit to committing a minor drugs offence to be eligible for Police Drug Diversion Program (see s. 2.22.1: 'Eligibility for drug diversion' of this Manual).

Officers should consider whether the child is eligible for the Protected Admissions Scheme (see s. 5.8: 'Protected admissions' of this chapter).

ORDER

In all circumstances where a child commits an offence that is not a serious offence, officers are to consider the appropriateness of taking diversion action and in appropriate cases, divert the child.

While proceedings can be commenced against a child who has committed a serious offence, in appropriate circumstances, officers should consider whether one of the diversion options in (i) to (iv) above may be appropriate. Officers may contact their local CPIU to discuss whether diversion is the most appropriate action.

Where appropriate, if a child commits a sexual offence, officers are to consider and comply with the provisions of Guidelines 5(i): 'Child Offenders' and 5(v): 'Sexual Offences by Children' of the Director of Public Prosecutions Guidelines.

Officers should conduct a complete investigation into any matter prior to deciding to take diversion action against a child.

The term 'take no action' does not mean officers may ignore an incident which requires police attention.

OPM Issue 113 Public Edition

ORDER

If an officer decides to charge a child with an offence, the officer is to outline reasons why no action, caution or a diversion process was not appropriate in the Court Brief (QP9), including reference to the circumstances of the alleged offence and to the child's previous criminal history and history of prior cautions or youth conference agreements, if applicable. Attaching a copy of the child's history to the QP9 is not sufficient to fulfil this requirement.

5.3.2 Repeated use of diversion options

Dependent on the circumstances and seriousness of each offence, children should be diverted for first and subsequent offences, with the view to diverting them from anti-social behaviour and the court's criminal justice system.

Officers may take no formal action, administer a caution, refer to a restorative justice process or refer a child to a graffiti removal program even though:

(i) action of that kind has been taken in relation to the child on more than one previous occasion; or

(ii) a proceeding against the child for another offence has already been started or has ended.

In circumstances where a child meets the criteria for diversion and the child can be diverted, officers should:

(i) consider which diversion option is likely to have the greatest effect on the child; and

(ii) divert the child.

5.3.3 Police referral

Where additional support would assist to divert the child from offending, officers should consider offering a police referral (see s. 6.3.14: 'Police Referrals' of this Manual).

5.4 Authority to caution

The Commissioner may authorise officers, with sufficient training or experience (authorised officer), the power to administer cautions to a child (see s. 16: 'Conditions for administration of police caution' of the YJA and Delegation D 132.1).

5.4.1 Training and experience requirements (authority to administer cautions)

Training and experience includes:

(i) the completion of the IGNITE 'Police youth diversion' online learning product'; and

(ii) for sworn officers, where upskilling is identified by the member or by the member's supervisor, completion of the police cautioning workshop; or

(iii) for recruits, successful completion of the 'Recruit Diversion and Cautioning Workshop' during recruit training prior to graduation.

Police cautioning workshops are coordinated by the Youth Crime Group in conjunction with district CPIU officers, inquiries to enrol and complete a police caution workshop are to be directed to the Youth Crime Group.

5.4.2 Authority to administer a caution for any offence

The Commissioner has delegated the authority to administer a caution for any offence to a child, subject to provisions of s. 5.5.1: 'Criteria for deciding to administer a caution' of this chapter, to the following positions:

(i) where a plain clothes investigative unit is established, the:

(a) OIC of the plain clothes unit; and

(b) plain clothes officers attached to the unit; and

(ii) the OIC of a station or establishment.

The authority to administer a caution for any offence, granted to officers by virtue of their appointment to the above positions, will be automatically revoked when the officer vacates the position.

5.4.3 Authority to administer caution for certain offences

Officers who have undertaken approved training or who have sufficient experience (see s. 5.4.1: 'Training and experience requirements (authority to administer cautions)' of this chapter) may administer cautions for certain offences when the following conditions are met:

(i) the offence does not constitute a serious offence (see s. 8: 'Meaning of *serious offence*' of the YJA), excluding sexual offences (see Chapter 22: 'Offences against morality' of the CC);

(ii) if the offence is a serious offence, the offence can be dealt with summarily, excluding sexual offences;

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(iii) the serious offence, which cannot be dealt with summarily, has prior approval (to administer the caution) of:

(a) the OIC of the responsible area where the officer is stationed; or

(b) a commissioned officer; and

(iv) in cases of rape or attempted rape, where an authority to caution has been obtained from a detective inspector.

5.4.4 Cautions administered by respected persons of Aboriginal or Torres Strait Islander communities

When a child, who is a member of an Aboriginal or Torres Strait Islander community is to be cautioned, wherever practicable, a respected person of the child's community should administer the caution (see s. 17: 'Caution administered by respected person of Aboriginal or Torres Strait Islander community' of the YJA).

A statement by a child that the child is a member of an Aboriginal or Torres Strait Islander community should be considered as fact until the contrary is shown.

The term community:

(i) includes the Deeds of Grant in Trust areas, Mornington Island and Aurukun; and

(ii) can extend to and include family groups and clan groups where agreement can be reached between the OIC of a police station or establishment and the relevant group.

ORDER

If a caution is to be administered to a child who is a member of an Aboriginal or Torres Strait Islander community, the authorised officer is to:

(i) consider whether there is a respected person with a kinship connection, acceptable to the child and their family, available and willing to administer the caution;

(ii) request the respected person to administer the caution;

(iii) inform the respected person that the administration of a caution will form part of the child's criminal history (see s. 6: 'Meaning of *criminal history* of a child' of the YJA); and

(iv) where the Service and the relevant community have a mutually agreed protocol, contact the community in accordance with the agreed protocol.

Where a respected member of the child's Aboriginal or Torres Strait Islander community is available and willing to administer a caution to the child, the authorised officer is to:

(i) prior to the caution taking place, explain the cautioning process to the respected person. The officer should be satisfied the respected person understands and is willing to comply with the cautioning process;

(ii) be present when the respected person administers the caution to the child; and

(iii) whenever practicable, have copies of the Form 3: 'Notice of caution' (available in QPRIME) which may be signed by the involved parties (see s. 5.5.5: 'Conducting the caution' of this chapter).

Where no respected person is available or willing to administer a caution to a child, the authorised officer may:

(i) postpone the caution process to a more suitable time; or

(ii) where postponing the caution would not be in the best interests of the child or would render the caution ineffective, the caution should be administered by the authorised officer as soon as practicable.

Agreement between the Service and Aboriginal and Torres Strait Islander Respected Persons

The OIC of a station or establishment, should liaise with local Aboriginal or Torres Strait Islander communities to develop and formalise a mutually agreed protocol for involving respected persons from their community in administering cautions to Aboriginal or Torres Strait Islander children.

The preferred option is to commit the agreement to writing in a way that is understood by all (using simplified English language where required). Committing an agreement to writing may require the services of an interpreter to ensure the agreement is understood by both parties.

The development of an agreement between the Service and an Aboriginal or Torres Strait Islander community should consider and address in the protocol:

(i) an agreement as to who is a respected person of the community for the purposes of administering cautions;

(ii) the community's nomination of those community persons whom it considers would be suitable to administer cautions to children;

(iii) the decision to request any particular respected person to administer a caution or be present during the administration of a caution remains at the discretion of the authorised officer in each instance;

(iv) an authorised officer must request a respected person to administer the caution;

OPM Issue 113 Public Edition

(v) the caution which is to be administered by the respected person, must be in a format compliant with the YJA;

(vi) a respected person must administer a formal caution under the YJA to a child in the presence of an authorised officer; and

(vii) the protocol should be signed by the OIC and each respected person who participates in the cautioning process.

Training of Aboriginal and Torres Strait Islander Respected Persons

Aboriginal or Torres Strait Islander respected persons are not required to undergo training before being able to administer cautions, however, they should be encouraged to do so.

District education and training officers and the OIC of the relevant investigative unit are responsible for delivering the Aboriginal and Torres Strait Islander training package for cautioning of children to those in community who may be called upon to administer a caution to a child from community and have indicated their desire to participate.

5.4.5 Deleted

5.4.6 Deleted

5.5 Cautioning process

A caution is to be administered with utmost fairness addressing the circumstances of each case in a constructive and purposeful manner. Wherever possible and appropriate, young children should be cautioned or offered other diversion options.

Dependent on the circumstances and where appropriate, officers may caution a child even though:

(i) action of that kind has been taken on previous occasion(s); or

(ii) a proceeding against the child for another offence has already been started or has ended.

When investigating an offence for which a child is, or is suspected of being, responsible, the officer considering administering a caution should:

(i) obtain all relevant facts concerning the alleged offence;

(ii) obtain all relevant information about the child, which may include the child's behaviour;

(iii) having regard to s. 3.4.5: 'Director of Public Prosecutions (State) guidelines' of this Manual, determine an appropriate charge to prefer if a caution is not administered. This charge should also be used to define the correct offence for which a caution is given; and

(iv) establish whether the child meets the criteria for cautioning (see s. 5.5.1: 'Criteria for deciding to administer a caution' of this chapter and Flowchart 5.3: 'Criteria for deciding to administer a caution' available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page).

OPM Issue 113 Public Edition

5.5.1 Criteria for deciding to administer a caution

ORDER

Officers are not to caution a child:

(i) for an offence of unlawful killing or attempted unlawful killing;

(ii) for an offence or rape or attempted rape without the prior approval of an officer of the rank of at least detective inspector; or

(iii) who is under the age of criminal responsibility.

Before a caution can be administered:

(i) the child must:

(a) admit to having committed the offence; and

(b) consent to being cautioned (see s. 16: 'Conditions for administration of police caution' of the YJA);

(ii) a prima facie case must be established against the child in relation to each offence;

(iii) a caution must be appropriate in the circumstances; and

(iv) the officer must possess the requisite level of authority to administer a caution for the offence (see s. 5.4.5: 'Limitation of cautioning authority' of this chapter).

See Flowchart 5.3: 'Criteria for deciding to administer a caution' and Flowchart 5.4: 'Consideration for approval to caution for serious offences' available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

Restitution

The ability of a child to pay restitution or compensation is not to be considered as a criterion for determining whether a caution is appropriate.

Commissioned officer authorisation

A commissioned officer requested to authorise a caution for a serious offence, may delegate the responsibility to an officer in the region or command within which the commissioned officer is located.

When determining whether to grant approval for a child to be cautioned for a serious offence, a commissioned officer, or delegate, is to consider:

(i) the 'Sufficiency of Evidence' and 'Public Interest' tests (see s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual) and determine whether court proceedings should be commenced in the interests of justice;

(ii) the circumstances of the offence;

(iii) whether the child's previous history indicates a caution may divert the child from the criminal justice system or further offending; and

(iv) if the child meets the legislative criteria for a caution and the offence is one for which the child can be cautioned, the child should be cautioned.

When determining whether to grant approval for a child to be cautioned for a rape or attempted rape offence, a detective inspector is to consider:

(i) the 'Sufficiency of Evidence' and 'Public Interest' tests (see s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual) and determine whether court proceedings should be commenced in the interests of justice;

(ii) the desires of the victim and victim's family regarding formal court proceedings against the child offender;

(iii) all the circumstances of the offence;

(iv) the age and developmental state of both the offender and the victim;

(v) the relationship of the offender to the victim;

(vi) the use of any weapons in the commission of the offence as an aggravating factor;

(vii) any use of threats or violence in the commission of the offence;

(viii) the participation of any co-offender(s) in the commission of the offence; and

(ix) whether the child's previous history indicates a caution may divert the child from the criminal justice system or further offending.

The name of the authorising commissioned officer or delegate is to appear on the relevant QPRIME occurrence report.

5.5.2 Preparation for administering a caution

Prior to cautioning a child, the investigating officer should:

(i) ascertain the whereabouts of the parents of the child, and if practicable contact the parents prior to the caution being administered to inform them of the circumstances;

(ii) arrange the interview for a mutually acceptable time to the officers involved, the child and the parent or independent person, with considerations to time and interview location;

(iii) where possible conduct the interview and subsequent caution as soon as possible after the offence, this provides opportunity to deal with the matter in a timelier manner and in a way which the child is aware of their actions and impact of the offence;

(iv) consider conducting the caution process at the home of the child, offering opportunity to provide a supportive environment for the child and provide greater insight into issues that may be contributing to the offending behaviour or other child protective concerns;

(v) where possible, ensure no more than two officers are involved in each cautioning process or interview;

(vi) where practical, ensure a person chosen by the child or the parent of the child or an independent person is going to be present; and

(vii) if the parent is not available or is unable to be contacted, ensure action is taken to advise such parent as soon as possible.

OPM Issue 113 Public Edition

See Flowchart 5.7: 'Preparation to administer a caution' available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

5.5.3 Persons to be present for the administration of a caution

Where practicable, the following persons are to be present during the administration of a caution:

(i) an adult chosen by the child;

(ii) a parent of the child; or

(iii) a person chosen by the parent of the child.

See s. 16(2): 'Conditions for administration of a police caution' of the YJA.

Where a member of the Service is nominated to be present during the administration of a caution and that member is not the parent of the child, the authorised officer is also to ensure the presence of an 'independent person'. Where a person nominated to be present during the administration of a caution may be delayed from attending, the authorised officer should consider postponing the caution to a more suitable time. If it is unlikely a nominated person will be present in the immediate future and any delay will reduce the effectiveness of the caution process, the investigating officer may either:

(i) arrange for an independent person to be present at the caution; or

(ii) proceed with the caution.

ORDER

Where a person nominated to be present is, or is suspected of being, a co-offender of the child, the investigating officer is to advise the person requesting the presence of the co-offender of the inappropriateness of such an action. The child or parent of the child is to then be given the opportunity to choose a more appropriate person to be present during the administration of the caution.

5.5.4 Electronic recording of cautions

Wherever possible, officers are to electronically record cautions for indictable offences.

Cautions for non-indictable offences may be electronically recorded at the discretion of the investigating officer. However, where an officer considers a caution interview may be contentious or a co-offender is likely to be charged with the same offence, the interview should be electronically recorded.

Electronic recordings of cautions (including BWC recordings) are to be recorded in QPRIME via an Interview Report linked to the offender and distributed in accordance with the DERIE Manual.

The investigating officer should only give a copy of the recording to the child who was interviewed.

Where other persons who are present at the caution interview require a copy of any recording, the investigating officer should ensure a request for a copy of the recording is made in accordance with s. 6: 'Processing and copying of media' of the DERIE Manual.

OPM Issue 113 Public Edition

5.5.5 Conducting the caution

When administering a caution, an officer should comply with the cautioning process as outlined in 'Cautioning in detail' Police Youth Diversion OLP (QC1543).

Where it is appropriate and in the best interest of the child, an officer should:

(i) discuss with the child and the child's parent or guardian their support needs and offer a Police Referral to an appropriate support agency to assist the child in resolving any underlying issues related to the offending behaviour. The child should be encouraged to discuss their offending behaviour with that support agency; and

(ii) submit a Police Referral (see s. 6.3.14: 'Police Referrals' of this Manual). For children under 16 years of age, obtain parent or guardian consent to submit the referral.

At the conclusion of a caution the authorised officer is to ensure a Form 3: 'Notice of Caution' (available in QPRIME) and, if appropriate, the required number of Form 3A: 'Notice of Caution Further Offences' (available in QPRIME) are completed and provided to the child. A separate Form 3 is to be completed for each child offender.

The Form 3 may be typed or handwritten. Two identical original copies of the Form 3 are to be completed.

Once the child has been provided with a copy of the Form 3, the child is to be given the opportunity to endorse the second copy of the Form 3 (the station copy) certifying the child:

(i) consented to the caution;

(ii) admitted committing the offence or offences contained in the Form 3;

(iii) is advised the caution will form part of the child's criminal history; and

(iv) received a copy of the Form 3.

The parent or support person who was present for the caution (see s. 16(2): 'Conditions for administration of a police caution' of the YJA) should be invited to witness the child's signature.

If the child, parent or support person present declines to endorse the Form 3, the authorised officer is to make a note of the refusal on the rear of the station copy of the Form. There is no obligation on the child to sign the Form 3.

A copy of the Form 3 is to be scanned into the relevant QPRIME occurrence and remain on the station file.

5.5.6 QPRIME record

For the purposes of statistical recording, the investigating officer is to ensure the following is completed in the relevant QPRIME occurrence:

(i) before the caution:

(a) create the relevant charge against the person. Where the child is above the age of criminal responsibility the words 'Officially Cautioned' are to be included in the offence section. Where the child is under the age of criminal responsibility the words 'Officially Counselled' are to be included in the offence section;

(b) create a diversion record from the Disposition area of the QPRIME Offence/Charge Window; and

(c) create the Form 3: 'Notice of Caution' within the QPRIME occurrence; and

(ii) after the caution, update the occurrence status to reflect the outcome of the caution.

5.5.7 Disclosure of further offences during caution process

Where a child discloses further offences that have been committed by the child, the child should be questioned in relation to these further offences to determine if there is a prima facie case.

If the child discloses offences which:

(i) have been previously dealt with, the caution should proceed; or

(ii) have not been previously dealt with and those offences:

(a) are of the nature that the child can be cautioned, the offences should be included as part of that formal caution process if:

- the child's admissions establish a prima facie case; and
- the matter is one for which a caution is appropriate; or

(b) are not of the nature that the child can be cautioned, the offences should be investigated as separate offences. To the extent applicable to children, the provisions of the PPRA and the associated provisions of Schedule 11: 'Responsibilities Code' of the PPRR apply to the investigation and the commencement of any proceeding.

OPM Issue 113 Public Edition

5.5.8 Apology to victim

The caution procedure may involve an apology to the victim (see s. 19: 'Caution procedure may involve apology to victim' of the YJA).

Where a caution is to be administered to a child and an authorised officer decides an apology may be appropriate in the circumstances, the officer should:

(i) ask if the child is willing to apologise;

(ii) establish whether the victim is willing to participate in the apology;

(iii) if the child is willing to apologise to the victim and the victim is willing to participate, arrange a suitable time for the apology;

(iv) provide an area at a police station or establishment for the apology to take place;

(v) ensure the apology is supervised either personally or by another authorised officer;

(vi) introduce all persons present;

(vii) allow the victim to commence by explaining to the child the effect of the offence on the victim;

(viii) allow the child to apologise to the victim;

(ix) encourage further discussion to take place between the parties;

(x) ensure the meeting proceeds and concludes in a constructive format; and

(xi) ensure the safety of the child and victim during the process.

When an apology from the child is not forthcoming, the caution process should continue.

5.5.9 Restitution or compensation after caution

ORDER

Except as outlined below, members are not to accept money on behalf of victims for the purpose of restitution or compensation.

Where the victim desires no contact with the offending child, the investigating officer is to arrange with the child or the child's parents for the restitution or compensation to be:

(i) posted to the complainant at an agreed address; or

(ii) if the victim does not want the offending child to know their address:

(a) posted to a nominated post office; or

(b) paid into a Service collections account.

Where money is paid into a Service collections account, the offending child or child's parent is to be given a receipt and a cheque drawn in favour of the victim. The cheque should be given to the victim in the most convenient manner.

See Flowchart 5.9: 'Restitution, compensation or return of property' available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

5.5.10 Cautioning of child co-offender

Where a child is to be cautioned and a co-offender is to be placed before a court, the investigating officer should:

(i) conduct an electronic record of interview (ERoI) with the child to be cautioned;

(ii) prior to concluding the interview, arrange for a caution to be administered at a suitable time after the interview has concluded;

(iii) provide the child with a copy of the interview recording (refer s. 438: 'Access to electronic recordings of questioning etc.' of the PPRA);

(iv) continue investigations in relation to co-offenders and take appropriate action; and

(v) record details of the interview in QPRIME.

The admissibility of an ERoI conducted with a cautioned child for another prosecution matter, is classified as confidential (refer s. 283: 'Confidential information to which this part applies' of the YJA) and disclosure of this information is generally prohibited unless an exception applies.

Generally speaking, the ERoI of a child who has been cautioned for an offence, cannot be used as evidence against a co-offender unless the ERoI discloses evidence of a conspiracy between the child and the co-offender. A child who has been cautioned is not compellable to give evidence against a co-offender until their caution is finalised. Once finalised, the child may be approached to provide a statement or called as a witness subject to their consent.

OPM Issue 113 Public Edition

5.5.11 Confidentiality

ORDER

The strict legislative requirements of the YJA do not permit the disclosure of confidential information (see s. 284: 'Definitions for pt 9' of the YJA), including information about the cautioning of children, other than as outlined in Part 9.

Confidential information is only to be disclosed:

(i) for an authorised purpose under s. 289: 'Recording, use or disclosure for authorised purpose' of the YJA;

(ii) to the child or with the child's consent under s. 290: 'Disclosure to the child or with the child's consent' of the YJA;

(iii) where the child has agreed to a police referral. Officers should obtain the consent of the child or the child's parent or guardian (for a child under 16 years) to release the information to a support agency through the police referrals system.

(iv) to ensure someone's safety in accordance with the written authority of the Chief Executive, under s. 292: 'Disclosure to ensure someone's safety' of the YJA;

(v) to a law enforcement entity in another jurisdiction in accordance with s. 294: 'Disclosure to law enforcement entity in another jurisdiction' of the YJA;

(vi) in regard to cautions and restorative justice processes and agreements, to those persons nominated in s. 295: 'Disclosure by police of information about cautions and restorative justice process referrals and restorative justice agreements' of the YJA;

(vii) for the purpose of sentencing a child for an offence in accordance with s. 150(e): 'Sentencing principles' of the YJA; or

(viii) as part of the child's criminal history when being sentenced for an offence.

See Flowchart 5.10: 'Confidentiality' available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

5.5.12 Children's Court may dismiss a charge if caution should have been administered or no action taken

Where a child has entered a guilty plea, the court may dismiss a charge if satisfied, upon application by or on behalf of the child, a caution should have been administered or no action taken in the circumstances (see s. 21: 'Childrens Court may dismiss charge if caution should have been administered or no action taken' of the YJA).

When considering the circumstances, the court may have regard to any:

(i) other cautions administered to the child for any offence; or

(ii) youth conference agreements which have been made with the child.

If a court dismisses a charge under s. 21 of the YJA, the court may:

(i) administer a caution to the child, or

(ii) direct an officer to administer a caution to the child.

Where the court orders a caution be administered to a child, and the court does not direct a specific person to administer the caution, the child should be cautioned by the arresting officer, if the officer is authorised to administer a caution. Otherwise, an authorised officer should administer the caution to the child.

Reasons why a diversion option was not appropriate

ORDER

Officers are to outline in the Court Brief (QP9) the reasons why a diversionary option (see s. 5.3: 'Diversions from the court system' of this chapter) was not appropriate. In the reasons field, reference is to be made to the:

(i) circumstances of the alleged offence;

(ii) where applicable, child's criminal history and if the child has been dealt with in any other way for an offence under any Act; and

(iii) child has not met conditions for administration of a caution due to nil admission made to the offence or consent was not given to be cautioned.

Attaching a copy of the child's criminal history record to the QP9 is not sufficient to fulfil this requirement.

In addition to any criminal history, officers are to ensure full details of any prior cautions or youth conference agreements have been provided for the information of the prosecutor. This includes cautions or restorative justice agreements occurring before 28 February 2025, where *Youth Justice Act* amendments changed the definition of a child's criminal history.

Caution administered or ordered by court

If a court administers a caution to the child, the prosecutor is to:

(i) clearly note on the QP9 a caution was administered by the court pursuant to s. 21 of the YJA; and

(ii) conclude the court matter in accordance with the QPRIME User Guide.

If a court directs a caution is to be administered, the prosecutor is to:

(i) clearly record this result on the QP9; and

(ii) conclude the court matter in accordance with the QPRIME User Guide; and

(iii) assign a work task to the investigating officer to ensure the caution is administered.

The investigating officer is to ensure the child is cautioned in accordance with the court order and ensure the Form 3: 'Notice of Caution' is completed and distributed in accordance with this section.

When a court dismisses a charge, the investigating officer should:

(i) where there is no property involved, consider the investigation finalised and ensure all correspondence concerning the matter is completed; or

(ii) where there is property involved, dispose of the property in accordance with s. 4.6: 'Disposal of property' of this Manual and ensure all correspondence concerning the matter is completed.

OPM Issue 113 Public Edition

See Flowchart 5.11: 'Court may dismiss charges' and Flowchart 5.11.1: 'Court may dismiss charges—Action for Simple Offences' available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

Consideration of ex-officio indictment

Where a court:

(i) dismisses a charge in relation to a serious offence; and

(ii) does not:

(a) administer a caution to the child;

(b) direct a caution be administered to the child; or

(c) refer the offence to the chief executive for a restorative justice conference,

the investigating officer should discuss the matter with the prosecutor and the officer's OIC. The OIC should consider all the available evidence relating to the offence and, where appropriate, forward the completed brief of evidence and covering report to the Superintendent, Prosecution Services. Where appropriate, the Superintendent, Prosecution Services should forward the file to the Office of the Director of Public Prosecutions for assessment and consideration of an ex-officio indictment.

See Flowchart 5.11.2: 'Court may dismiss charges—Action for indictable offences' available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

5.6 Restorative justice process

Officers may refer an offence committed by a child to a restorative justice process as an alternative to bringing a child before a court (see s. 22: 'When a police officer may refer offence for restorative justice process' of the YJA).

A restorative justice process means a restorative justice conference (RJC) or an alternative diversion program (see s. 31: 'The restorative justice process' of the YJA).

Dependent on the circumstances, where appropriate, officers may refer a child to a restorative justice process even though action of that kind has been taken on a previous occasion or occasions; or a proceeding against the child for another offence has already been started or has ended.

Each restorative justice agreement made by a child for an offence in the RJC process, will be recorded as criminal history for the child (see s. 6: 'Meaning of *criminal history* of a child' of the YJA).

Restorative justice conference

A RJC is directed towards making a conference agreement about the offence and may include:

(i) a provision relating to matters such as restitution or compensation;

(ii) the performance of voluntary work;

(iii) an apology to the victim; and

(iv) the child's future conduct.

It is conducted by a conference convenor, who is responsible for all decisions.

An offence may be sent back to the referring police officer where:

(i) a child fails to attend a conference;

(ii) a child contravenes a conference agreement;

(iii) a conference agreement is not reached; or

(iv) a conference fails after a referral is made under s. 24A: 'Childrens Court may dismiss charge if offence should have been referred to restorative justice process' of the YJA.

Where an offence has been sent back to the referring police officer, the action taken must be properly recorded in QPRIME as this action must be recorded as criminal history for the child (see s. 6: 'Meaning of *criminal history* of a child' of the YJA).

5.6.1 Police referral to a restorative justice conference

Officers should refer an offence committed by a child to a restorative justice conference (RJC) where:

(i) the child admits committing the offence;

(ii) the child consents to the referral;

(iii) having regard to:

OPM Issue 113 Public Edition

(a) the nature of the offence;

(b) the harm suffered by anyone because of the offence; and

(c) whether the interests of the community and the child would be served by having the offence considered or dealt with at a RJC; and

(iv) the officer considers:

(a) a caution is inappropriate;

(b) a proceeding for the offence would be appropriate if a referral to a RJC is not made;

(c) referral to a RJC is a more appropriate way of dealing with the offence than starting a proceeding; and

(d) a conference convenor will be available for the conference.

ORDER

OICs of stations are to obtain contact details of the relevant delegate of the Chief Executive, who is tasked with coordinating restorative justice conferencing and make those details available to officers under their control.

An officer who decides to refer a matter to a RJC should:

(i) complete a Form 4: 'Restorative Justice Process Police Referral Form' (available in QPRIME);

(ii) send the Form 4 to the relevant delegate of the Chief Executive (who will advise the referring officer whether the RJC is to proceed); and

(iii) if the child:

(a) has been in police custody for the relevant offence, capture the diversion from the custody report in QPRIME; or

(b) has not been taken into custody for the relevant offence, capture the diversion from the person record in QPRIME.

Where a referring officer receives notice the RJC is to proceed, the referring officer is to:

(i) complete a Form 5: 'Notice to Attend a Restorative Justice Process' (available in QPRIME);

(ii) personally serve the Form 5 on the child; and

(a) ensure the child is given a pamphlet explaining the RJC process (available on the Queensland Government Publications portal 'Restorative justice conferences resources' webpage);

(iii) inform the child generally of the restorative justice process and potential consequences for the child if they fail to participate in the process;

(iv) inform the child the making of a restorative justice agreement will form part of the child's criminal history; and

(v) forward the completed Form 5 to the Chief Executive.

Where a child successfully completes a RJC and an agreement is reached, the referring officer is to:

(i) receive a copy of the:

(a) agreement on an approved Form 9: 'Restorative Justice Agreement' from the conference convenor (see s. 36: 'Conference agreement' of the YJA and s. 5.6.5: 'Outcomes of a restorative justice conference' of this chapter); and

(b) Form 13: 'Report on the Completion of a Restorative Justice Process' within fourteen days from the Chief Executive. The hardcopy is to be filed at the investigating officer's station/establishment; and

(ii) within the relevant QPRIME occurrence:

(a) record the outcome of the RJC; and

(b) save a copy of the Form 13.

5.6.2 Referral back to police from Chief Executive, Department of Youth Justice and Victim Support

In some instances, a restorative justice conference will not be successful and the offence and child will be referred back to the officer by the Chief Executive, Department of Youth Justice and Victim Support via written notice (see s. 32: 'Returning referrals' of the YJA).

The officer should then decide what further action is to be taken (see s. 24: 'Powers of police officer if referral is unsuccessful or if child contravenes restorative justice agreement' of the YJA).

In determining what further action is appropriate, the officer is to consider:

(i) the circumstances of the alleged offence;

OPM Issue 113 Public Edition

(ii) the child's criminal history (see s. 6: 'Meaning of *criminal history* of a child' of the YJA);

(iii) any previous cautions administered to the child for an offence (prior to 28 February 2025);

(iv) if the child has been in any other way dealt with for an offence under any Act, the other dealings;

(v) any participation by the child in the conference; and

(vi) if an agreement was made at the conference—anything done by the child under the agreement.

Action that may be taken by the officer includes:

(i) taking no further action;

(ii) administer a caution to a child;

(iii) refer the offence to the Chief Executive for another conference; or

(iv) start a proceeding against the child for the offence.

If the matter is to be brought before the court for sentencing, the court's proper officer is to give notification of the court date to the child and the Chief Executive.

ORDER

Officers considering an offence which has been returned to police by the Chief Executive, Department of Youth Justice and Victim Support must record the action taken pursuant to s. 24 of the YJA in QPRIME. This includes the decision to take no action (see s. 24: 'Powers of police officer if referral is unsuccessful or if child contravenes restorative justice agreement' of the YJA).

Officers are to add a new disposition against the charge of either:

(i) returned restorative justice referral; or

(ii) fail to comply with restorative justice agreement.

In the disposition window, officers are to complete the required fields and select the outcome for the action taken, being either:

(i) no action taken;

(ii) caution;

(iii) restorative justice referral; or

(iv) commence proceedings.

Where a caution is being administered or a subsequent restorative justice referral is being provided, there is no need to separately record these in QPRIME. However, the process outlined in ss. 5.5: 'Cautioning process' or 5.6.1: 'Police referral to a restorative justice conference' of this chapter must be followed.

OPM Issue 113 Public Edition

5.6.3 Court referral to restorative justice conference

The Children's Court may dismiss a charge if the offence should have been referred to a restorative justice process (s. 24A: 'Powers of police officer if referral is unsuccessful or if child contravenes restorative justice agreement' of the YJA).

This may occur if a child admits to committing an offence at court and the charge was made against the child by a police officer. The court has the option to dismiss the charge and refer the offence to the Chief Executive for a restorative justice conference under s. 22: 'When police officer may refer offence for restorative justice process' of the YJA.

These referrals may occur in circumstances where there was no admission by the child before being charged.

A referral of this type will operate in the same manner as a police referral; the police officer is taken to be the referring authority. If the child fails to engage in the conferencing process, the matter will be returned to police (by written notice) to exercise their discretion in considering the following options:

(i) take no further action;

(ii) administer a caution to a child;

(iii) refer the offence to the Chief Executive for another conference; or

(iv) start a proceeding against the child for the offence.

Where an offence has been returned to the Service, after the court has dismissed the charge, and referred the offence to restorative justice, the action taken must be properly recorded in QPRIME to record the criminal history of the child (see s. 6: 'Meaning of *criminal history* of a child' of the YJA). See s. 5.6.2 'Referral back to police from Chief Executive, Department of Youth Justice and Victim Support' of this chapter.

5.6.4 Attending a restorative justice conference

Police attendance

When a child has been referred to a restorative justice conference (RJC) by an officer, the following officers may attend the conference, the:

(i) referring officer;

(ii) investigating officer; or

(iii) where neither of those officers are available, an officer with sufficient knowledge of the circumstances of the offence and the investigation which was conducted.

Officers are not required to attend all RJCs. Attendance by an officer should be discussed and determined on a case-by-case basis between the youth justice officer and the relevant CPIU or investigating officer in the region.

See s. 34(1): 'Who may participate in conference' of the YJA.

Victims of crime attendance

A victim is entitled to participate in a RJC (see s. 34(1)(b) of the YJA). Officers are to liaise with victims throughout the process as per the Charter of Victim's Rights (see s. 2.12.1: 'Victims' Commissioner and Sexual Violence Review Board Act and Victims of Crime Assistance Act' of this Manual) and the *Victims' Commissioner and Sexual Violence Review Board Act*.

Where Commissioner is the victim

Where the Commissioner is the victim (see s. 10.11: 'Ownership of official property' of the *Police Service Administration Act*), the participation in a RJC has been delegated to commissioned officers (see Delegation D 132.2). Delegated officers may then give permission for other officers to attend the conference as the Commissioner's representative.

The officer who commenced the proceedings or investigating officer for the offence who considers a matter is appropriate to refer to a RJC where the Commissioner is the victim, is to advise the relevant delegated officer. The delegated officer is to be informed of all the particulars of the case. The officer referring the matter to the Chief Executive should provide the contact details of the relevant delegated officer to the Chief Executive.

A delegated officer who is invited to participate in a RJC by a conference convenor should determine whether a representative of the Commissioner, as the victim of the offence, should attend the conference and advise the convenor accordingly. The delegated officer may nominate another officer to attend the conference on behalf of the Commissioner.

5.6.5 Outcomes of a restorative justice conference

Once a restorative justice conference (RJC) process has commenced, all decisions regarding conduct of the conference are made by the convenor.

Where agreement is reached at an RJC, the convenor will prepare a Form 9: 'Youth Justice Conference Agreement' which, in addition to the child's admission to committing the offence and how the agreement will be monitored, may also contain provisions about the following:

(i) the making of restitution or payment of compensation;

(ii) voluntary work to be performed by the child;

(iii) an apology to the victim;

(iv) the child's future conduct while a child;

(v) a diversion program to address the child's behaviour that involves remedial actions, activities intended to strengthen the child's relationship with family and community; and educational programs; and

(vi) any other matter the conference convenor considers appropriate.

All the parties present at the RJC will be signatories on the Form 9. An officer is only required to sign the conference agreement if the officer participates in the conference.

Each restorative justice agreement made by the child for an offence will form part of the child's criminal history (see s. 6: 'Meaning of *criminal history* of a child' of the YJA).

An officer who has participated in the RJC, or has received notification of a RJC outcome, will receive a copy of the Form 9, which should be scanned into the relevant QPRIME occurrence.

See Flowchart 5.14: 'Outcomes of a Youth Justice Conference' available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

5.6.6 Confidentiality of restorative justice conferences

The provisions of s. 5.5.11: 'Confidentiality' of this chapter apply to restorative justice conferences.

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An officer should only disclose information relating to a child's cautioning or restorative justice history or outcomes as outlined in s. 295: 'Disclosure by police of information about cautions and restorative justice process referrals and restorative justice agreements' of the YJA.

5.7 Graffiti removal program

An officer should offer a child the opportunity to attend a graffiti removal program (GRP) if the child:

(i) has been arrested for, or is being questioned in relation to a graffiti offence;

(ii) admits to having committed the offence; and

(iii) is at least 12 years of age at the time of the offence.

See s. 379A: 'Additional case when arrest for graffiti offence may be discontinued' of the PPRA.

A **graffiti offence** means an offence against s. 469: 'Wilful damage' of the CC, where the property is in a public place or visible for a public place and the destruction or damage is caused by:

(i) spraying, writing, drawing, marking or otherwise applying paint or another marking substance; or

(ii) scratching or etching.

A referral requires a child to attend and complete a GRP, which is managed by an external provider engaged by the Department of Youth Justice and Victim Support. The provider may be the relevant local government or a similar approved provider.

5.7.1 Purpose of graffiti removal program

Referral to attend and complete a graffiti removal program is aimed at providing a timely response to children who have committed a graffiti offence, if the investigating officer believes:

(i) the child would benefit from the program;

(ii) the child's current and past offending is relatively minor;

(iii) the program may dissuade the child from committing further graffiti offences; and

(iv) a referral is appropriate (see s. 11: 'Police officer to consider alternatives to proceeding against child' of the YJA).

The program provides an alternative to commencing a proceeding.

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5.7.2 Eligibility for a graffiti removal program

Depending on the seriousness of the graffiti offence committed, referral to a graffiti removal program (GRP):

(i) should be considered in instances where an officer would otherwise:

(a) consider offering the child a caution; or

(b) refer the child to a restorative justice process;

(ii) may be offered to a child at any time prior to the child's first court appearance for the relevant offence; and

(iii) may be offered on more than one occasion.

An officer who offers a child the option of completing a GRP, is to:

(i) complete a QP 0951: 'Agreement to attend and complete a graffiti removal program and written requirement to comply with agreement' (available in QPRIME);

(ii) explain to the child and parent or support person:

(a) the QP 0951 outlines the consequences of agreeing to attend the GRP;

(b) if the child fails to attend and complete the GRP:

- the child commits an offence against s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA; and
- the child may be charged with the original graffiti offence;

(iii) invite the child and parent or support person to sign the QP 0951; and

(iv) provide a copy of the completed and signed QP 0951 to the child and parent or support person.

Once the child has signed and received a copy of the QP 0951, the child should be released.

After the child has agreed to attend and complete a GRP, the officer is to:

(i) update the relevant QPRIME occurrence(s) to record the referral. If the child;

(a) has been in police custody for the relevant offence, capture the GRP referral in the custody report in QPRIME; or

(b) has not been taken into custody for the relevant offence, capture the GRP referral in the person record in QPRIME;

(ii) scan the completed QP 0951 and save in the relevant QPRIME occurrence; and

(iii) send the completed QP 0951 by email to the relevant Youth Justice Service.

If the child does not sign the QP 0951 or otherwise does not agree to the referral, the officer should proceed with the investigation of the offence(s).

When an officer makes an offer to a child to attend and complete a GRP, the officer is to give the child and the parent or support person an oral or written explanation of the consequences of agreeing to attend the GRP. A written explanation is to be included on the QP 0951.

5.7.3 Offer to attend graffiti removal program after the commencement of proceedings

An officer may offer a child the opportunity to attend and complete a graffiti removal program (GRP) at any time prior to the child's first appearance before a court on the relevant charge (see s. 379A(2): 'Additional case when arrest for graffiti offence may be discontinued' of the PPRA).

Where an officer has commenced proceedings against a child for a graffiti offence and the officer considers referral to a GRP may be a preferable outcome, the officer is to:

(i) contact the child, if necessary, and make arrangements to conduct an electronic record of interview, with the appropriate safeguards (see s. 3: 'Interview room recordings' of the DERIE), prior to offering a referral to a GRP in accordance with this section; and

(ii) where a GRP referral is accepted, make the necessary arrangements for the withdrawal of the relevant charge in accordance with s. 3.4.4: 'Withdrawal of charges' of this Manual.

5.7.4 Receipt of agreement by Youth Justice Service

The Department of Youth Justice and Victim Support (DYJVS) should reply to the referring officer within 3 business days of receiving the completed QP 0951: 'Agreement to attend and complete a graffiti removal program and written requirement to comply with agreement' with:

(i) a faxed or emailed acknowledgement the completed QP 0951 had been received;

(ii) the name and contact details of the Youth Justice Service officer managing the child's graffiti removal program (GRP) and details of the service provider administering the GRP (if relevant).

The GRP is to be completed within 60 days of receipt of the referral by the Youth Justice Service, DYJVS.

5.7.5 Completion of graffiti removal program

Successful completion of program

Within 3 business days of a child successfully attending and completing a graffiti removal program (GRP), the Department of Youth Justice and Victim Support (DYJVS) is required to send a 'Report on the Completion/Non-Completion of a Graffiti Removal Program' to the officer who made the GRP referral.

Officers receiving a 'Report on the Completion/Non-Completion of a Graffiti Removal Program' advising of the successful completion of a GRP are to:

(i) update the relevant QPRIME occurrence(s) and import the report as an external report; and

(ii) arrange disposal of the forfeited property, if still held by police (see s. 5.7.6: 'Property forfeiture' of this chapter).

Failure to complete program

Where a child fails to attend and complete a GRP, the DYJVS is required to send a 'Report on the Completion/Non-Completion of a Graffiti Removal Program' to the officer who made the GRP referral. The report will provide all the relevant information in relation to the child failing to attend and complete the program.

Officers receiving information from the DYJVS of a child's failure to attend and complete a GRP are to:

(i) update the relevant QPRIME occurrence and import the report as an external report;

(ii) contact the child and a parent/support person and arrange a suitable time for the child to be interviewed in relation to the failure to attend and complete the GRP;

(iii) consider the circumstances of the child's failure to attend and complete the GRP and:

(a) in relation to the child's original graffiti offence(s), consider:

OPM Issue 113 Public Edition

- administering a caution (see s. 5.5: 'Cautioning process' of this chapter);
- referring the child to a restorative justice process (see s. 5.6: 'Restorative justice process' of this chapter);
- offering the child another opportunity to attend a GRP; or
- commencing a prosecution for the original graffiti offence under s. 469: 'Wilful damage' of the CC;

(b) consider whether there is sufficient evidence to commence a prosecution for failing to attend and complete the graffiti removal program under s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA.

When considering whether a prosecution should be commenced for failing to attend and complete a GRP, officers are to consider the relevant circumstances of the child's failure to complete the program, for example:

(i) the physical or mental capacity of the child (e.g. an injury or illness preventing the child from completing the program or the ability of the child to physically complete the program);

(ii) the number of attempts made to contact the child, or appointments broken by the child;

(iii) non-compliance with the program requirements or the failure to complete all required hours of the program;

(iv) any other extenuating circumstances which prevented the child from completing the program; or

(v) the child's criminal history, including any previous cautions, restorative justice conferences, or GRPs.

5.7.6 Property forfeiture

When a child agrees to attend a graffiti removal program (GRP) and signs the relevant QP 0951: 'Agreement to attend and complete a graffiti removal program and written requirement to comply with agreement', any implements used to commit the graffiti offence are forfeited to the State (see s. 379A(8): 'Additional case when arrest for graffiti offence may be discontinued' of the PPRA).

Officers seizing graffiti implements that may be subject to forfeiture to the State are to:

(i) deal with the items in accordance with s. 4.2: 'Receiving property' of this Manual and lodge at a property point;

(ii) arrange for the items to be photographed (in case the child fails to attend and complete a GRP and a prosecution is commenced); and

(iii) dispose of the items in accordance with s. 4.6.3: 'Direction for disposal of forfeited property' of this Manual.

Where a prosecution is later commenced in relation to the forfeited implements, officers should tender the photographs of the graffiti implements as secondary evidence.

OPM Issue 113 Public Edition

5.8 Protected admissions

5.8.1 General information

The Protected Admissions Scheme (PAS) allows officers (through a legal representative, parent or support person) and a child to come to an agreement about the child's eligibility for a diversion option (see s. 5.3.1: 'Diversion options' of this chapter) and the use of any admission.

Lawyers can provide advice to a child to admit an offence in the confidence they are acting in the best interests of the child. The investigation of the offence committed by the child does not change, nor does the cautioning or restorative justice conference schemes.

The PAS:

(i) only operates where a child has declined to admit an offence, but a diversion option is otherwise appropriate; and

(ii) is designed to remove the potential barriers to the cautioning or restorative justice conference options.

A protected admission interview is an interview that:

(i) is conducted under the PAS; and

(ii) allows a child to admit to an offence during an interview, but any admissions made are not admissible in court proceedings.

A 'Protected Admissions Scheme—A factsheet for police officers' has been developed for officer assistance and is available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

5.8.2 Application of Protected Admission Scheme

Where appropriate, officers are to use the Protected Admissions Scheme (PAS) to provide a child, who has failed to admit an offence during an interview or refused to take part in an interview but would otherwise be eligible for a diversion option (see s. 5.3.1: 'Diversion options' of this chapter), with an opportunity to satisfy the legislated criteria to be eligible for a diversion option.

A protected admission interview (PAI) is not necessary in circumstances where a child voluntarily admits an offence.

The decision to use the PAS and offer a child the opportunity to participate in a PAI can only be made after the offence has been investigated.

Officers are to only offer a child a PAI through:

(i) a legal representative; or

(ii) where the child does not wish to seek legal advice or where legal advice is not available, a support person (generally the parent) who is present for the interview. A support person is to be given the opportunity to seek legal advice, if required.

Officers are to ensure any PAI conducted with a child meets the requirements of Part 3: 'Safeguards ensuring rights of and fairness to persons questioned for indictable offences' of the PPRA, particularly s. 421: 'Questioning of children'.

Nothing disclosed by a child during a PAI, concerning any offence, is admissible in any subsequent court proceedings and cannot be relied upon to prove any fact in issue.

Where a co-accused is involved, officers are to treat the child as a witness and obtain a statement using either s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the *Evidence Act* or a QP0125: 'Statement of witness'. The PAI cannot be produced.

5.8.3 Protected admission process

ORDER

Officers are to first conduct an interview with a child in accordance with the provisions and requirements of the PPRA.

In circumstances where a child refuses to take part in an interview or fails to make any admissions during an interview, officers are to:

(i) facilitate contact between the child and the child's parents and a legal representative, if required. Services including the Legal Aid Youth Hotline will provide the child with free legal advice;

(ii) where required, provide the child's legal representative with:

(a) an outline of the circumstances of the offence alleged to have been committed by the child and that the child is eligible for a caution or other diversion provided the legislated requirements are met; and

(b) the opportunity to speak confidentially with the child and/or their parent;

(iii) where the child does not wish to seek legal advice, or a legal representative is not available, speak with a support person (generally a parent) who is present for the interview and:

(a) provide the support person with:

- a Form 36: 'Information for Support Persons About Their Role' (available on Forms Select); and
- an 'Additional information for the support person of a young offender' information sheet is available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page;

(b) be satisfied the support person has the capacity to understand and comprehend all aspects of their role. Where the officer does not believe a support person understands the process, officers are to take all necessary steps to assist the support person, which may include facilitating contact with a legal representative;

(c) where the child or support person requests to speak with a legal representative, the interview should be delayed or rescheduled to allow legal advice to be sought. A support person may contact the Legal Aid Youth Hotline to obtain free legal advice;

(d) advise the support person the child is eligible for a caution or other diversion provided the legislated requirements are met; and

(e) provide the support person with the opportunity to speak confidentially with the child and a legal representative, if required;

(iv) if the child agrees to participate in a PAI, conduct a PAI, ensuring the questions outlined in the 'Interview Proforma—Protected Admissions Interview' proforma (available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page) are included in the interview; and

(v) if the child admits the offence being investigated during the PAI, caution or divert the child as agreed.

OPM Issue 113 Public Edition

5.8.4 Further offences disclosed

It is foreseeable that during a protected admission interview (PAI), a child may disclose previously unknown offences. Where a child:

(i) discloses further offences during a PAI;

(ii) meets the criteria for diversion under the act; and

(iii) can be diverted,

officers should divert the child.

The disclosure of previously unknown offences does not in itself preclude the PAI from continuing and the child subsequently being diverted for all offences. Before starting a proceeding against the child for further offences disclosed during a PAI, officers are to consider whether in all the circumstances it would be more appropriate to divert the child (see s. 11: 'Police to consider alternatives to proceeding against child' of the YJA and s. 5.3.1: 'Diversion options' of this chapter).

Where any further offences disclosed during a PAI meet the criteria for diversion, officers should continue the PAI and divert the child for the original offence and all subsequent offences. The number of further offences disclosed is not a barrier to dealing with all offences through diversion.

Where any further offences disclosed during a PAI do not meet the criteria for diversion or diversion is not appropriate in the circumstances, officers should:

(i) complete the PAI for the offences for which the child is eligible for diversion, but not question the child about any offence for which the child cannot be diverted;

(ii) divert the child for the eligible offences;

(iii) if a legal representative was used to arrange the PAI, contact the legal representative and:

(a) explain the change in circumstances and why a PAI cannot be conducted for the new offences; and

(b) allow the child and legal representative to speak privately;

(iv) if a support person was present for the PAI:

(a) explain the change in circumstances and why a protected PAI cannot be conducted for the new offences; and

(b) allow the child and support person to speak privately; and

(v) commence a PPRA interview for the new offences, ensuring the questions in the 'Protected Admission—PPRA Interview proforma' (available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page) are asked of the child.

OPM Issue 113 Public Edition

Officers are to ensure through the legal representative, parent or support person that the child understands the new interview is no longer a PAI. Officers are to use the interview format 'Question to commence PPRA interview after a Protected Admissions interview is terminated'.

If the child subsequently refuses to take part in a PPRA interview or does not admit their involvement in an offence, officers are to fully investigate the offence. If, after investigation it is determined the new offences meet the criteria for diversion, officers are to consider whether:

(i) in the circumstances it would be appropriate to divert the child; and

(ii) a subsequent PAI can take place.

5.8.5 Uses of a protected admissions interview

Nothing disclosed by a child during a protected admission interview (PAI) is admissible in any subsequent court proceedings and cannot be relied upon to prove any fact in issue.

Officers should ensure the existence of a PAI is disclosed as part of full disclosure, however, it should not be produced to a court as evidence by the prosecution unless directed to do so by the court.

This means the PAI cannot be used as:

(i) evidence in a court for offences against the child;

(ii) evidence in a court for offences against a co-offender; or

(iii) to challenge a version in an interview with co-offenders.

Evidence against a co-offender

Where a child provides information against a co-offender in a PAI, officers are to complete any diversion action in relation to the child and then request the child provide a statement concerning their knowledge of the offences involving a co

offender. If appropriate, the child's statement should be obtained in accordance with the provisions of s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the *Evidence Act* (EA). If the child does not meet the admissibility criteria under s. 93A of the EA, then a statement using a QP 0125: 'Statement of witness' is to be used.

To guide an investigation

While the contents of a PAI cannot be used as evidence in a court, it is foreseeable information provided by a child may guide an investigation. Any evidence obtained must be able to stand alone and be admissible without the PAI.

Requisite Capacity

An interview with a child may be used to establish requisite capacity for future investigations.

A PAI is not admissible in court for this purpose. The subsequent caution, which should be recorded for indictable offences (see s. 5.5.4: 'Electronic recording of cautions' of this chapter), can be produced and used to establish requisite capacity.

5.9 Commencing proceedings against a child

5.9.1 Persons to be present for an interview with a child who is suspected of committing an indictable offence (admissibility of child's statement)

Officers are to ensure arrangements are made for a support person to be present when questioning a child in relation to an indictable offence. If a support person is not present, a statement made by the child will not be admissible in a proceeding (see s. 29: 'Support person must be present for statement to be admissible' of the YJA).

In addition, any questioning about a child's alleged involvement as a suspect for an indictable offence is to be conducted:

(i) after the child has, if practicable, been allowed to speak to a support person, chosen by the child, in circumstances in which the conversation will not be overheard,

(ii) after a legal aid organisation has been notified; and

(iii) in the presence of a support person.

See s. 421: 'Questioning of children' of the PPRA.

However, it is reasonable to obtain certain particulars from a person, to at least establish the person being spoken to is a child, without the presence of a support person (See Flowchart 5.21: 'Persons present for an interview with a child' available on the 'Resources and training' webpage located on the Youth Crime SharePoint page).

Where a child or a parent of the child nominates a member of the Service, who is not a parent of the child, to be the person present during questioning, the investigating officer is to ensure an 'independent person' is present in addition to the member nominated.

When the services of a support person are obtained, the engaging of that person is to be at no expense to the Service. If a lawyer or other person requires payment, the officer is to make it clear to both the child and the lawyer or other person the Service will not be responsible for meeting expenses.

An officer who is questioning a person in relation to an indictable offence, and during the course of the interview becomes aware the person is a child, the officer should not ask any further questions in relation to the indictable offence until s. 421 of the PPRA has been complied with. The officer should say to the child words to the effect:

'I am going to ask you some further questions in relation to this matter. However, I am required to ask you those questions in the presence of a support person and after notifying a legal aid organisation or lawyer of your choosing. Who would you like to be present while I talk to you?'

If the child then nominates a support person to be present, the officer is to arrange to have that person present at the interview. If the child declines or is unable to nominate a support person, the officer is to arrange for a support person to be present.

5.9.2 Proceedings against a child by notice to appear

When commencing a proceeding against a child for an offence, other than a serious offence, officers are to commence the proceeding by way of notice to appear (NTA) or complaint and summons, unless otherwise provided under the YJA (see s. 12: 'Preferred way for police officer to start proceedings' of the YJA).

Where an officer has arrested a child, an OIC of the relevant police station or watch-house or a prescribed police officer may issue a NTA and release the child (see s. 50: 'Dealing with children not brought before Childrens Court in accordance with s 49' of the YJA).

ORDER

An officer issuing a NTA to a child is to:

OPM Issue 113 Public Edition

(i) specify:

(a) a court most convenient for the child to attend, unless the appearance time for that court will not satisfy the requirement for appearance to be as soon as practicable; and

(b) the appearance time, which should be the next Childrens Court date set down for the relevant court (e.g. if Childrens Court is 2pm every Wednesday, the NTA is to specify 2pm on the following Wednesday) (see s. 384(3): 'Notice to Appear form' of the PPRA);

(ii) complete the NTA in accordance with s. 3.5.3: 'Proceedings by way of notice to appear' of this Manual; and

(iii) clearly state at the time of the alleged offence, the person was a child.

In addition to (i)–(iii) above, an OIC of a police station or watch-house or a prescribed officer who issues a notice to appear under s. 50 of the YJA is to:

(i) update the relevant custody report in QPRIME with details of the child's release; and

(ii) assign a notification task to the arresting officer advising of the issue and service of the NTA.

See Flowchart 5.18: 'Issuing of notice to appear to a child for offences' available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

ORDER

Officers are to outline in the Court Brief (QP9) reasons why taking no action, administering a caution or another diversion option were not appropriate. Where applicable, the reasons are to include references to the:

(i) circumstances of the alleged offence;

(ii) child's previous criminal history; and

(iii) history of prior cautions or youth conference agreements.

5.9.3 Proceedings against a child by complaint and summons

Where it is not possible to commence proceedings by way of notice to appear, proceedings should be commenced by way of complaint and summons.

When an officer decides to commence a proceeding against a child by way of complaint and summons, the officer is to ensure the child is served with the summons at least three clear days prior to the initial appearance date.

An officer is to complete and serve the complaint and summons in accordance with ss. 3.5.4: 'Proceedings by way of complaint and summons', 3.5.5: 'Service of a summons', 3.5.6: 'Responsibilities after serving a summons' and 3.5.7: 'Unserved summons' of this Manual, with the additional requirement to:

(i) swear the complaint and summons before a justice of the peace, other than a commissioner for declarations;

(ii) serve or cause to be served a copy of the complaint and summons on the parent and the Chief Executive, Department of Youth Justice and Victim Support (DYJVS) (see s. 43(2): 'Service of complaint and summons if offender a child' of the YJA); and

(iii) when serving the complaint and summons on the child:

(a) serve the complaint and summons as discreetly as practicable; and

(b) do not serve the complaint and summons at or in the vicinity of the child's place of employment or school, unless there is no other place where service may be reasonably affected (see s. 43(3) of the YJA).

An officer is only to use an instantia summons if the complaint is served on the parent and the Chief Executive, DYJVS.

Service of complaint on a parent and the chief executive

Service of a copy of the complaint and summons for either a simple offence or an indictable offence must also be affected on:

(i) a parent (unless a parent cannot be found after reasonable inquiry) by:

(a) personal service; or

(b) posting a copy of the complaint and summons form by registered mail to the parent at the usual place of business or residence of the parent last known to the officer; and

(ii) the Chief Executive, DYJVS by:

(a) personal service;

(b) delivering a copy of the complaint and summons to an officer from the Department of Youth Justice; (Note: this would be the usual method of service); or

(c) posting a copy of the complaint and summons form by registered mail to the Chief Executive, DYJVS at the usual place of business of the Chief Executive, DYJVS.

OPM Issue 113 Public Edition

The officer serving a copy of the complaint and summons on the parent or Chief Executive, DYJVS should:

(i) endorse a copy of the complaint and summons as to service and retain the endorsed copy with the investigation file;

(ii) update the QPRIME occurrence with details of the time, date and place of service;

(iii) note in the facts of the Court Brief (QP9) that the parent was served with a copy of the complaint and summons;

and

(iv) if it was sent by registered mail, retain the registered mail receipt with the investigation file so it may later be tendered as proof of the service should proof be required.

Where an officer is unable to serve a parent with a copy of the complaint and summons in a reasonable time prior to the date of appearance, the complaint and summons should be returned to the clerk of the court where the child is to appear for an extension of time. This should occur when there is a reasonable expectation a parent will be able to be located.

Where an officer has commenced proceedings by way of complaint and summons and is unable to serve the parent of a child with a copy of the complaint and summons and reasonably believes it is unlikely a parent will be located, the officer should outline in the Court Brief (QP9) what inquiries were conducted to locate the parent. If an officer contacts a person reasonably believed to be the parent by telephone, officers may disclose the content of the complaint and summons. Such contact should also be outlined in the Court Brief (QP9) if the parent is not otherwise served with the complaint and summons.

See Flowchart 5.19: 'Service of the complaint and summons' available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

5.9.4 Taking a child into custody

The provisions relating to the arrest of children are contained in the PPRA and the YJA.

As a Schedule 1 Act, the YJA takes precedence over the PPRA wherever an inconsistency arises, except to the extent that s. 365(2): 'Arrest without warrant' and Chapter 15: 'Powers and responsibilities relating to investigations and questioning for indictable offences' of the PPRA apply to children.

Generally, a child may be arrested without warrant:

(i) for questioning about, or for investigating, an indictable offence (see s. 365(2) of the PPRA); or

(ii) subject to s. 13: 'Police officer's power of arrest preserved in particular general circumstances' of the YJA, to commence a proceeding against a child (see s. 365(3) of the PPRA).

Arresting children

Where:

(i) a child has been arrested pursuant to s. 365(2) of the PPRA; and

(ii) any questioning or investigation has been concluded,

any further action is to be taken in accordance with the following sections of the YJA:

(i) s. 11: 'Police officer to consider alternatives to proceeding against child';

(ii) s. 12: 'Preferred way for police officer to start proceedings'; and

(iii) s. 13(1): 'Police officer's power of arrest preserved in particular general circumstances'.

See ss. 5.3.1: 'Diversion options' and 5.9.2: 'Proceedings against a child by notice to appear' of this chapter.

ORDER

Officers are to outline in the Court Brief (QP9) reasons why:

(i) taking no action;

(ii) administering a caution or another diversion option; or

(iii) commencing proceedings by way of notice to appear,

were not appropriate. Where applicable, the reasons are to include references to the:

(i) circumstances of the alleged offence;

(ii) child's previous criminal history; and

(iii) history of prior cautions or youth conference agreements (this applies to cautions and agreements finalised prior to 28 February 2025, as these previous diversionary options are not recorded as part of a child's criminal history).

OPM Issue 113 Public Edition

Attaching a copy of the child's history to the QP9 is not sufficient to fulfil this requirement.

Officers who arrest a child under the reasonable belief the child is an adult are to outline in the Court Brief (QP9) the circumstances that lead to that belief.

ORDER

Officers are not to arrest a child for the purpose of obtaining the child's identifying particulars.

An officer is to make application to a court for an order to take a child's identifying particulars, when the child has been charged with an indictable offence or an 'arrest offence' against certain Acts (see s. 25: 'Application by police officer for permission to take child's identifying particulars' of the YJA and s. 5.11: Taking children's identifying particulars' of this chapter).

5.9.5 Ensuring rights of children taken into custody

Officers who arrest a child are to comply with the provisions of Chapter 15, Part 3: 'Safeguards ensuring rights of and fairness to persons questioned for indictable offences' and Chapter 20: 'Other standard safeguards' of the PPRA to the extent those provisions:

(i) are applicable to a child; and

(ii) apply to the type of offence for which the child was arrested; and

(iii) impose applicable responsibilities upon officers which are additional to those imposed by the YJA.

5.9.6 Parent and other notification requirements

Where a child comes to the adverse attention of an officer, the officer should, as soon as practicable, make all reasonable inquiries to contact a parent, guardian or another adult who can take responsibility for the child.

Arrest or service of a notice to appear

An officer who:

(i) arrests a child; or

(ii) has served a notice to appear on a child,

is to promptly provide advice of the arrest or service and whereabouts of the child to:

(i) a parent of the child, unless no parent of the child can be contacted after making all reasonable inquiries; and

(ii) the Chief Executive DYJVS; and

(iii) the Chief Executive DFSDSCS, only if the Chief Executive has custody or guardianship of the child under the *Child Protection Act*.

This includes arrest and immediate charge and an arrest for questioning for an indictable offence.

See s. 392: 'Parent and particular chief executives to be advised of arrest or service of notice to appear' of the PPRA and s. 16.17.2: 'Arrest of children' of this Manual.

Recording the notification

In all circumstances, the investigating officer is to record in the relevant QPRIME Custody Report (Full) and on the back of the relevant Court Brief (QP9) details of the names, date and time of each notification.

If a parent cannot be located, the officer must document what inquiries were made to locate a parent and any other reason why a parent was not advised as required.

The Chief Executive DYJVS can always be contacted through the Office of the Director-General, Department of Youth Justice and Victim Support (see SMCD).

The Chief Executive DFSDSCS can always be contacted through the Office of the Director-General, Department of Families, Seniors, Disability Services and Child Safety (see SMCD) or after hours through the Child Safety After Hours Service Centre (see SMCD).

5.9.7 Interested persons accompanying a child to a watch-house or visiting a child in a watch-house

Where a child is arrested or detained, and a parent or person interested in the welfare of children is desirous of accompanying the child to the watch-house, an officer should accede to the request. The OIC of the watch-house is responsible for the conduct of staff, prisoners and other persons in the watch-house.

Parents or interested persons should be allowed into the watch-house unless:

(i) the child has not been formally charged, and searched; or

(ii) the staffing levels and operational demands of the watch-house prevent adequate supervision from being provided for the visitor.

OPM Issue 113 Public Edition

When the OIC of the watch-house refuses entry to any visitor, that fact and the reasons for the decision should be noted in the detention log of the relevant custody report in QPRIME. Under normal circumstances the child would be searched after visitors leave.

5.10 Releasing children from custody

Officers who arrest a child under the provisions of ss. 365(2) or (3): 'Arrest without warrant' of the PPRA are to discontinue the arrest and release the child at the earliest reasonable opportunity if:

(i) the child is no longer reasonably suspected of committing the offence for which the person was arrested, unless the provisions of s. 376(2): 'When arrest may be discontinued–general rule' of the PPRA apply;

(ii) the officer considers there is not enough evidence to bring the child before a court on a charge of the offence (see s. 376(3) of the PPRA); or

(iii) the reason for arresting the child no longer exists or is unlikely to happen again if the child is released, e.g. the questioning of the child has concluded (see s. 380(2): 'When arrest of child may be discontinued' of the PPRA); and

(iv) after considering the circumstances of the alleged offence and the child's previous history known to the officer, it is more appropriate to deal with the offence by:

(a) taking no action;

(b) administering a caution (see s. 5.5: 'Cautioning process' of this chapter);

(c) referring the offence to a restorative justice process (see s. 5.6: 'Restorative justice process' of this chapter);

(d) for a graffiti offence, offer the child the opportunity to attend a graffiti removal program (see s. 5.7: 'Graffiti removal program' of this chapter);

(e) for a minor drugs offence and where the child is eligible, offer the child the opportunity to:

- be given a drug diversion warning; or
- participate in and complete a Drug Diversion Assessment Program (initial or subsequent),

(see s. 2.22: 'Police Drug Diversion Program' of this Manual); or

(f) commencing proceedings by way of notice to appear under s. 380(3) of the PPRA or complaint and summons under the *Justices Act*.

Discontinuing an arrest of a child because the reason for arresting no longer exists or is unlikely to happen again if the child is released or it would be more appropriate to deal with the child in another way does not apply if:

(i) the nature or seriousness of the offence for which the child is a suspect makes it inappropriate to release the child; or

(ii) the officer reasonably believes the child is an adult (see s. 380(5) of the PPRA).

ORDER

Officers who do not discontinue the arrest of a child are to outline in the Court Brief (QP9) why the arrest was not discontinued.

5.10.1 Child released to go at large

ORDER

Where a child is to be released to go at large (unaccompanied by an adult) under s. 51(2): 'Release of child without bail' of the YJA, the prescribed officer is to immediately contact either the parent, a Child and Family Services officer, or the Child Safety After Hours Service Centre and advise the:

(i) name, address, date of birth and telephone number of the child;

(ii) circumstances of the detention;

(iii) fact that the Service no longer has authority to detain the child and that the child has been or is to be released either on bail or by virtue of s. 51 of the YJA;

(iv) time, date and place of release; and

(v) time, date and place of appearance of the child before a court. Where the person contacted is not a parent of the child, the officer is to obtain the name and position of the person advised and note any response.

OPM Issue 113 Public Edition

Child to be given release notice

When a prescribed police officer has decided to release a child without bail, unless the officer issues the child with a notice to appear, the officer is to prepare a Form 14: 'Release notice' in the relevant QPRIME occurrence and distribute copies as follows:

(i) the original to be filed with the clerk of the court where the child is to appear;

(ii) a copy to be attached to the Court Brief (QP9); and

(iii) a copy to be given to the child.

5.10.2 Child released on bail

If an officer decides to release a child on bail, the officer may only impose conditions, other than a condition about appearing in court or surrendering into custody, if the:

(i) officer believes an unacceptable risk exists in releasing the child (see s. 16.17.2: 'Arrest of children' of this Manual); and

(ii) condition is necessary to mitigate the risk and will not require undue management or supervision of the child.

See s. 52A: 'Other conditions of release on bail' of the YJA.

ORDER

When determining whether a condition will require undue management or supervision of the child, an officer is to consider the child's:

(i) age, maturity level, cognitive ability and development needs;

(ii) health needs, including medical treatment;

(iii) disability support needs;

(iv) home environment; and

(v) ability to comply with the condition.

Any condition imposed must have a stated period which is no longer than is necessary to mitigate the risk.

An officer is to record the reasons for the imposition of a bail condition and how the condition will mitigate an unacceptable risk outlined in s. 48AAA(2)(a) or (3): 'Releasing children in custody—risk assessment' of the YJA.

5.10.3 Child in custody of the Commissioner pending court appearance

ORDER

Officers responsible for the detention of children in custody under the provisions of s. 54: 'Custody of child pending court appearance' of the YJA are to comply with the provisions of s. 16.17: 'Children' of this Manual relating to the detention of children in police custody.

Where a prescribed police officer refuses to release a child:

(i) on bail under the conditions set out in s. 52: 'Conditions of release on bail—generally' of the YJA;

(ii) into the custody of a parent (see s. 51(2): 'Release of child without bail' of the YJA); or

(iii) by permitting the child to go at large (see s. 51(2) of the YJA),

the prescribed police officer is to ensure the child, the child's parent or guardian, the Department of Youth Justice and Victim Support, and the Department of Families, Seniors, Disability Services and Child Safety (if applicable) are advised, as soon as practicable, of details relating to:

(i) the reason for the refusal to release the child;

(ii) the date, time and place of the intended appearance of the child before a Childrens Court or justice; and

(iii) any arrangements made for transporting the child to a detention centre.

5.11 Taking children's identifying particulars

Where a child has been:

(i) issued with a notice to appear for an offence described in s. 25: 'Application by police officer for permission to take child's identifying particulars' of the YJA, an application can be made for a court order to obtain the child's identifying particulars (IDP) (see s. 5.11.1: 'Taking identifying particulars of a child not arrested' of this chapter);

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(ii) arrested and is in custody for an IDP offence, the child's IDP can be taken or photographed in accordance with s. 467: 'Taking identifying particulars of person in custody' of the PPRA (see s. 2.26: 'Identifying particulars' of this Manual); and

(iii) convicted for an offence described in s. 255: 'Court may order sentenced child's identifying particulars to be taken' of the YJA, a court may make an order to obtain the child's fingerprints and palm prints (see s. 5.11.4: 'Taking fingerprints upon a finding of guilt by a court' of this chapter).

For the policy and procedures to obtain a DNA sample from a child, see s. 2.25.7: 'Obtaining DNA sample from a child' of this Manual.

5.11.1 Taking identifying particulars of a child not arrested

An officer may apply to a Childrens Court magistrate for an order to obtain the identifying particulars (IDP) of a child who has been charged, without being arrested, with an indictable offence or an arrest offence mentioned in s. 25: 'Application by police officer for permission to take child's identifying particulars' of the YJA.

This authority will normally apply where a proceeding against a child is commenced by way of a notice to appear or complaint and summons. However, it may also apply where the child is charged from the bench, or when arraigned as a result of an ex officio indictment by the Director of Public Prosecutions (State).

The application to take identifying particulars may relate to the offence for which the child is charged or to another offence arising out of the same, or same set, of circumstances, for which the child is not yet charged.

Application process

Officers intending to obtain a child's IDP under s. 25 of the YJA should:

(i) contact the clerk of the Childrens Court and request a date and time when the application is to be made so;

(a) the child's appearance and the hearing of the application for IDP coincide; and

(b) sufficient time is allowed for the court and respondent parties or agencies to make any necessary arrangements;

(ii) prepare an application consisting of:

(a) a Form 1: 'Notice of application to a Childrens Court for identifying particulars';

(b) a supporting affidavit (Form 46: 'Affidavit') providing evidence of the offence (see subsection 'Preparing a supporting affidavit' of this section); and

(c) an appropriate draft order, where:

- the child's fingerprints and palm prints are required, a Form 2: 'Order that a child's identifying particulars be taken'; or
- an offender photograph of the child is required, a Form 059: 'Order—(Generic)' is to be completed, including the text as contained on the Form 2 and the text 'Identifying particulars mean photographs of your identifying particulars' (include fingerprints and palm prints in the text if these are also required),

for presentation to the magistrate at the time of the application; and

(iii) lodge the original application and supporting affidavit to the clerk of the Children's Court at the same time as the notice to appear or complaint and summons.

A copy of the completed application should be provided to the police prosecutor with the Court Brief (QP9), along with any relevant instructions.

Notice of the application

The YJA requires that notice of the application is to be given to:

(i) the child;

(ii) a parent of the child, unless a parent cannot be found after reasonable inquiry (the parent includes someone who is apparently a parent of the child); and

(iii) the Chief Executive, Department of Youth Justice and Victim Support (DYJVS).

Notices to the child and to the parent of the child are to be served personally.

Notices to the Chief Executive, DYJVS should be addressed to the nearest regional Youth Justice Service Centre or after hours, the Child Safety After Hours Service Centre.

All notices are to be lodged or served, allowing sufficient time for the court and respondent parties or agencies to make any necessary arrangements.

OPM Issue 113 Public Edition

Where the parent of the child cannot be located after reasonable inquiry, applicant officers should outline in an affidavit what reasonable inquiries were made to locate the parent of the child.

Following service of the application on the child and parent, the serving officer is to complete a Form 46: 'Affidavit' outlining the time, date, place and to whom the notice was provided, and the name, rank, registered number and station of the officer providing the notice. Where the applicant officer serves the notice, the information may be included in the application affidavit.

Preparing a supporting affidavit

Officers making application for an order to take IDP of a child under s. 25 of the YJA should ensure their affidavit contains sufficient evidence for the court to satisfy itself on the balance of probabilities that the child's IDP are necessary for the investigation of the offence.

The applicant officer should state in the body of the affidavit:

(i) a brief outline of the offence including time, date, place, complainant's details, police attendance, etc.;

(ii) in accordance with s. 25(6) of the YJA, what evidence there is of IDP of the offender which are of the same type as those sought to be taken from the child (e.g. a scenes of crime officer has told the applicant a latent fingerprint/palm print was located in connection with the offence and the defendant child's fingerprints/palm prints are sought);

(iii) why the defendant child is reasonably suspected of being the offender, (normally because a fingerprint expert has told the applicant the latent impression located has been identified as belonging to the defendant child);

(iv) how the order is necessary for the proper conduct of the investigation; and

(v) a brief outline of any police action to date concerning the investigation.

Evidence supporting the application will normally consist of an affidavit. However, it may also be in the form of oral evidence. Officers should be aware where oral evidence is given in support of the application, they may be subject to cross examination.

The OIC of a police prosecutions corps may consider approaching the local clerk of the court to determine whether a statement endorsed under the *Oaths Act* is acceptable as an alternative to an affidavit. If a court is satisfied with such statements in respect of applications under s. 25 of the YJA, relevant officers should be advised of this fact.

OPM Issue 113 Public Edition

5.11.2 Taking identifying particulars for an investigative purpose

Officers should not take identifying particulars (IDP) from a child under the provisions of s. 25: 'Application by police officer for permission to take child's identifying particulars' of the YJA unless a support person chosen by the child is also present.

While s. 26: 'Support person must be present when identifying particulars are taken' of the YJA provides that IDP taken in the absence of such persons may be admissible as evidence if the prosecution satisfies the court there was proper and sufficient reason for taking the IDP in the absence of any such person, circumstances of this nature should be rare and officers should do everything necessary to protect the integrity of the investigation.

Where an officer decides to exclude a person from being present at the taking of IDP on the grounds prescribed in s. 26(3) or s. 26(4) of the YJA, the officer should ensure another support person is present when the IDP are taken.

ORDER

The QP 0013: 'Fingerprint form' used in these cases is to be clearly marked 'Prints taken pursuant to Court Order—Section 25—Youth Justice Act'.

Such fingerprint forms are to be kept separate from all other fingerprints held at the Fingerprint Bureau, Forensic Services Group.

The applicant officer is to notify the Fingerprint Bureau of the outcome of the case after the expiry of any appeal period. Where there has been no sentence order, the fingerprints are to be destroyed. Where there has been a sentence order, those fingerprints are to be dealt with in the same manner as all other fingerprints held at the Fingerprint Bureau.

5.11.3 Destruction of identifying particulars taken for an investigative purpose

Where a child's identifying particulars (IDP) have been obtained under a court order under s. 25: 'Application by police officer for permission to take child's identifying particulars' of the YJA, the IDP are to be destroyed within 7 days:

(i) of the end of the proceeding if no sentence order was made, due to the:

(a) charge being discontinued or dismissed; or

(b) child pleading guilty to an offence, but the court dismissing the charge and administering a caution or directing a caution be administered,

whether the proceeding was started before or within 28 days after the order to take IDP was made; or

(ii) after a 28 day deadline to commence proceedings has passed, and no proceeding has been commenced, since the order to take IDP was made.

See s. 27: 'Destruction of identifying particulars taken under court order' of the YJA.

ORDER

Where an investigation does not lead to a sentence order being made, the officer who applied to have the IDP taken is to ensure the destruction of the IDP within 7 days of the decision. Where the applicant officer is unable to arrange destruction within required period, the OIC of the applicant officer's police station or establishment is to manage the destruction of the IDP.

When:

(i) a proceeding, where a police prosecutor has appeared, ends without a sentence order being made; and

(ii) IDP have been taken under s. 25 of the YJA in relation to that proceeding,

the police prosecutor is to ensure the arresting officer and the OIC of the arresting officer's station or establishment are notified as soon as practicable to arrange for the destruction of any IDP.

An OIC of a station or establishment who receive such advice on behalf of one of their officers should ensure the arresting officer is notified as soon as possible.

If an arresting officer is absent from duty and will not return to duty for more than 24 hours from the time the OIC is notified, the OIC should make arrangements to have the IDP destroyed.

Officers arranging the destruction of IDP in accordance with s. 27 of the YJA should:

(i) update the relevant occurrence by submitting a supplementary report outlining:

(a) the court outcome;

(b) the date of the court outcome; and

(c) reason for the destruction of the IDP, including whether the IDP include an offender photograph and/or fingerprints and palm prints; and

(ii) initiate a QPS IDP/DNA Destruction Request Task Workflow in QPRIME.

The OIC, Fingerprint Bureau should ensure requests for destruction of identifying particulars are analysed and, where appropriate, identifying particulars are destroyed promptly in accordance with s. 27 of the YJA.

5.11.4 Taking fingerprints upon a finding of guilt by a court

On the making of a sentence order against a child after a finding of guilt for an offence against a prescribed Act, a court may order the child's fingerprints and palm prints be taken (see s. 255: 'Court may order sentenced child's identifying particulars to be taken' of the YJA).

Where a court order is issued to obtain a child's fingerprints and palm prints under s. 255 of the YJA, there is no requirement to have a support person present when the identifying particulars (IDP) are obtained.

Where a child's IDP have not already been taken under s. 25: 'Application by police officer for permission to take child's identifying particulars' of the YJA, prosecutors should make verbal application to a court which finds a child guilty of an offence prescribed in s. 255(1) for an order to have the child's IDP taken.

5.11.5 Access to detention centres to take identifying particulars

The Department of Youth Justice and Victim Support will permit members of the Service access to Youth Detention Centres (YDC) for the purpose of taking the identifying particulars (IDP) of a child detained in the centre where such authority has been granted by a court.

Officers who have been granted permission by a court to take the IDP of a child who is in custody at a YDC should contact the centre manager of the YDC to make the necessary arrangements for the officer's attendance at that centre.

5.12 Miscellaneous

5.12.1 Handcuffing children

ORDER

An officer is not to handcuff a child unless the child is in lawful custody and cannot be controlled by other means and:

(i) the offence is a serious offence as defined in s. 8: 'Meaning of *serious offence*' of the YJA;

(ii) the child has previously attempted escape or the officer has reasonable grounds to believe the child will attempt to escape;

OPM Issue 113 Public Edition

(iii) the demeanour of the child is violent or gives rise to apprehension of violence;

(iv) it is necessary to prevent self-inflicted injury by the child; or

(v) it is necessary to prevent injury to others.

See Flowchart 5.22: 'Handcuffing of children' available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

5.12.2 Electronic recording of interviews with a child

Where practicable, officers questioning a child in relation to an indictable offence are to ensure the giving of required information to the child and the questioning of the child is electronically recorded (see ss. 435: 'Rights of person to be electronically recorded' and 436: 'Recording of questioning etc.' of the PPRA).

5.12.3 Failure of parent to exercise proper care or supervision over a child

An officer who is conducting an investigation into an offence relating to property or an offence against the person of another where:

(i) compensation for the offence should be paid to someone;

(ii) a parent of the child may have contributed to the fact the offence happened by not adequately supervising the child; and

(iii) it is reasonable the parent should be ordered to pay compensation for the offence, the officer should:

(a) direct the investigation towards establishing the failure or otherwise of the parent to exercise proper care of or supervision over the child. Such investigation may result in the investigating officer conducting a recorded interview with the parents; and

(b) provide an affidavit to the police prosecutor outlining circumstances supporting the officer's belief.

The investigating officer may seek an adjournment for the purpose of preparing the affidavit concerning the contribution of a parent to the commission of an offence. Further, the police prosecutor may direct an affidavit be prepared concerning the failure of a parent to exercise care or supervision over a child. Where appropriate, the prosecutor may make submissions to the court with respect to a parent paying compensation without further evidence.

The prosecutor may also consider an application to have the parent called to the court to show cause, why the parent should not pay the compensation.

See Flowchart 5.23: 'Failure of parent to exercise proper care or supervision over a child' available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

5.12.4 International homestay school students

The hosting of international school-age children is managed under the *Education Services for Overseas Students Act* (Cwlth) and National Code which requires course providers to be registered under Federal and State legislation. Under National Code Standard 5.1, where students under the age of 18 years are not cared for by a parent or suitable nominated relative; the course provider is responsible for approving and supplying suitable accommodation and welfare arrangements. In most cases day-to-day care will be with a homestay provider.

The provider is required to report to the Department of Home Affairs (Cwlth) and the Department of Education (Cwlth) any matter which may affect the student's enrolment or visa status. The provider has a continual duty of care for the student whilst they are completing an educational course.

Police may encounter international school-age students who may:

(i) be victims of crime;

(ii) be witnesses to an incident;

(iii) be offenders;

(iv) be missing persons (see Chapter 12: 'Missing Persons' of this Manual);

(v) have mental health issues (see s. 6.6: 'Mental ill-health' of this Manual);

(vi) be involved in a traffic crash;

(vii) be involved in domestic violence (see Chapter 9: 'Domestic Violence' of this Manual); or

(viii) be deceased (see s. 8.3.5: 'Advising next of kin' of this Manual).

Whilst the homestay provider is not the legal guardian of the child, they should be considered to be the 'parent' as defined under the YJA.

OPM Issue 113 Public Edition

When police come into contact with an international school-age student in a situation where a parent or guardian would normally be advised (for legal or welfare provision purposes), the homestay provider (parent/family) should be contacted in compliance with s. 5.9.6: 'Parent and other notification requirements' of this chapter.

Where the homestay provider is unable be contacted, the officer should inquire with the student regarding any emergency contact person nominated by either the homestay or course provider. The final attempted point of contact should be the principal of the school the student is attending.

Officers are to provide sufficient information to the homestay provider or course provider to allow for the ongoing welfare, health and support of the student, whilst complying with Schedule 3: 'Queensland Privacy Principles' of the Information Privacy Act (IPA) unless the Service is satisfied on reasonable grounds that non-compliance with QPP 6 is necessary for the performance of a law enforcement function s. 29: 'Special provision for law enforcement agencies' of the IPA).Officers dealing with international homestay school-age students should also consider:

(i) Chapter 6: 'Persons who are vulnerable, disabled or have cultural needs' of this Manual due to their age, understanding of English, cultural background and any other vulnerability or needs; and

(ii) s. 16.7: 'Foreign nationals' of this Manual where appropriate.

See Flowchart 5.25: 'International homestay school students' available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

5.12.5 Children under 18 years leaving home

Officers receiving inquiries from children, families and community members regarding the lawful age of when a child can leave home should not give any advice to an inquirer which may indicate approval or disapproval to leave home for a child under the age of 18 years.

Whether a child under 18 years of age may leave home without parental consent will be dependent upon all the circumstances of the case, including:

(i) the ability of a child to be self-supportive;

(ii) availability of suitable accommodation;

(iii) whether the child is or is likely to engage in criminal activity; and

(iv) whether the child is or is likely to be in moral danger.

Where a child under the age of 18 years is desirous of leaving home and has indicated the intention is to leave home and the parents refuse to give permission for the child to leave home, the officer receiving the complaint from the parent should refer the parent to Child Safety Services, Department of Families, Seniors, Disability Services and Child Safety.

OPM Issue 113 Public Edition

5.13 Escape of young people from Department of Youth Justice and Victim Support detention

Both children and adults (generally young adults who were children at the time relevant offences were committed) may be subject to Department of Youth Justice and Victim Support (DYJVS) detention. Collectively these people are called 'young people' for the purposes of this section.

When a young person escapes from DYJVS detention, either from a detention centre or elsewhere, the relevant DYJVS officer will notify the appropriate police communication centre.

See Flowchart 5.24: 'Action to be taken when a young person escapes from detention' available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

5.13.1 Initial police action

Members receiving advice that a young person has escaped from Department of Youth Justice and Victim Support (DYJVS) detention are to ensure:

(i) the information received is recorded in accordance with s. 1.6.1: 'Recording initial demand' of this Manual; and

(ii) officers are tasked to attend the relevant youth detention centre, or such other place as may be appropriate, to investigate the escape of the young person.

First response officers tasked to investigate the escape of a young person from DYJVS detention, are to:

(i) carry out the first response procedure described in s. 2.4.1: 'First response procedure at an incident scene' of this Manual;

(ii) evaluate the incident in accordance with s. 2.4.2: 'Evaluation of incident' of this Manual. In cases where the young person has a history of serious violent offences or represents a high risk of violence to themselves or others, the incident should be evaluated as a major investigation (see s. 2.4.5: 'Major investigations' and s. 1.4.6: 'Responsibilities of regional duty officer, district duty officer, and shift supervisor' of this Manual);

(iii) if the young person cannot be promptly located a QPRIME occurrence is to be created in relation to the incident. Inquiries should be made with the shift supervisor of the detention centre at which the young person is normally accommodated to obtain full particulars of the young person's history (medical history, risk of self-harm, escape history, demeanour in custody, possible offending risk), known associates, any likely destination and a photograph. The photograph should be scanned and attached to the relevant QPRIME occurrence.

5.13.2 Action to be taken on location of young person

Offences against s. 278: 'Escape' of the YJA are summary offences.

Officers locating a young person who has escaped from Department of Youth Justice and Victim Support detention should arrest the young person and commence a proceeding in respect of all offences, for which sufficient evidence exists, including those committed in connection with the original escape.

Arrest powers will vary depending on whether the young person is a child or an adult and the following provisions should be applied:

(i) a young person who is aged 18 years or older at the time of committing an offence is to be arrested under the provisions of s. 365(1): 'Arrest without warrant' of the PPRA and dealt with in the courts as an adult;

(ii) a young person aged 17 years or younger at the time of committing an offence and is aged 18 years or younger at the time of arrest, is to be arrested under the provisions of s. 365(3) of the PPRA and is dealt with in the courts as a child (see s. 134: 'Offender treated as child' of the YJA); or

(iii) a young person who was aged 17 years or younger at the time of committing an offence but is aged 19 years or older at the time of arrest, is to be arrested under the provisions of s. 365(1) of the PPRA and is dealt with in the courts as an adult (see s. 140: 'When offender must be treated as an adult' of the YJA);

(iv) notify the shift supervisor of the detention centre responsible for the young person;

(v) arrange for the young person to appear before an appropriate court as soon as practicable. This may require appearances at different courts where summary offences are committed in different court districts; and

(vi) arrange for the young person to be returned to the appropriate detention centre (see s. 16.17.4: 'Custody of children' of this Manual where appropriate).

5.13.3 Notifying persons at risk

Where an officer making inquiries to locate an escapee from Department of Youth Justice and Victim Support detention determines there is a threat of harm to a person from the escapee the officer should notify their regional duty officer or patrol group inspector about the details of the threat.

Regional duty officers or patrol group inspectors who are advised of a threat of harm to a person from an escapee are to contact the on-call manager at the relevant detention centre to assess the credibility of the threat.

Where it is determined a threat of harm to a person from the escapee is credible, the regional duty officer or patrol group inspector should request that the on-call manager obtain written authority to disclose information in respect of the escapee to the person at threat of harm (see s. 292: 'Disclosure to ensure someone's safety' of the YJA). When such authority is obtained, the regional duty officer or patrol group inspector should ensure:

(i) the nominated person is contacted and advised about the escapee's escape from custody; and

(ii) a commissioned officer having responsibility for the area in which the nominated person lives or is located is advised.

Irrespective of whether written permission to disclose information in respect of the escapee has been obtained, regional duty officers or patrol group inspectors should make any necessary arrangements to ensure the safety of a person who is believed to be at particular risk of harm from an escapee. Where authority to disclose information about the escapee has not been granted, confidential information about the escapee is not to be given to the person (see s. 284: 'Definitions for pt 9' of the YJA).

A commissioned officer who is notified that there is a threat of harm from an escapee to a nominated person located or residing within their area of responsibility should determine what, if any, action should be taken to ensure the safety of the nominated person.

5.13.4 Release of information to media

The initial media release regarding any escape from Department of Youth Justice and Victim Support (DYJVS) detention will be made by the DYJVS.

Officers investigating the escape of a young person from DYJVS detention should consider whether it is necessary to release any further information to the media in the interests of public safety or to facilitate the recapture of the young person.

Where it is considered further information should be released to the media, the OIC of the investigation should:

OPM Issue 113 Public Edition

(i) request their supervising commissioned officer, regional duty officer or patrol group inspector authorise the release of further information; and

(ii) liaise with the Media and Public Affairs Group to prepare an appropriate media release.

Any information released to the media is to contain:

(i) only factual matters designed to facilitate the recapture of the young person or ensure public safety; and

(ii) no identifying information about the young person nor information linking the escapee to the commission of any offence, unless authorised by the Director-General, DYJVS.

The OIC of the investigation is to forward a copy of any media release the Director-General, DYJVS for information.

Where it is considered necessary to release identifying information or information linking the escapee to the commission of any offence, the commissioned officer, regional duty officer or patrol group inspector requested to authorise the release of information should liaise with the manager of the relevant detention centre to obtain the authorisation of the Director-General, DYJVS.

Media requests for information about the escape of a young person from DYJ custody are to be referred to the DYJVS.

5.14 Electronic monitoring (children on bail)

5.14.1 Bail condition to wear electronic monitoring device

Where the provisions of s. 52AA: 'Court may impose monitoring device condition' of the YJA are satisfied, the court may order a child to wear an Electronic Monitoring Device (EMD) while they are released on bail.

Before a child can be released on bail with a condition to wear an EMD the court must order and consider the suitability assessment report provided by the Chief Executive, Department of Youth Justice and Victim Support (DYJVS). The police prosecutor will receive a copy of the suitability assessment and is to ensure a copy of the assessment is uploaded into the relevant QPRIME occurrence.

A court may impose an EMD condition on a grant of bail, if the Chief Executive DYJVS has informed the court that the following services are available in the area in which the child lives:

(i) services necessary to support the effective operation of a monitoring device;

(ii) services suitable to support the child's compliance with the condition; and

(iii) services suitable to support the monitoring of the child.

Child held in watch-house making application for bail

Where the court is considering imposing a bail condition that a child wear an EMD, the police prosecutor is to request:

(i) a condition that the child be held in custody until the EMD is properly fitted; and

(ii) any other condition that is reasonably necessary to facilitate the operation of the EMD (e.g. a condition that the child comply with a direction given by a police officer to attend or reattend a place to ensure an EMD is properly fitted and operational).

See s. 52AA(2): 'Court may impose monitoring device condition' of the YJA.

Child held in a detention centre making application for bail

Where a child held in a detention centre makes an application for bail and the court is considering imposing a bail condition that the child wear an EMD, the prosecutor is to request:

(i) a condition that the child be transported to a specified watch-house and held in custody until the EMD is properly fitted; and

(ii) any other condition reasonably necessary to facilitate the operation of the EMD (e.g. a condition that the child comply with a direction given by a police officer to attend or reattend a place to ensure an EMD is properly fitted and operational).

An officer from DYJVS will advise on the nominated watch-house and make the necessary transport arrangements for the child to attend from the detention centre to the nominated watch-house for the fitting of the EMD.

5.14.2 Action on grant of bail with an electronic monitoring device condition

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

OPM Issue 113 Public Edition

5.14.3 Electronic monitoring device alerts

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

5.14.4 Removal of electronic monitoring device

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

5.14.5 Procedure for removal of electronic monitoring device

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

5.14.6 Variation of child's bail conditions

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

5.14.7 Officers requiring electronic monitoring device location data

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

5.15 Multi-Agency Collaborative Panels

Definitions

For the purposes of this section:

MACP

means multi-agency collaborative panels.

MACP system

means the system of multi-agency collaborative panels established by the chief executive (Youth Justice) under s. 282I: 'Establishment of system' of the *Youth Justice Act* (YJA).

Serious repeat offender

means a child declared by the court to be recorded as a serious repeat offender (see s. 150A: 'Serious repeat offenders' of the YJA).

The MACP system is provided for in Part 8A: 'The MACP system' of the YJA. Its purpose is to coordinate the provision of services, including assessments and referrals to meet the needs of particular children. The MACP system brings relevant government agencies and non-government service providers together to ensure timely and coordinated assessment of the needs for referred children.

This includes:

(i) the collaborative response cohort (CRC) of children, also known as 'Serious Repeat Offenders' (SRO) nominated on the Serious Repeat Offender Index (SROI);

(ii) children at risk of being charged with offences; and

(iii) children considered to be at a higher risk of reoffending.

The MACP system provides support to the families of these children by identifying and addressing systemic issues, with an aim to increase community safety.

The MACP system will:

(i) meet monthly with relevant core agency representatives and where appropriate invitations sent to relevant prescribed entities or service providers;

(ii) improve the coordination of services that address the risk and needs of a child recorded as an SRO or is a child at risk of being charged with an offence to cause a reduction in offending;

(iii) prioritise access to services identified to be of benefit to the SRO or child at risk of being charged with an offence;

(iv) identify themes and trends to improve service delivery;

(v) address local barriers to enable the best use of resources; and

OPM Issue 113 Public Edition

(vi) improve information sharing between relevant agencies to support a decrease in reoffending.

The Youth Crime Group are the capability owners of this MACP policy. Resources to assist members in understanding MACP processes and MACP guidelines are available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

5.15.1 MACP meetings—Tier 2

Meetings are coordinated by the members representing Youth Justice (YJ) services, are held at least monthly and as determined by local area needs. Each core member (see s. 5.15.3: 'MACP membership' of this chapter) ensures a representative (or delegated proxy) attends every meeting. Meeting discussions are confidential, however, when relevant, an external prescribed entity or service provider contributing to the operation of the system, may be invited to attend. During MACP discussions, members may discuss issues affecting the child and the services being delivered but may not direct other agencies on how to deliver the services.

See 'Best practice guide for multi-agency collaborative panels' available on the Department of Youth Justice and Victim Support website.

5.15.2 MACP information sharing

Information sharing is a key component of effective multi-agency collaboration. Provisions within the YJA and other legislation administered by partner agencies, allow for confidential information to be shared. An 'Information Sharing and Services Coordination for Children Charged with Offences—Memorandum of Understanding' (MOU) has been developed pursuant to s. 297F: 'Establishment of arrangements' of the YJA to assist in MACP members understanding of information sharing with regards to youth justice principles.

See also Queensland Government 'Multiagency collaborative panel information sharing Arrangement'.

5.15.3 MACP membership

Membership of the MACP system is legislated by s. 282K: 'Members' of the YJA and defines core members of a MACP system as:

(i) the chief executive of a department that is mainly responsible for any of the following:

(a) Aboriginal and Torres Strait Islander services;

(b) child protection services;

(c) community services;

(d) corrective services;

(e) court services;

(f) disability services;

(g) education;

(h) housing services;

(i) public health services;

(j) youth justice services; and

(ii) the Commissioner of the police service; and

(iii) from time to time, prescribed entities or service providers contributing to the operation of the system by invitation of the core members.

5.15.4 Criteria for MACP system referral

The criteria for children referred to the MACP system is based on s. 282L: 'Referral of children to MACP system' of the YJA, namely children charged with offences or at risk of being charged with offences, and requires the MACP system to collectively decide whether or not to accept the referral of the child to the MACP system.

MACP members discuss the identified children who require interdepartmental support to address the causes of their offending and remove any barriers preventing local programs and support services being made available to the child.

Generally, child offenders accepted by the MACP system are children who:

(i) have an escalation in offending;

(ii) have negative progress on reaching their goals;

(iii) have a significant change in their circumstances; or

(iv) are experiencing a significant barrier to receiving a service (or where there are changes in service delivery).

OPM Issue 113 Public Edition

Panel members are to complete a 'MACP Young Person Information Form' to refer additional children of concern (available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page).

5.15.5 Responsibilities of a Service representative at MACP meetings

The Service is a core member of the MACP system meetings. The MACP Service representative is to be at least the rank of senior sergeant, except where the delegate is the preferred resource chosen by the district based on their expertise and role within the district (e.g. a senior experienced officer from a CPIU or where no CPIU exists a senior experienced officer from CIB or Crime Group). If the nominated Service representative is not available, they are to be replaced by a suitable proxy who has the requisite knowledge and experience to appropriately represent the Service and has sufficient authority to commit Service resources to agreed recommendations.

The Service MACP representative is responsible for:

(i) providing pertinent local information and intelligence about relevant children, including any safety concerns and risks;

(ii) reporting on Service actions that contribute to the MACP resolutions in relation to a child; and

(iii) identifying Service resources that may be used to support the child and their family.

While members of the MACP do not undertake case management discussions during the MACP meeting, members may:

(i) discuss and identify holistic engagement strategies for working with the child offender tabled and their family;

(ii) identify needs, interventions, and appropriate means of accessing the interventions (this may include services from multi-agencies); and

(iii) address any barriers to progression of multi-agency integrated case plans.

Where the YJ representative is unavailable to chair and co-ordinate the MACP meeting, the Service representative is required to fulfil this responsibility.

'MACP process for QPS representatives' guidelines are available on the 'Resources and training' webpage located on the Youth Crime Group SharePoint page.

5.15.6 Investigation of offences committed by a child referred to MACP

The MACP system operates separately to the criminal justice system. Therefore, referral of a child to MACP review does not stop an officer from investigating offences or taking action against a child for offences they may have committed.

5.15.7 Escalation to Regional Oversight Group—Tier 3

The purpose of the Regional Oversight Group (ROG) is to receive and address regional issues escalated from the MACP and provide oversight on the functioning and effectiveness of the regional MACP system. Upon receiving an escalation from a MACP, the relevant agencies' regional oversight representative is to liaise and collaborate with relevant services to address and attempt resolution at a regional level. This should occur as soon as practicable upon receiving the escalation and does not require a formal meeting structure. The ROG should meet regularly to ensure oversight on the functioning and effectiveness of the regional MACP system. These meetings are an opportunity for the ROG to share updates and outcomes on escalations received, however ROG representatives should not wait until these meetings to commence collaboration on escalations.

5.15.8 Escalation to Senior Practitioners Group—Tier 4A

A child discussed at a MACP meeting may be escalated to the Senior Practitioners' Group (Tier 4A) where the MACP (Tier 2) and ROG (Tier 3) have made active efforts to address the identified needs of the child (or their family) and were unable to effectively address these needs. This escalation includes situations where there has been an identified service system deficit or an issue demonstrated by the response of service towards the child.

5.15.9 Escalation to Director General Interdepartmental Committee—Tier 4B

A service system deficit or issue may be escalated to the Director General Interdepartmental Committee if the deficit or issue is identified across one or more cases discussed by the Senior Practitioners' Group (Tier 4A) or arises in one or more MACP locations. Escalations to Tier 4B occur from the Tier 4A Senior Practitioners' Group only.

5.15.10 MACP role in the referral ecosystem

Children involved in the MACP system may be involved in other multi-agency systems, for example serviced by the Suspected Child Abuse and Neglect (SCAN) team system (see s. 7.10: 'Suspected Child Abuse and Neglect (SCAN) team system' of this Manual) or by the High Risk Teams (HRT) providing support to families experiencing domestic and family violence (see s. 9.14: 'High risk teams' of this Manual). A child referred to one system does not preclude the child

OPM Issue 113 Public Edition

from being referred to another. Consultation should however be made with the considered second multi-agency service prior to referral submission, to reduce potential risk of over servicing a child.

5.16 Youth crime coordination

In 2023, the Service formed and operationalised the 'Youth Crime Taskforce' (YCTF) to support and respond to the Queensland Government's plan in implementing youth crime reforms. The YCTF worked collaboratively alongside QPS partners in government and community to tackle the complex causes of youth crime offending. In July 2025, the YCTF transitioned to a permanent Youth Crime Group (YCG) within the Crime Command to align with other specialist capabilities within the Service.

The YCG objectives are to:

(i) continuously enhance the Service's response to children and young people involved in the criminal justice system;

(ii) work with community and partner agencies to facilitate a whole of system approach in addressing the underlying causes of youth offending; and

(iii) provide a trauma-informed and victim centric response to victims of crime, ensuring victims are supported and young offenders are held to account.

The role of Detective Superintendent, YCG, is to:

(i) develop, implement and coordinate Service delivery of strategic youth crime objectives;

(ii) prepare and provide authoritative high-level policy, operational advice, and support to the police minister and Commissioner on strategic youth crime matters and projects—including legal and legislative matters with youth crime implications;

(iii) represent the Service in discussions with other departments, as required, to ensure consistency across agencies in implementing agency-based actions;

(iv) represent the Service at MACP Senior Practitioners Group meetings (see s. 5.15.8: 'Escalation to Senior Practitioners Group—Tier 4A' of this Manual); and

(v) develop appropriate mechanisms to raise awareness within the Service for its responsibilities to address youth crime offending.

OPM Issue 113 Public Edition

Chapter 6—Persons who are Vulnerable, Disabled or have Cultural Needs

6.1 Introduction **609**

6.2 Definitions **609**

6.3 General policy **609**

6.3.1 Circumstances which constitute a vulnerability, disability or cultural need 610
6.3.2 Establishing whether a person is vulnerable, disabled or has a cultural need 610
6.3.3 Interviewing persons with an impairment of the mind, vulnerability, disability or cultural need 611
6.3.4 Independent persons 611
6.3.5 The role of the independent person 612
6.3.6 Aboriginal and Torres Strait Islander peoples 612
6.3.7 Interpreters 613
6.3.8 Disability worker clearance card 615
6.3.9 Attempted suicide 616
6.3.10 Deleted 617
6.3.11 Homeless persons 617
6.3.12 Public Guardian 618
6.3.13 Release of victim details to Queensland Health Victim Support Service 618
6.3.14 Police Referrals 619

6.4 Cross cultural issues **620**

6.4.1 Education and training 621
6.4.2 Community involvement (responsibilities of officer in charge) 621
6.4.3 Cross cultural liaison officers 621
6.4.4 Senior executive Indigenous community visitation 622

6.5 Specific physical, age related, intellectual or health needs **622**

6.5.1 Age related needs 622
6.5.2 Intellectual disability 622
6.5.3 Guide dogs 622
6.5.4 Alcohol and/or drug dependency 622
6.5.5 Potentially harmful things (volatile substance misuse) 623
6.5.6 Persons who are deaf, hard of hearing, blind or have low vision 625

6.6 Mental ill-health **626**

6.6.1 Mental distress or crisis 626
6.6.2 Emergency examination authority (EEA) 628
6.6.3 Transporting persons with impaired mental capacity 629
6.6.4 Assistance to public officials 633
6.6.5 Warrant for apprehension of a person under Mental Health Act and Public Health Act 634
6.6.6 Returning absent persons from authorised mental health service or a public sector health service facility 634
6.6.7 Person with a mental illness suspected of having committed or charged with offence 637
6.6.8 Effect of mental illness on matter before the court 638
6.6.9 Execution of warrant on person detained under the Mental Health Act 640
6.6.10 Death of person suffering mental ill-health 640
6.6.11 Mentally ill person and weapons/weapons licences 641
6.6.12 Orders with non-contact conditions 641
6.6.13 Mental health intervention coordination and training 641

6.7 Forensic Disability Act **644**

6.7.1 Definitions 644
6.7.2 Return of a forensic disability client 644
6.7.3 A practitioner is a public official under the Police Powers and Responsibilities Act 645
6.7.4 Release of information 645
6.7.5 Notification of victim, victim's family or other persons on advice from a forensic disability service or an authorised mental health service 646
6.7.6 Action to be taken on location of forensic disability client 646

OPM Issue 113 Public Edition

6.7.7 When ‘Authority to Return—Forensic Disability Client’ form ceases to have effect 647
6.7.8 Forensic disability clients suspected of having committed or charged with further offences 648
6.7.9 Deleted 648
6.7.10 Forensic disability clients and matters before the court 648
6.7.11 Deaths of forensic disability clients 649
6.7.12 Protection of children of forensic disability clients 649

OPM Issue 113
Public Edition

6.1 Introduction

This chapter contains procedures which are designed to ensure contact between members and persons who are vulnerable, disabled or have cultural needs is conducted in a manner which is fair and does not place the person at a disadvantage.

Members seeking information on procedures for children should refer to Chapter 5: 'Children' or Chapter 7: 'Child Harm' of this Manual. Chapter 16: 'Custody' should also be consulted regarding detention of persons who are vulnerable, disabled or have cultural needs.

6.2 Definitions

For the purposes of this chapter:

Impairment of the mind

means an intellectual, psychiatric, cognitive or neurological impairment or a combination of these resulting in:

(i) a substantial reduction of the person's capacity for communication, social interaction or learning; and

(ii) the person needing support.

Vulnerable person

means an adult who, because of the person's age, illness or disability, is unable, or has a reduced capacity, to:

(i) care for themself; or

(ii) protect themself from harm or exploitation.

Examples of people with vulnerability may include Aboriginal people, Torres Strait Islander people, elderly, and intellectual or physical impaired people.

Cognitive disability

is a condition that is attributed to a cognitive impairment and a disability within the meaning of the *Disability Services Act* (see s. 144 of the Act).

Examples of a cognitive disability include memory loss and trouble concentrating, completing tasks, understanding, remembering, following instructions, and solving problems.

Cultural need

means the sum total of ways of living, incorporating beliefs and preferences rooted in a person's social and ethnic identity, which is transmitted from one generation to another.

OPM Issue 113 Public Edition

6.3 General policy

This section applies to all dealings with persons who are vulnerable, disabled or have cultural needs, whether as suspects, complainants or witnesses, provided that no other specific legislative requirements apply.

This section will generally apply to persons who are vulnerable, disabled or have cultural needs who are:

(i) suspects in the commission of simple or regulatory offences;

(ii) respondents, aggrieved persons, or named persons in domestic and family violence matters; and

(iii) complainants, witnesses or victims in all types of offences and incidents.

The PPRA contains a number of provisions that apply to persons who are vulnerable, disabled or have cultural needs and specifically applies processes for questioning persons as suspects about the person's involvement in the commission of an indictable offence, namely:

(i) Aboriginal people and Torres Strait Islanders (see s. 420 of the Act);

(ii) children (see s. 421 of the Act);

(iii) persons with impaired capacity (see s. 422 of the Act);

(iv) intoxicated persons (see s. 423 of the Act); and

(v) persons unable because of inadequate knowledge of the English language or a physical disability to speak with reasonable fluency in English (see s. 433 of the Act).

The PPRA also contains specific provisions relating to persons with a vulnerability, disability or cultural needs in respect to forensic procedures in Chapter 17 (ss. 445 to 536). Additionally, s. 631: 'Special requirements for searching children and persons with impaired capacity' of the PPRA makes specific provision for a limited group of people with additional needs.

Where the person involved in an incident under this section is an international homestay school student, see s. 5.12.4: 'International homestay school students' of this Manual.

6.3.1 Circumstances which constitute a vulnerability, disability or cultural need

While it is not possible to supply an exhaustive list of persons who are vulnerable, disabled or have cultural needs, the following circumstances should be considered as creating a vulnerability until the contrary becomes apparent:

(i) immaturity, either in terms of age or development;

(ii) any infirmity, including early dementia or disease;

(iii) mental illness;

(iv) intellectual disability;

(v) illiteracy or limited education which may impair the person's capacity to understand the questions being put to them;

(vi) inability or limited ability to speak or understand the English language;

(vii) chronic alcoholism;

(viii) physical disabilities including being deaf, blind, hard of hearing or having low vision;

(ix) drug dependence;

(x) cultural, ethnic or religious factors including those relating to gender attitudes;

(xi) intoxication, if at the time of contact the person is under the influence of alcohol or a drug to such an extent as to make them unable to look after or manage their own needs;

(xii) Aboriginal people and Torres Strait Islanders;

(xiii) children; and

(xiv) persons with impaired capacity (see Schedule 4: 'Dictionary' of the *Guardianship and Administration Act*).

6.3.2 Establishing whether a person is vulnerable, disabled or has a cultural need

ORDER

When an officer wishes to speak to or communicate with a person, including interviewing, taking a complaint or a witness statement, the officer is to first establish whether the person is vulnerable, disabled or has a cultural need by evaluating the ability of the person, to look after or manage their own interests. The officer is to establish whether the person is capable of understanding the questions posed, or capable of effectively communicating answers. The person must be capable of understanding what is happening to them and be fully aware of the reasons why the questions are being asked by the officer. The officer must finally establish if the person is fully aware of the consequences which may result from questioning and be capable of understanding their rights at law.

In making an evaluation, the officer is to take into account the following factors:

(i) the nature of the condition giving rise to the vulnerability, disability or cultural need. For instance, some physical disabilities do not impede a person's ability to understand and answer questions. Conversely, some physical conditions do impede a person's ability to communicate e.g. deaf, hard of hearing, blind or having low vision;

(ii) the reason the person is being spoken to or interviewed, whether as a witness, or in relation to their complicity in an offence. Where the information to be obtained may later be used in a court, it will be necessary to show that any vulnerability, disability or cultural need was addressed;

(iii) the complexity of the information sought from or by the person;

(iv) the impact that the results or consequences of the interview may have on the rights or liberty of any person. An interview that may substantially affect the rights or liberty of a person should be subject to greater efforts to address the person's vulnerability, disability or cultural need than an interview that is likely to have only a minor impact;

(v) the age, standard of education, place and type of education (e.g. special school), proficiency in the English language, cultural background and work history of the person; and

(vi) whether the person has been subject to a life event that may impact on the person's capacity to look after or manage their own interests (e.g. acquired brain injury from an accident).

OPM Issue 113 Public Edition

6.3.3 Interviewing persons with an impairment of the mind, vulnerability, disability or cultural need

When an officer intends to interview a person with an impairment of the mind, vulnerability, cognitive disability, physical disability or cultural need, the officer should take whatever action is necessary to compensate for that impairment of the mind, vulnerability, cognitive disability, physical disability or cultural need and comply with all relevant legislative requirements (see s. 6.2: 'Definitions' of this Manual).

In the case of a child or a person with an impairment of the mind, s. 93A of the *Evidence Act* may apply and officers should refer to s. 7.6.5: 'Recording of evidence of a child witness' of this Manual.

An officer's decision-making priority is to be the safety, protection and wellbeing of the person. For more information see the Domestic, Family Violence and Community Engagement Group SharePoint page.

Where no specific legislative requirement applies, measures to compensate for an impairment of the mind, vulnerability, cognitive disability, physical disability, or cultural needs include, but are not limited to:

(i) arranging for an interpreter, including sign language interpreters where appropriate, to overcome communication barriers (see s. 6.3.7: 'Interpreters' of this chapter);

(ii) obtaining the assistance of an independent person (see s. 6.3.4: 'Independent persons' of this chapter); and

(iii) phrasing questions in a manner which compensates for a lack of comprehension or understanding.

ORDER

Officers are to ensure interviews are conducted under conditions where the person being interviewed is not oppressed or overborne by any condition, circumstance or person.

Officers should:

(i) avoid any situation or circumstance which may give rise to a suggestion of oppression, unfairness, fear or dominance by an officer, or to any other injustice to the person being interviewed;

(ii) avoid any situation or circumstance whereby the person being interviewed may be overborne, oppressed or otherwise unfairly or unjustly treated;

(iii) ensure that the person being interviewed is provided with sufficient assistance to enable them to understand and exercise their legal rights; and

(iv) consider any cultural or religious factors which might cause the person being interviewed to be reluctant to provide information, e.g. devout Muslim women may be reluctant to speak in the presence of men and Aboriginal men may be reluctant to discuss certain issues in the presence of women.

OPM Issue 113 Public Edition

6.3.4 Independent persons

An independent person includes a support person as defined in Schedule 6: 'Dictionary' of the PPRA and interpreters. However, a person with a vulnerability, disability or cultural need may nominate any person to fulfil the role of independent person in respect of themselves.

An independent person should be able to assist the person with a vulnerability, disability or cultural need in order to overcome the condition or circumstance creating the vulnerability, disability or cultural need.

This may include acting as an interpreter for a person who is unable to speak English or safeguarding the rights of a person who is unable to effectively look after or manage their own interests.

ORDER

The OIC of stations and establishments are to maintain (revising six monthly) a list of support persons appropriate for their area of responsibility (see s. 440: 'List of support persons and interpreters' of the PPRA).

A comprehensive list of interpreting and translating information and services is available from the Multicultural Affairs SharePoint page. In addition to the required list of support persons OIC of stations or establishments should maintain a list of other independent persons who are competent and willing to assist persons who are vulnerable, disabled or have cultural needs in their dealings with the Service.

Officers may make inquiries with the Disability Information and Awareness Line (see SMCD) to identify services that may be appropriate to assist persons whose need results from a disability.

In compiling lists of suitable independent persons, officers should be aware that an independent person should:

(i) not be likely to overbear or overawe the person in need;

(ii) not be employed by the Service unless the person for whose benefit the independent person is to be present specifically requests otherwise;

(iii) have an understanding and appreciation of the condition causing the vulnerability, disability or cultural need;

(iv) have an interest in the welfare of the person with the vulnerability, disability or cultural need; and

(v) in the opinion of the interviewing officer, be capable of facilitating an interview with a person who has a vulnerability, disability or cultural need.

Where the particular vulnerability, disability or cultural need indicates an independent person should be present during an interview, the interviewing officer should:

(i) where possible allow the person with the vulnerability, disability or cultural need to select an independent person. The person with the vulnerability, disability or cultural need should be offered the list of support persons, interpreters and independent persons to select from, but may select any person whether or not that person is on the list. However, in cases where the person with the vulnerability, disability or cultural need is being interviewed in regard to an incident that may have involved the commission of an offence, an independent person who is a witness or suspected offender, accomplice or accessory should not be permitted to be present during any interview (see also s. 6.3.7: 'Interpreters' of this chapter for details of persons who are considered unsuitable to act as interpreters);

(ii) make arrangements for an independent person to attend if necessary and explain, if possible, the role of that person to the person with a vulnerability, disability or cultural need;

(iii) not commence any interview until the arrival of the independent person;

(iv) upon arrival of the independent person, explain the role of the independent person to the independent person;

(v) allow the person with the vulnerability, disability or cultural need to consult privately with the independent person prior to the interview; and

(vi) allow the independent person to be present, and to aid the person with the vulnerability, disability or cultural need during the interview.

Where the independent person or the person with the vulnerability, disability or cultural need requests private consultation during the interview, that request should be granted.

6.3.5 The role of the independent person

The role of the independent person is to ensure the condition which creates the vulnerability, disability or cultural need does not disadvantage the person being interviewed. For this purpose, the primary function is to facilitate the conditions mentioned in s. 6.3.2: 'Establishing whether a person is vulnerable, disabled or has a cultural need' of this chapter.

The role of the independent person does not extend to providing answers for the person being interviewed.

Once the conditions mentioned in s. 6.3.2 have been met, it then remains for the person being interviewed to decide on the appropriate responses to questions. If this capacity cannot be established, the person should not be interviewed.

The independent person is to be permitted initially to consult with the person being interviewed, and to provide support during the interview. This, however, should not be allowed to extend to constant interjections.

6.3.6 Aboriginal and Torres Strait Islander peoples

An Aboriginal person is a person of Aboriginal descent who identifies as such and is accepted as being an Aboriginal person by the community in which he or she resides.

A Torres Strait Islander is a person of Torres Strait Islander descent who identifies as such and is accepted as being a Torres Strait Islander by the community in which he or she resides.

All persons having contact with the Service and who claim to be an Aboriginal person, or a Torres Strait Islander should be treated as such until the contrary is shown.

Persons of Aboriginal and Torres Strait Islander descent should be considered people with a vulnerability, disability or cultural need because of certain cultural and sociological conditions. When an officer intends to question an Aboriginal or Torres Strait Islander, whether as a witness or a suspect, the existence of a need should be assumed until the contrary is clearly established using the criteria set out in s. 6.3.2: 'Establishing whether a person is vulnerable, disabled or has a cultural need' of this chapter.

ORDER

The OIC of stations or establishments are to compile and maintain a list of local Aboriginal and Torres Strait Islander Legal Service contacts. See s. 6.3.4: 'Independent persons' of this chapter for information regarding independent persons.

Upon request by an Aboriginal person or Torres Strait Islander for legal advice or legal assistance at any stage during any investigation, officers should endeavour to contact the appropriate Legal Service.

Where Aboriginal or Torres Strait Islander field officers attend in this regard, communications between field officers and clients should be treated with the same confidentiality as that of a solicitor/client relationship, even though the field officers may not be lawyers.

Officers are not to summons Aboriginal or Torres Strait Islander field officers to give evidence of their communications with a client without prior authorisation from a commissioned officer.

OPM Issue 113 Public Edition

Prior to authorising the issuing of summonses for Aboriginal and Torres Strait Islander field officers, commissioned officers should consider the value of evidence expected to be obtained and the need to ensure Aboriginal people and Torres Strait Islanders confidence in the legal system is not undermined.

See Chapter 16: 'Custody' of this Manual for further information regarding Aboriginal people and Torres Strait Islanders in custody.

When an adult Aboriginal person or Torres Strait Islander is being investigated for an indictable offence, officers are required to comply with provisions of s. 420: 'Questioning of Aboriginal peoples and Torres Strait Islander peoples' of the PPRA and s. 27: 'Questioning Aboriginal and Torres Strait Islander peoples' of the Responsibilities Code.

In relation to the investigation of any offence when it is necessary to have an independent person present during questioning of an Aboriginal person or Torres Strait Islander, officers are to give preference to arranging for attendance of:

(i) an independent person who is a legal practitioner; or

(ii) a representative of the Queensland Aboriginal and Torres Strait Islander Legal Service.

Where such a person is not available or is unable to be contacted, officers are to note their attempts to contact such person in their notebook and into their station occurrence sheet.

If the Aboriginal person or Torres Strait Islander has clearly and expressly indicated that they do not wish an independent person who is a legal practitioner or representative of the Queensland Aboriginal and Torres Strait Islander Legal Service to attend, a relative of the Aboriginal person or Torres Strait Islander, or another person nominated by the Aboriginal person or Torres Strait Islander, should act as the independent person, where possible.

In circumstances where the Aboriginal person or Torres Strait Islander indicates that they do not wish a person to attend, officers should allow the person to make a written or electronic record stating they have expressly and voluntarily waived the right of having an interview friend or other independent person present.

When an Aboriginal person or Torres Strait Islander is to be interviewed, the OIC of the investigation should ask the person whether they wish to have present an 'interview friend' or a 'prisoner's friend' (see s. 3.19: 'The Anunga Guidelines—Aboriginal Peoples and Torres Strait Islander Peoples' of the DERIE).

Although all efforts should be made to contact or obtain the person nominated by the Aboriginal person or Torres Strait Islander, obtaining such a person may be impractical because of time delays or distance constraints.

Consideration should be given to the needs of the investigation against delays which may negatively affect the investigation.

In instances where inordinate delays may be caused, or the needs of the investigation hampered, an independent person nominated by the OIC of the case should be contacted and requested to attend. See s. 6.3.4: 'Independent persons' of this chapter.

Officers should refer to the Anunga Rules (see s. 3.19: 'The Anunga Guideline—Aboriginal Peoples and Torres Strait Islander Peoples' of the DERIE) as a guideline to the interview of Aboriginal and Torres Strait Islanders.

When an officer intends to question an Aboriginal person or Torres Strait Islander, whether as a witness or a suspect, consideration should also be given to the relevant information and guidelines contained in Chapter 9: 'Indigenous Language and Communication' of the Supreme Court of Queensland—Equal Treatment Benchbook.

OPM Issue 113 Public Edition

6.3.7 Interpreters

ORDER

Where an officer seeks to interview a person in accordance with s. 6.3.1: 'Circumstances which constitute a vulnerability, disability or cultural need' of this chapter, the officer is to arrange for the presence of an interpreter to assist with the interview by virtue of s. 433: 'Right to interpreter' of the PPRA and s. 31: 'Right to interpreter' of the Responsibilities Code. This includes members of the deaf community.

Use and selection of interpreters and translators for spoken written and sign languages

Where practicable, officers should provide professional, accessible and equitable services in response to the communication requirements of people from non-English speaking backgrounds, First Nations and Torres Strait Islander peoples, the deaf and hearing/speech impaired persons.

In relation to general interactions with clients (victims, offenders, informants, witnesses and members of the public requiring assistance), it is Queensland Government policy to provide fair and equitable service to all people in Queensland. This may require the use of an accredited interpreter.

Using police liaison officers, multilingual staff member or other person

Multilingual staff, including police liaison officers (PLO), family members or other community members are not to be used in instances where an official (professional interpreter) should be used. This has the potential to create the perception of a conflict of interest. i.e. a person employed by the service may not be seen as an impartial person to

translate for an offender, victim or witness (see s. 433 of the PPRA and s. 31 of the Responsibilities Code). The circumstances of the interaction will be crucial when deciding whether to use an accredited interpreter, for example:

(i) complexity of the interaction; e.g. where the person is making a complaint of assault;

(ii) any emergency or possible need to gain information quickly;

(iii) availability of suitable people to assist in communication;

(iv) availability of an accredited interpreter in a specific language or dialect;

(v) time required to access an interpreter;

(vi) using a relative may be inappropriate for privacy or other reasons e.g. a family member may not be suitable in family disputes; and/or

(vii) gender roles, particularly when dealing with intimate issues.

A person employed by the Service however may assist during the investigative process, providing language, cultural and protocol advice to investigators as well as liaising with victims and families etc.

Using family members and friends (particularly children) to interpret conversations

Although sometimes expedient, the use of family members or friends/colleagues (particularly children) to interpret conversations should be treated with caution by police.

Children should not be used for anything more than initial introductions or in emergency situations.

Arranging an interpreter or translator

Interpreters, translators and Australian Sign Language (AUSLAN) interpreters accredited by the National Accredited Authority for Translators and Interpreters (NAATI) at the level of 'interpreter', 'translator' or higher, should be used when investigating criminal offences, complex legal matters and for court proceedings.

Interpreters and translators without NAATI accreditation qualifications (who may also be known as communicators), should only be used when NAATI accredited interpreters or translators are not available.

Sections 436: 'Recording of questioning etc.' and 437: 'Requirements for written record or confession or admission' of the PPRA require the recording of the questioning of persons in custody. The requirement to record the conversation between the interpreter and the person in custody should be considered when deciding upon an interpreting option.

When an officer intends to interview a person and an interpreter is required they are to:

(i) seek permission from the client to engage an official interpreter;

(ii) verify the client's language, dialect and the gender preferred for the interpreter. As these may have cultural significance for the client; and

(iii) decide if you need an 'on site' or telephone interpreter.

Appropriate NAATI accredited, interpreters and paraprofessional interpreters and, non-accredited telephone and onsite interpreters and translators may be contacted either directly or through an interpreting or translating service provider (see Multicultural Affairs SharePoint page, the NAATI internet site (www.naati.com.au) or the SMCD).

Communication with the Deaf community will require special consideration as it will require an on-site interpreter. Accredited AUSLAN interpreters may be contacted directly, through an interpreting or translating service provider.

Officers are to record the details of any interpreter used, including the accreditation level where applicable.

Where local interpreter services are non-existent or inadequate and the use of a telephone interpreter is not appropriate, officers may arrange for suitably qualified onsite interpreters to travel to their area, with charges and rates relating to that provider payable, at Service expense.

OIC approval should be sought prior to engaging an interpreter, if not available, permission from the DDO or patrol group inspector should be sought. Officers should complete any local registers or if not available, record the interpreter use in their official police notebook and the station patrol log.

The cost of providing interpreter services should not be a factor in deciding whether an interpreter is required. If there is any doubt that a client may be disadvantaged, a professional interpreter should be engaged.

Officers requiring assistance or advice in relation to interpreting services can contact Multicultural Affairs.

The following forms are available to assist in the engagement of an interpreter:

(i) The Translating and Interpreting Service Queensland 'Request for on-site/telephone interpreting' form; and

(ii) The Deaf Connect 'Interpreter request' form.

OPM Issue 113 Public Edition

Communications and interviews using interpreters

Where an officer considers that s. 433 of the PPRA may apply to a person in custody, the officer may ask any question, other than questions related to that person's involvement in the offence, that may assist in determining if the person needs an interpreter (see s. 31 of the Responsibilities Code).

During an investigation, the following persons are not considered appropriate as interpreters during interviews:

(i) co-offenders or other persons suspected of involvement in the matter, the subject of questioning;

(ii) relatives of the person to be interviewed including children;

(iii) police officers (generally includes PLOs and staff members);

(iv) complainants or witnesses; and

(v) other parties with an interest in the outcome of the investigation.

Officers should also consider the provisions of ss. 419(3), 420(6), 421(3), 424–426 and 441 of the PPRA.

Officers should ensure the interpreter:

(i) is identified to the person;

(ii) and the person fully understand each other;

(iii) is acceptable to the person; and

(iv) is not seen as exercising authority over the person.

Questioning should take the following form:

(i) if practicable, officers should ensure electronic recording equipment is available for the questioning in compliance of ss. 436 and 437 of the PPRA;

(ii) have the interpreter translate and ask the question;

(iii) listen to the answer;

(iv) have the interpreter translate and repeat the answer; and

(v) record the answer (if written record of interview).

An interpreter used in an interview with a defendant needs to be called as a prosecution witness. Interpreters used for witnesses are potential witnesses for the prosecution and a different interpreter should be used for any subsequent court interpreting.

For further useful information and contact numbers see Multicultural Affairs SharePoint page.

OPM Issue 113 Public Edition

6.3.8 Disability worker clearance card

A valid disability worker clearance card (known as and referred to as a yellow card) is required by a person who cares for or is employed (paid, volunteer or student) in providing services or activities which are regulated by the *Disability Services Act* (DSA).

Disability Services are responsible for the issuing of a disability worker clearance card.

The Service is responsible for the investigation and prosecution of offences under the DSA which may either be identified by an officer or referred for investigation by another department.

Disability worker clearance card (yellow card) offence investigations

Disability Services will refer matters for investigation and prosecution of offences under the DSA to the Service.

Power to demand production of disability worker clearance card

Section 789B: 'Power to demand production of disability worker clearance card' of the PPRA authorises an officer who knows or reasonably suspects a person is the holder of a disability worker clearance card (yellow card) issued by Disability Services and:

(i) the person has been charged with a disqualifying offence; or

(ii) is a disqualified person within the meaning,

to require the person to immediately surrender the disability worker clearance card to the officer. The person must comply with the requirement unless the person has a reasonable excuse.

Requirement to give disability worker clearance card to an arresting officer

An officer who knows or reasonably suspects a person is a person to which s. 789B(1) of the PPRA applies, is to give the person a requirement to immediately give the disability worker clearance card (yellow card) to the officer.

The officer exercising this power may enter and stay on a place in accordance with s. 19: 'General power to enter to make inquiries, investigations or serve documents' of the PPRA.

The requirement may be given orally or in writing, depending on the circumstances. If orally, the officer if practicable, is to warn the person that failure to comply with the requirement is an offence unless the person has a reasonable excuse and they may be arrested for the offence (see s. 633: 'Safeguards for oral directions or requirements' of the PPRA).

An officer who is given a person's disability worker clearance card (yellow card) after a requirement under s. 789B(1) of the PPRA is made, is to:

(i) issue a QPB 32A: 'Field Property Receipt' or if practicable, a QP 0760: 'QPRIME Property Receipt' from the relevant QPRIME occurrence for the seizure of the item;

(ii) create a 'Seized property [1645]' occurrence in QPRIME;

(iii) forward the yellow card to the Chief Executive Disability Services; and

(iv) record the following information in the occurrence summary field of the QPRIME occurrence:

(a) that a requirement for a yellow card was made under s. 789B of the PPRA;

(b) the date on which the requirement was made;

(c) the date on which the officer was given the yellow card;

(d) if applicable, the QPB 32A number and date of issue; and

(e) the date the yellow card was forwarded to the Chief Executive Disability Services, and the means by which it was forwarded.

6.3.9 Attempted suicide

Definitions

For the purposes of this section:

Suicide attempt

means an act in which a person harms themselves with the intention of ending their life and survives.

Suicidal thoughts and behaviours

are terms used to describe the range of experiences that a person who is suicidal may be having. This spans from having thoughts of suicide to attempting suicide. These terms are used to describe a person's experience rather than risk.

Suicidal distress

is used to describe the experience of unbearable emotional and psychological pain, which can be associated with thoughts or plans to end one's life as a means of escaping that unbearable pain. This experience is also referred to as suicidal crisis particularly when this emotional and psychological pain intensifies for a period, and the person considers themselves at imminent risk of taking action to end their life.

OPM Issue 113 Public Edition

Investigation of attempted suicides

The Service often receives requests to help with incidents involving persons who have attempted suicide or are in suicidal distress or crisis, or who may be exhibiting suicidal thoughts and behaviours as they may pose a risk to themselves or to others.

A suicide attempt or threatened suicide does not in itself constitute grounds for a belief that the person has a mental illness.

Officers attending or investigating a reported incident under job codes '502—Suicide' or '503—Attempting / Threatening Suicide' are to**:**

(i) take action under s. 6.6: 'Mental ill-health' of this chapter where it is known or suspected the person has a mental illness or is in mental distress or crisis;

(ii) take possession of:

(a) anything used in the suicide attempt or threat, of such nature and size that it may reasonably be seized (i.e. rope, hose, sleeping pills, weapon etc.); and

(b) if taking the person to an authorised mental health service or public sector health service facility, any suicide note or other note written by the person in relation to the suicide attempt or threat,

see ss. 29(2)(b): 'Searching persons without warrant', 31(5)(b): 'Searching vehicles without warrant' or 609: 'Entry of place to prevent, offence injury or domestic violence' of the PPRA;

(iii) if taken to an authorised mental health service or public sector health service facility, give any prescription medication or note seized to the staff at the health service and obtain a receipt for the items or an acknowledgment of receipt in their official police notebook or diary;

(iv) retain any seized items used or likely to be used in the suicide attempt or threat for a reasonable time to prevent the person from causing harm to themselves (see s. 691(3): 'Return of relevant things' of the PPRA);

(v) after a reasonable time has elapsed since seizing the items (see s. 695: 'Application for order in relation to seized things' of the PPRA):

(a) destroy any seized items in accordance with the provisions of the PPRA, namely:

- if the items are of no value, s. 690: 'Forfeiture in particular cases' refer to 'Forfeiture of property considered to have no value' in s. 4.6.2: 'Forfeiture of property including orders' of this Manual; or
- if the items have been in possession of the Service for 30 days, s. 718: 'Order for forfeiture of particular relevant things' of the PPRA refer to s. 4.9.4: 'Publication of a notice on the QPS website' of this Manual; or
- s. 721: 'Dealing with forfeited things' refer to s. 4.6.3: 'Direction for disposal of forfeited property' of this Manual; or

(b) if appropriate, return any seized items to the owner or the person who had lawful possession of the items prior to taking possession of the items, in accordance with s. 691 of the PPRA;

(vi) disclose appropriate details of the incident including relevant contents of any notes written by the person in relation to the incident, to the person's family, next of kin, or carer where such disclosure is necessary to lessen or prevent a serious threat to the life, health, safety and welfare of the public or an individual who the officer believes has expressed concerning suicidality (e.g. ideation, plans, gestures or attempts);

(vii) if the person is known to be employed in aviation-related safety sensitive activities (e.g. pilots, engineers and maintenance personnel, flight attendants and airport ground staff), disclose appropriate details of the incident to the Civil Aviation Safety Authority (CASA) (see SMCD) where such disclosure is considered necessary to lessen a serious threat to the life, safety or welfare of an individual, or to the public health, safety or welfare; and

(viii) if an incident involved a child or children, officers are to report suspected harm to a child occurrence [0520]. If concerns are held for the child's or children's safety or wellbeing, officers are to apply the Child Harm Referral Process flowchart and refer to s. 7.3 'Investigating child harm' of this Manual.

For persons with a weapons licence, see s. 6.6.11: 'Mentally ill person and weapons/weapons licences' of this chapter.

When completing an Emergency Examination Authority form, officers are to include in the 'Reasons' section:

(i) the time and location of the suicide attempt or threat;

(ii) the means of the suicide attempt or threat;

(iii) any medication prescribed to the person;

(iv) any item, implement, substance or device used in the suicide attempt or threat;

(v) any relevant information supplied by witnesses or next of kin including triggers for suicidal episodes (if known);

(vi) suicide notes;

(vii) any calls for assistance made to police or QAS in relation to the person (if known);

(viii) the person's family member, next of kin or carer and their contact details; and

(ix) other relevant information known to police that may assist staff at the Public Sector Health Service Facility in their examination and treatment of the person including details of any previous attempted suicides (if known).

Officers are to review the person record and create a QPRIME suicidal caution if no record exists for the current occurrence. Additional information to explain the caution should be provided so appropriate risk assessments regarding incident management and custody can be conducted (see QPRIME User Guide).

Officers should, where sufficient information exists (e.g. incorrect, out of date, misleading or irrelevant) which suggests that a flag or caution is no longer required, expire the flags (see QPRIME User Guide) or for the expiry of a caution, request a review by the MHIC or VPC of the district.

See also s. 4.3.2: 'Property of deceased persons' of this Manual.

6.3.10 Deleted

6.3.11 Homeless persons

Officers who come in contact with a homeless or destitute person should:

OPM Issue 113 Public Edition

(i) refer that person to an agency for assistance, so that emergency accommodation and resources can be provided, and if asked, supply their name, rank, and station/establishment to the homeless or destitute person;

(ii) record particulars of any assistance provided and when assistance is offered and declined by the person. Officers should record the names of the agencies referred to and any other assistance offered;

(iii) if the person has been acting unlawfully, consider initiating a prosecution under the relevant statute;

(iv) if the person is a child consider s. 5.2: 'General policy' of this Manual; and

(v) ensure the homeless or destitute person is not recorded as a missing person on the Service computer system. If the person is recorded as a missing person, see s. 12.5.1: 'Responsibility of officers who locate a missing person' of this Manual.

See also ss. 6.3.1: 'Circumstances which constitute a vulnerability, disability or cultural need' and 6.5: 'Specific physical, age related, intellectual or health needs' of this chapter.

6.3.12 Public Guardian

The Public Guardian is an independent statutory officer established under the *Public Guardian Act* (PGA) to protect the rights and interests of:

(i) adults with impaired capacity (a definition of 'impaired capacity' is provided in Schedule 4: 'Dictionary' of the *Guardianship and Administration Act*); and

(ii) relevant children and children staying at visitable sites (definitions of 'relevant children' and 'visitable sites' are provided in Schedule 1: 'Dictionary' of the PGA).

The functions of the Public Guardian are outlined in ss. 12: 'Functions–adult with impaired capacity for a matter' and 13: 'Functions–relevant child etc.' of the PGA.

The Public Guardian:

(i) has a variety of investigative powers and the authority to represent or advocate for an adult person with impaired capacity or a relevant child;

(ii) is authorised to consent to health care matters on behalf of for an adult person with impaired capacity or a relevant child; and

(iii) may delegate certain Public Guardian's powers under ss. 20: 'Delegate for investigation' and 146: 'Delegation' of the PGA to an appropriately qualified member of the Public Guardian's staff or appropriately qualified person, as applicable.

Under s. 146(2) of the PGA a delegate exercising powers under the Act must, if asked, produce evidence of the delegation.

The Public Guardian and any staff or persons authorised by way of delegation above, are public officials as defined in Schedule 6 of the PPRA.

Officers called upon to assist a person exercising the Public Guardian's powers under the PGA are to comply with the provisions of s. 13.3.2: 'Helping public officials exercise powers under various Acts' of this Manual. In establishing that the person concerned is in fact a public official under the PGA officers are to, where applicable, ask the person to produce evidence of the delegation.

Members receiving a complaint or report of a suspected offence where an adult person with impaired capacity or a relevant child is a victim are to ensure that such offence is investigated and where appropriate, prosecution action taken against the offender (see s. 3.4: 'General prosecution policy' of this Manual).

Officers investigating an offence involving a person with impaired capacity for whom the Public Guardian is acting or representing under the PGA, should regularly provide the Public Guardian with information on the status of the investigation and any subsequent prosecution.

Releases of information to the Public Guardian are to be dealt with in accordance with s. 5.6.22: 'Release of information to the Public Guardian' of the MSM.

6.3.13 Release of victim details to Queensland Health Victim Support Service

In order to provide greater support to victims of offences alleged to have been committed by persons lawfully detained in an authorised mental health service, Queensland Health has established the Victim Support Service (VSS).

The VSS is responsible for ensuring victims of serious sexual offences or other violent offences, and their families, are contacted at the earliest possible opportunity to offer support and where applicable, given information regarding the whereabouts and treatment of offenders.

The Service has agreed to provide the VSS with victims' personal particulars where the VSS has provided an electronic request for the details and subject to appropriate consent being obtained for the release of the particulars. The request

OPM Issue 113 Public Edition

will be addressed to the district mental health intervention coordinator (DMHIC) of the relevant district where the offence occurred. The request will contain patient and offence details.

DMHIC are authorised to release victim details to the VSS in accordance with the policy contained within this section. DMHIC have been delegated the Commissioner's power to release information under s. 10.2: 'Authorisation of disclosure' of the PSAA (see Delegation D 15.46).

Members receiving a facsimile request for personal particulars of a victim of an offence from the VSS are to immediately refer the request to the DMHIC for the area where the offence occurred.

Upon receiving the request, the DMHIC is to seek consent to release the personal particulars of the victim of the offence, from the victim or where the victim is unable to give consent, from the victim's parent or guardian or immediate family member.

Where consent to release the personal particulars of the victim is given, the DMHIC is to supply the following victim details to the Manager, VSS, as soon as practicable:

(i) name;

(ii) residential address;

(iii) telephone number;

(iv) relationship to offender (if known);

(v) confirmation as to whether the victim is a minor; and

(vi) if the victim is a minor, details of next of kin.

The details should be supplied by completing and returning the response section of the request by facsimile, or by forwarding an email containing the details. A written record of the consent and subsequent release of the information should be kept by the DMHIC.

6.3.14 Police Referrals

Police Referrals allow members of the Service to connect at risk and vulnerable community members with external support providers to address a broad range of social issues where referred individuals are engaged to achieve sustainable outcomes (see the Police Referrals SharePoint page).

A Police Referral should be offered where members consider a person has a genuine need for, and would potentially benefit from, a referral. A Police Referral can be completed for any adult with their consent. For a child under 16 years of age, consent must be obtained from a parent or guardian. Officers are responsible to gain the individual's consent to provide their details to an external service provider. To determine who is a suitable candidate for a referral, members should conduct a 'suitability assessment' considering:

(i) if the person is willing to access the referral service;

(ii) if the person is vulnerable to victimisation, repeat victimisation or harm;

(iii) if the person previously committed an offence and how likely the person is to re-offend without intervention;

(iv) if intervention will provide a benefit or risk reduction for the person's family, peers, neighbours, social network;

(v) if a referral is likely to reduce police calls for service; and

(vi) if completing a referral will be an appropriate response to the person and meet community expectations.

The suitability assessment regarding a Police Referral does not extend to domestic and family violence (DFV). An officer is to offer a Police Referral to a person experiencing DFV, and a respondent who has committed an act of DFV, in compliance with s. 9.3.16: 'DFV referral agencies' of this Manual.

Police Referrals complement existing requirements under Service policy and legislation and referrals should not be made in lieu of Service policy or statutory obligations.

Police Referrals relate to ten themes:

(i) community support;

(ii) DFV;

(iii) family and youth services;

(iv) health and wellbeing;

(v) homelessness;

(vi) identity theft and fraud;

(vii) legal advice;

(viii) mental health;

OPM Issue 113 Public Edition

(ix) senior support; and

(x) victim support.

Further information in relation to the categories and services available is provided at 'Referral categories' SharePoint page.

Where a victim of an 'act of violence' specifically requires the services of Victim Assist Queensland (see s. 2.12.3: 'Victim Assist Queensland' of this Manual), members are to refer the victim to Victim Assist Queensland via a Police Referral.

Police Referrals electronically process submitted referrals and refers them to the appropriate service providers. When community members consent to a Police Referral they will be contacted by a service provider external to the Service within a few business days. Contact usually commences with a telephone call, SMS or an email. Assistance offered will be aligned with the needs of the referred individual and the service provider capabilities. Follow up service provision may include personal contact via telephone, face-to-face, or information provided via SMS, email or post.

Submitting a Police Referral

ORDER

Unless otherwise authorised under the DFVPA or another law, a referral is only to be made after consent of the person is obtained.

For referrals relating to a person experiencing domestic violence or relating to a person who has committed DFV, different provisions may apply. For all DFV related Police Referrals, see s. 9.3.16 of this Manual.

Members should submit a Police Referral on each occasion it is deemed necessary to assist the person, regardless of whether the person has been previously referred.

Where a member considers a person would benefit from a Police Referral, the member should:

(i) explain to the person the voluntary referral process;

(ii) where a referral is requested, obtain the person's consent to forward their details to an external support provider who will arrange appropriate assistance;

(iii) where the person is below the age of 16 years, obtain consent from their parent or guardian;

(iv) where the person is incapable of providing consent e.g. the person is suffering from dementia, obtain the consent from a relative or carer; and

(v) complete and submit a referral using the Police Referrals system.

Recording a Declined Police Referral

Members should record a declined referral on each occasion a Police Referral is offered but declined, regardless of whether the person has previously been offered a referral, has previously accepted a referral, or has previously declined a referral. Recording a declined police referral captures key information to:

(i) build the police referral history of a person; and

(ii) create an overview of recidivism and revictimisation of the referred person.

Obtaining Information from Police Referral Services

ORDER

Members requiring information relating to clients, previously referred using the Police Referrals system, are to forward their request via email (see the Police Referrals SharePoint page).

6.4 Cross cultural issues

Officers may have contact with people from diverse communities and backgrounds in the execution of their duties and should remain aware that many people will have cultural or religious beliefs which may impact on their practices and behaviours.

Officer interaction with diverse community members should be conducted in a manner that is fair and provides for those person beliefs where practicable. See Religious and Spiritual Diversity for Operational Police available on the Media and Communications Division SharePoint page.

The following are examples of police interaction with diverse community members, where officers' may:

(i) deal with members of the Sikh community. Baptised Sikhs may find it offensive to be requested by an officer to undo their turban, remove their Kanga (ceremonial comb), Kara (iron bangle) or Kirpan (ceremonial sword) as these are considered to be articles of faith (sacred objects); and

OPM Issue 113 Public Edition

(ii) officers may require confirmation of identification from a Muslim female wearing a full faced hijab, burka or niqab. Such persons may find it objectionable to reveal their face to male officers or in public places as the Islamic dress code requires women to dress modestly, and to cover certain parts of the body.

In such circumstances, officers should consider the provisions relating to searches of persons within ss. 624: 'General provision about searches of persons' and 624A: 'Gender safeguard for searches of persons' of the PPRA and s. 16.10: 'Search of persons' of this Manual. This may require officers to consider additional arrangements to conduct the search in a manner that protects the dignity of the person.

Members requiring further advice may contact the Media and Communications Division.

6.4.1 Education and training

ORDER

The Assistant Commissioner, Recruiting and Development Command is responsible for the development and provision of training to members in indigenous and multicultural community issues which affect policing in Queensland and ensure all:

(i) academy teaching staff;

(ii) district/establishment education and training officers;

(iii) members involved in the development and writing of learning materials; and

(iv) officers,

are made aware of policing, education and training issues involving cross cultural issues.

Provision of education and training may be facilitated by district education and training coordinators and district/establishment education and training officers.

6.4.2 Community involvement (responsibilities of officer in charge)

OIC of stations or establishments should, in managing the provision of services, take into account the specific cultural demographic and characteristics of their area of responsibility and the needs of the community.

ORDER

OIC of stations or establishments at Aboriginal and/or Torres Strait Islander communities are:

(i) responsible for the identification of training issues for community police under their control;

(ii) to be conversant with legislation governing the administration of Aboriginal and Torres Strait Islander communities in Queensland; and

(iii) to ensure officers under their control are informed of and are adequately trained in legislation governing the administration of Aboriginal and Torres Strait Islander communities in Queensland.

To provide quality training and to ensure an effective policing service to the community, OIC of stations and establishments at Aboriginal and Torres Strait Islander communities should:

(i) liaise with district education and training officers; and

(ii) liaise with local community councils to become conversant with local legislation.

6.4.3 Cross cultural liaison officers

Cross cultural liaison officers (CCLO) are available in all regions and their role is to:

(i) establish and maintain effective liaison between police and Aboriginal, Torres Strait Islander, and other cultural communities;

(ii) to identify the needs of communities; and

(iii) enable appropriate policies and strategies to be developed to ensure the delivery of an equitable service within the district or region.

The principal responsibilities of CCLO include:

(i) managing and coordinating cultural support activities in line with Service policy;

(ii) developing and maintaining effective communication with Aboriginal, Torres Strait Islander, and other cultural community representatives; colleagues; and representatives of government departments and external agencies;

(iii) developing and presenting community-based policing programs in line with Service policy; and

(iv) providing operational support particularly in the investigation of crime in Aboriginal and Torres Strait Islander, and other cultural communities.

OPM Issue 113 Public Edition

6.4.4 Senior executive Indigenous community visitation

Building relations based on trust and confidence between police and Indigenous communities is a priority for the Service.

It is important for all senior executive officers to be actively engaged with First Nations and Torres Strait Islander communities and to periodically visit them.

Assistant commissioners whose regions include First Nations or Torres Strait Islander communities should seek to visit them at least annually.

All senior executive officers should capitalise on opportunities to visit First Nations and Torres Strait Islander communities in a meaningful way with a view to enhancing partnerships and gaining a fuller understanding of issues affecting their area of responsibility. Where possible, the timing of these visits should align with whole of government engagements including negotiation tables or other significant events e.g. opening of new buildings.

Further information regarding principles, resources and advice available may be found in the Senior Executive Indigenous Community Visitation Policy Statement on the First Nations Division webpage of the Service Intranet.

6.5 Specific physical, age related, intellectual or health needs

6.5.1 Age related needs

When members are involved in matters where an elderly or older person is a victim or offender, they are to offer a referral in accordance with s. 6.3.14: 'Police Referrals' of this chapter and record this information in QPRIME.

Where an elderly person is the victim of elder abuse or associated elder abuse and an officer identifies behaviour which may constitute domestic violence within the context of a relevant relationship (see s. 13: 'Meaning of *relevant relationship*' of the DFVPA), the officer is to investigate, or cause to be investigated, whether domestic violence has occurred (see s. 100: 'Police officer must investigate domestic violence' of the DFVPA and s. 9.2.6: 'Initial DFV investigative action' of this Manual).

Officers are to conduct an investigation in accordance with Chapter 2: 'Investigative Process' of this Manual to determine if any offences have been committed, taking action where appropriate, and establish if the elderly person requires immediate protection, and if justified, take appropriate action to immediately protect the elderly person from further domestic violence.

Due to the vulnerability of elderly persons as a victim, officers should consider consulting their district domestic and family violence co-ordinator and district crime prevention officer who may be able to advise on what specific assistance and resources can be provided. Further information and support is located on the Elder Abuse SharePoint page.

6.5.2 Intellectual disability

Officers should note the distinction between procedures affecting people who suffer from mental ill-health and those affecting people who are intellectually disabled. Where an officer is unclear if a person is intellectually disabled, advice should be sought from an appropriate source. Community psychiatric clinics are an appropriate source of advice (see s. 6.6: 'Mental ill-health' of this chapter).

6.5.3 Guide dogs

Where officers are in attendance at an incident at which the owner of a guide dog has been injured and is to be transported by ambulance, the senior officer at the scene should ask the owner of the dog where or to whom the dog is to be taken and as soon as possible thereafter, deliver or arrange for the delivery of the guide dog to the place nominated by the owner.

If the owner of the guide dog is unable to provide advice, the senior officer present should contact or cause to be contacted the Guide Dogs Queensland.

6.5.4 Alcohol and/or drug dependency

An officer dealing with a person who appears to be intoxicated should be aware the person may be exhibiting the symptoms of what could be a genuine medical complaint. A number of conditions may produce signs similar to intoxication, particularly when occurring in conjunction with alcohol ingestion.

ORDER

Where any doubt exists as to whether a person is intoxicated or exhibiting possible symptoms of a medical complaint, officers are to immediately seek medical treatment for that person.

Generally, officers should not interview a person for an offence when that person is:

(i) under the influence of liquor or a drug; or

(ii) suffering the effects of alcohol or drug withdrawal,

OPM Issue 113 Public Edition

to such an extent that a vulnerability, disability or cultural need exists.

There will be exceptions to this policy which may include:

(i) offences under s. 79 of the TO(RUM)A; and

(ii) situations where evidence would otherwise be lost because of circumstances such as the need to protect life or property, or to prevent a co-offender taking flight or absconding.

However, officers should bear in mind any evidence obtained whilst interviewing a person who is under the influence of liquor or a drug or suffering the effects of alcohol or drug withdrawal may be ruled inadmissible in a court.

6.5.5 Potentially harmful things (volatile substance misuse)

Volatile substances, or inhalants, refer to a wide range of products containing substances such as toluene and hydrocarbons that produce or release chemical vapours or fumes at room temperature. Volatile substances include:

(i) volatile solvents—glues, paint thinners, dry cleaning fluids, petrol, adhesives, felt tip markers, degreasers;

(ii) aerosols—spray paints, deodorants, hairsprays, insect sprays, air fresheners, vegetable oil sprays;

(iii) gases—butane cigarette lighters, propane gas, nitrous oxide (found in whipped cream dispensers); and

(iv) nitrates—amyl nitrate, butyl nitrate.

Volatile substance misuse (VSM), inhalant use, solvent sniffing, glue sniffing, chroming, and paint sniffing are terms used to describe the deliberate inhalation of fumes or vapours from a volatile substance for an intoxicating effect (see 'Information concerning potentially harmful things' of this section).

Effects of volatile substance misuse

Volatile substance misuse can produce short and long-term adverse health effects which may vary from person to person.

Volatile substances depress the central nervous system and provide similar effects to alcohol. Intoxication occurs rapidly (1–5 minutes) with a recovery period generally of 30–60 minutes. Short term effects can include a loss of inhibition, euphoria, excitement, drowsiness, disorientation, confusion and inappropriate laughter or weeping. Other effects include a loss of coordination, numbness, anxiety, tension, nausea, vomiting and hallucinations.

The long-term effects of regular or chronic volatile substance misuse can include memory loss, depression, fatigue, irritability, weight loss, sneezing, coughing, a runny nose, nosebleeds and sores around the nose and mouth. Permanent hearing loss and damage to the major organs and central nervous system can also occur.

The inhaling of volatile substances may also result in unconsciousness, heart failure and sudden death. The likelihood of this occurring is increased where during or shortly after inhaling, an affected person is exposed to an activity or event that causes a sudden rise in heart rate (e.g. the person flees from police).

The Service and the Queensland Ambulance Service (QAS) have developed a Response to Volatile Substance Misuse protocol to volatile substance misuse, which is available on the Drug and Alcohol Coordination Unit SharePoint page. The document outlines the role of the QAS at a volatile substance misuse incident and what officers should know and how they should deal with these incidents.

Responding to incidents involving potentially harmful things

When responding to any incident involving potentially harmful things officers should:

(i) consider the issue of safety. Police involvement may cause the person to become agitated and they may try to run or react violently. The primary concern of officers should be their own safety, the immediate safety of the affected person(s) and any members of the public;

(ii) assess the affected persons level of consciousness. If the affected person:

(a) is unconscious;

(b) has an altered level of consciousness; or

(c) has had any reported unconsciousness,

officers are to request QAS or trained medical assistance and render first aid as appropriate;

(iii) remove the potentially harmful thing(s) (see 'Seizing potentially harmful things' of this section);

(iv) avoid unnecessarily chasing or aggravating the affected person. In some cases, it may be necessary to chase a person. However, chasing or aggravating the affected person may cause a serious reaction in a person affected by volatile substances and can lead to unconsciousness and possibly death;

(v) discuss what substance(s) has been used;

(vi) suggest a place of safety for the affected person to recover; and

OPM Issue 113 Public Edition

(vii) provide referral information.

In addition, if the person affected by a potentially harmful thing is:

(i) under 18 years of age, officers should contact the parents or guardian;

(ii) a child under the age of 12 years, and is at risk of harm and the parents of the child cannot be contacted, officers should consider taking the child to a safe place pursuant to s. 21 of the *Child Protection Act* (see s. 7.4.2: 'Moving a child to a safe place' of this Manual); and

(iii) located in a declared locality (see s. 604(4): 'Dealing with persons affected by potentially harmful things' of the PPRA), where possible, officers should ask the person if they are willing to be taken to a place of safety. If the person is unwilling or refuses, officers should consider detaining and taking the person to a place of safety (see 'Detaining persons affected by potentially harmful things' of this section). Localities declared pursuant to s. 604(4) are Mt Isa, Cairns, Townsville, Inner Brisbane, Logan, Rockhampton, Gracemere-Rockhampton and Caboolture (see s. 24: 'Declared localities—Act, s 604' of the PPRR).

Seizing potentially harmful things

An officer who reasonably suspects a person is in possession of a potentially harmful thing (see Schedule 6: 'Dictionary' of the PPRA), and reasonably suspects that person has, is or is about to ingest or inhale the thing, may search the person and anything in the person's possession to find out whether the person is in possession of a potentially harmful thing (see s. 603: 'Power to seize potentially harmful things' of the PPRA).

If the person does not give a reasonable explanation for possessing the potentially harmful thing, police may seize the thing.

Potentially harmful things seized pursuant to this section are forfeited to the State and s. 622: 'Receipt for seized property' of the PPRA does not apply (see s. 603(6) and (7) of the PPRA).

When searching a person and seizing potentially harmful things pursuant to s. 603 of the PPRA officers are to comply with the following provisions of this Manual:

(i) s. 4.3.10: 'Potentially harmful things'; and

(ii) s. 16.10: 'Search of persons'.

When items other than potentially harmful things are seized or taken from a person affected by potentially harmful things, officers are to comply with the relevant provisions of Chapter 4: 'Property' of this Manual.

The provisions of s. 603 of the PPRA apply in all cases irrespective of the person in possession of the potentially harmful thing being affected or subsequently detained and taken to a place of safety (see 'Detaining persons affected by potentially harmful things' of this section).

Detaining persons affected by potentially harmful things

A place of safety is defined in s. 604(2) of the PPRA as a place, other than a police station or establishment, where an officer considers the affected person can receive the treatment or care necessary to enable the person to recover safely from the effects of the potentially harmful thing.

Examples of a place of safety include:

(i) a hospital, for a person who needs medical attention;

(ii) a vehicle used to transport persons to a place of safety and under the control of someone other than a police officer (e.g. a QAS vehicle);

(iii) the person's home, or the home of a relative or friend, if there is no likelihood of domestic violence or associated domestic violence happening at the place because of the person's condition, or the person is not subject to a domestic violence order preventing the person from entering or remaining at the place; or

(iv) a place, other than a hospital, that provides specific care for persons who are intoxicated or affected by volatile substances, if such a place or organisation exists within the particular declared locality.

As persons affected by potentially harmful things need to be assessed by members of the QAS if they are unconscious, have an altered level of consciousness or have had any reported unconsciousness, in many instances a QAS vehicle will be the most suitable place of safety.

OIC of stations or establishments within a declared locality are to ensure an appropriate list of places of safety is maintained and is available to officers under their control. Such a list should include information concerning each place of safety and:

(i) its capacity;

(ii) hours of operation;

(iii) the type of persons able to be taken there; and

(iv) the notification process (i.e. whether it is necessary to call prior to attending).

OPM Issue 113 Public Edition

Within a declared locality:

(i) if, because of the way a person is behaving and other relevant indicators, an officer is satisfied the person is affected by the ingestion or inhalation of a potentially harmful thing; and

(ii) only if it is appropriate for the person to be taken to a place of safety,

an officer may detain a person, and at the earliest reasonable opportunity, transport and release the person at a place of safety, unless:

(i) after making reasonable enquiries, the officer is unable to find a place of safety within a reasonable distance from where the person is detained;

(ii) the person apparently in charge of the place of safety does not agree to provide care for the person; or

(iii) the person's behaviour or presence poses a risk of harm to anyone at the place of safety, including, for example, harm caused by domestic violence (see s. 605(2) 'Duties in relation to person detained under s 604' of the PPRA).

If a detained person cannot be left at a place of safety, the detained person is to be released (see s. 605(3) of the PPRA).

Officers who detain a person under s. 604 of the PPRA are to:

(i) comply with the provisions of s. 16.11: 'Property of prisoners' of this Manual;

(ii) before releasing the person at the place of safety, ensure the person apparently in charge of the relevant place of safety gives a signed undertaking to provide care for the relevant person on a Form 92: 'Place of safety (Carer undertaking)' (available in QPRIME); and

(iii) as soon as practicable following the release of the detained person, complete all required entries in QPRIME and file the signed Form 92 at the officer's station or establishment.

To remove any doubt, there is no requirement for the person who is released at a place of safety to remain at that place.

Completing a QPRIME custody and search report

ORDER

A search of a person or seizure of a potentially harmful thing under s. 603 or s. 604 of the PPRA are 'enforcement acts' and are to be recorded in QPRIME.

The occurrence type to be recorded in QPRIME is 'Volatile Substance Misuse [1582]'. Officers are to record in the QPRIME occurrence a 'Person Stop/Search report for search and seizure, and a 'Custody Report' for detention of a person under s. 603 or s. 604 of the PPRA.

(See also s. 2.1.2: 'Registers required to be kept' and s. 16.8: 'QPRIME custody, search and property reports' of this Manual).

Information concerning potentially harmful things

The Drug and Alcohol Coordination Unit SharePoint page contains information concerning Volatile Substance Misuse.

The Alcohol and Drug Information Service can provide additional information for concerned people and parents. They provide a 24 hour, 7 day service which includes advice information and referral to local agencies (see SMCD).

The Poisons Information Centre (Queensland Health) can also provide treatment advice, information and referral 24 hours, 7 days a week (see SMCD).

6.5.6 Persons who are deaf, hard of hearing, blind or have low vision

Many people in the community require additional assistance when communicating with others due to varying degrees of difficulty in hearing or vision. Details of interpreters or assistance through Deaf Connect or Vision Australia can be found in the SMCD.

Deaf Connect use the terms deaf and hard of hearing. Deaf is the term used to describe those people with a hearing loss who use sign language. Hard of hearing is the term used for those who use assistive listening devices and use English as their preferred language (through speech and lip-reading/residual hearing).

The World Health Organisation defines levels of vision impairment into 4 categories, namely: none, slight, moderate and severe. Visual impairment is comprised of blind and low vision, with low vision being a combination of the moderate and severe categories.

Officers who interact in any way with a person who is deaf, hard of hearing, blind or has low vision, should give that person a calling card with the officer's name, station and contact details (see s. 11.2: 'Police calling cards' of the MSM).

When interviewing a person who is deaf, hard of hearing, blind or has low vision, an interpreter may be required (see ss. 6.3.3: 'Interviewing persons with vulnerability, disability or cultural needs' and 6.3.7: 'Interpreters' of this chapter).

OPM Issue 113 Public Edition

6.6 Mental ill-health

Definitions

For the purposes of this section:

Authority to transport absent person

means an 'Authority to Transport Absent Person' form issued for the return of an absent person pursuant to s. 364: 'Particular person may require return of absent person' of the *Mental Health Act* (MHA).

Authority to transport person who absconds

means an 'Authority to Transport Person Who Absconds' form issued for the return of an absent person pursuant to s. 157H: 'Person in charge of facility may require return of absent person' of the *Public Health Act* (PHA).

Authorised person

is defined by s. 359: 'Who is an *authorised person*' of the MHA, or s. 157A: 'Definitions for ch 4A' of the PHA and includes a police officer.

Custodian of a person in custody

means the person having the lawful custody of the person (see Schedule 3 of the MHA).

Mental ill-health

is a broad term that includes experiences of psychological distress, mental health challenges and clinically diagnosable mental illnesses.

Mental illness

means clinically diagnosable disorder that significantly interferes with a person's cognitive, emotional or social abilities and is characterised by a clinically significant disturbance of thought, mood, perception or memory.

6.6.1 Mental distress or crisis

Accessibility of memorandum of understanding, agreements and guidelines

The MOUs, agreements and guidelines relating to mental health intervention entered into by the Service with other agencies are located on the Strategy, Policy and Performance SharePoint page.

Privacy Protection

ORDER

Officers are subject to the *Information Privacy Act* in relation to the use and disclosure of personal information. Additionally, the *Human Rights Act* imposes an obligation on agencies to comply with a person's right to privacy. In accordance with these obligations, officers are only to disclose personal information to designated staff at an Authorised Mental Health Service (AMHS) or Public Sector Health Service Facility where the disclosure of information is authorised or required by legislation, agreement, or Service policy. This includes where the disclosure of personal information is necessary to reduce the risk of serious harm to a person.

Where a person provides information that may be relevant to a subject person's mental health, officers may make further inquiries with that person to obtain clarification or more details.

Transportation of persons with known or suspected mental ill-health

The Service has entered into the interdepartmental agreement known as the 'Queensland Interagency Agreement for the Safe Transport of People Accessing Mental Health Assessment, Treatment and Care 2019'. This is an agreement between the Service and Queensland Health (Qld Health) (including Queensland Ambulance Service (QAS) and Retrieval Services Queensland (RSQ)) that broadly identifies each agency's responsibilities with respect to working collaboratively towards the safe transport of people with suspected or known mental ill-health who require, or may require, mental health assessment, treatment or care.

The agreement requires the Service and the QAS to work cooperatively to promote a coordinated system of response to ensure effective and efficient delivery of services to meet the needs of people with mental ill-health. The agreement acknowledges that during a mental ill-health incident where there is a risk to the safety of any party:

(i) police have the responsibility to manage situations to preserve peace and good order; and

(ii) ambulance personnel have the responsibility to provide:

(a) pre-hospital emergency patient and clinical care; and

(b) transport for persons requiring attention at a medical or health care facility (see s. 3D(1)(c): 'Service's functions' of the *Ambulance Service Act*).

OPM Issue 113 Public Edition

Unless exceptional circumstances exist, officers responding to a mental ill-health incident are to:

(i) provide all possible assistance to the QAS personnel in such situations (this may include assisting with transportation where QAS personnel attend the scene and request such assistance); and

(ii) provide sufficient information (such as name, date of birth, last known address, current locations, relevant risks, history, cautions or past behaviour etc.) to QAS personnel to enable them to prevent or lessen a threat to the safety and health of any person involved in the mental health incident as supported by the 'Memorandum of Understanding – Mental Health Collaboration between Queensland Health and the Queensland Police Service'.

See also s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM).

Likewise, the role of the QAS is to also provide sufficient information to Service members to enable them to prevent or lessen a threat to the safety and health of any person involved in the mental ill-health incident.

OICs of regions in collaboration with their mental health intervention coordinator (MHIC) should ensure local arrangements are developed to support the agreement entered into between the Service and Qld Health.

See also s. 6.6.3: 'Transporting persons with impaired mental capacity' of this chapter.

General notification and tasking to the district MHI coordinator or officer nominated by a district officer

Members seeking mental health information, advice, or occurrence review by a MHI coordinator or officer nominated by the district officer, are to forward an administrative task linked to a QPRIME occurrence to the relevant MHI Coordination Unit (QPRIME Org Unit). The notification is to be made as soon as possible following an event to enable timely follow up and/or intervention action(s).

For more information about the role of the MHIC, see s. 6.6.13: 'Mental health intervention coordination and training' of this chapter.

Voluntary referrals to authorised mental health services

Where there is no immediate risk to persons or property, and in support of a less restrictive process, officers are to ask the person if they will voluntarily consent to an assessment or treatment before considering other options.

Officers contacted by members of the public about a person, of mental ill-health who is not behaving in a manner which poses an imminent risk of significant physical harm being sustained by the person or somebody else, may advise the person to contact the nearest AMHS for advice.

Where a person is identified by officers as being a client of:

(i) AMHS;

(ii) a private psychiatrist; or

(iii) a community mental health centre,

officers may suggest that the person contact the appropriate service provider for follow up.

Where a person is not currently a client of an AMHS provider, or there are concerns that a person who is a client of a mental health service provider will not make contact with their mental health service provider, the officer may make a direct referral to an AMHS by phoning 1300MHCALL (**1300 642 255**) or liaising with the QPS MHIC or Vulnerable Persons coordinator (VPC). The MHIC contact list is available on the Specialist Services SharePoint page.

Before making a referral to an AMHS directly, officers are to:

(i) ensure the person is aware that the officer intends to make the referral; and

(ii) tell the person that they can refuse an offer of service when contacted by the mental health service.

Alternatively, if consent is obtained in accordance with s. 6.3.14: 'Police Referrals' of this chapter, generate a police referral for 'Support for person with mental health issues' through QPRIME or QLiTE. These are generally non-clinical services provided by non-governmental organisations.

Completion of QPRIME custody reports

Officers are to ensure that a Custody Report is recorded against a person in QPRIME under the following occurrences:

(i) EEA (Emergency Examination Authority) [1586];

(ii) Mental Health – Authority to Return/Transport [1691];

(iii) Public Health Act 2005 – Request for Police Assistance [1587]; or

(iv) Mental Health Act 2016 – Request for Police Assistance [1588],

as appropriate and as soon as practicable after processing the person in accordance with the provisions of the *Public Health Act* or *Mental Health Act*. Officers are not required to record a Custody Report in QPRIME if the person being

OPM Issue 113 Public Edition

assisted is transported for voluntary assessment or treatment. See s. 16.8.2: 'Exceptions to making entries in QPRIME custody, search and property reports' of this Manual.

Use of restraints

Officers are to treat and transport subject persons with respect to their rights and liberties. Restraints should only be used in accordance with s. 14.3: 'Use of force' of this Manual (see also s. 14.19.1: 'Use of handcuffs' of this Manual).

Persons in custody may become extremely agitated, irrational, impulsive and paranoid, which may lead the person to behave in an aggressive or violent manner.

Persons suffering from an acute episode can rapidly develop an acute behavioural disturbance, which can result in death.

See s. 14.3.6: 'Responding to a person in crisis' of this Manual for information on identifying, responding to, and risks associated with this condition.

Children in mental distress or crisis

Where officers encounter a child in mental distress or crisis, officers should consider the safety or wellbeing of the subject child and of other children within the family. If concerns are held for the safety or wellbeing of the subject child or children, officers are to apply the Child Harm Referral Process flowchart and Child Harm SharePoint page and consider a report of suspected harm to a child occurrence [0520].

Refer to s. 7.3: 'Investigating child harm' of this Manual.

Protection of children subject to mental distress of crisis

In the event officers become aware that a person, subject to mental distress or crisis, is a parent or guardian of a child or children under 18 years of age, officers are to consider the safety or wellbeing of the child or children with respect to their obligations and powers under the *Child Protection Act* (CPA) and the DFVPA.

Officers who determine that a child or children are at immediate risk of harm, are to comply with the provisions of s. 7.4.1: 'Children at immediate risk of harm' of this Manual. However, before taking action under the CPA, officers are to, where practicable, consult with an officer from the CPIU.

If there is no immediate risk of harm to a child or children, but the officer still holds concerns for the safety or wellbeing of the child or children, the officer is to advise the local CPIU by telephone and create a report of suspected harm to a child occurrence [0520] in QPRIME, as soon as practicable. The following information is to be included in the occurrence:

(i) details of the subject person;

(ii) details of the children in their care;

(iii) details of what care arrangements have been made for the children;

(iv) the nature of behaviour of the person's mental ill-health;

(v) any concerns that the children may be in need of protection; and

(vi) the name and location of the treating mental health service.

Officers who cannot contact the CPIU for advice or assistance, are to direct inquiries to the 'Child Safety After Hours Service Centre' (see SMCD).

Officers taking a person experiencing mental ill-health or crisis into custody under the provisions of the MHA are to make all reasonable inquiries to determine whether the individual has responsibility for the care of children. If applicable, officers are to follow the provisions outlined in s. 16.4.5: 'Arrest of persons who have others in their care' of this Manual.

Attempted suicide

For policy regarding action to be taken by officers attending an attempted suicide see s. 6.3.9: 'Attempted suicide' of this chapter.

6.6.2 Emergency examination authority (EEA)

Section 157B: 'Ambulance officer or police officer may detain and transport person' of the *Public Health Act* (PHA) applies if the officer believes:

(i) a person's behaviour, including for example, the way in which the person is communicating indicates the person is at immediate risk of serious harm (e.g. a person is threatening to commit suicide); **and**

(ii) the risk appears to be the result of a major disturbance in the person's mental capacity, whether caused by illness, disability, injury, intoxication or another reason; **and**

(iii) the person appears to require urgent examination, or treatment and care, for the disturbance.

An officer is to:

(i) tell the person they are being detained and transported to a treatment or care place;

OPM Issue 113 Public Edition

(ii) explain how the action may affect the person; and

(iii) take reasonable steps to ensure the person understands the information (e.g. how these actions are going to occur),

(see s. 157C: 'What ambulance officer or police officer must tell person' of the PHA).

On arrival at a public sector health service facility with a person detained for an EEA, the officer is to immediately:

(i) complete an 'Emergency Examination Authority' form;

(ii) give it to a health service employee. The person may be detained in the public sector health service facility while the order is being made (see s. 157D(3): 'Giving emergency examination authority' of the PHA); and

(iii) remain with the person for a reasonable time if requested by a health service employee.

The health service assumes responsibility for the person's detention once the authority is provided to staff by an officer. An officer may depart from the facility as soon as this occurs unless there are circumstances where there is concern about the person's management (e.g. a person who is considered likely to abscond).

Officers are only to be requested to remain where the individual circumstances of a case dictate that is necessary and reasonable. It is not to occur routinely. When officers are requested to remain, they are to ensure that health service staff are promptly making alternative arrangements (e.g. attendance of hospital security or moving the person to a more secure setting within the facility).

Officers are permitted to use force that is reasonable in the circumstances to help the person in charge of the public sector health service facility to detain the person (see s. 157N: 'Use of reasonable force to detain person' of the PHA).

In relation to the completed 'Emergency Examination Authority' form officers are to:

(i) obtain a copy from the health service employee at the public sector health service facility (does not apply for QAS EEA);

(ii) ensure the copy is scanned into the relevant QPRIME occurrence as an attachment;

(iii) ensure a QPRIME caution is created for the person subject to an EEA. The caution type is to be Mental health and the description is to be EEA (see 'Basics: Mental Health or Disabilities: EEA (Emergency Examination Authority) [1586]' of the QPRIME User Guide and s. 1.6.11: 'Updating operational information in QPRIME' of this Manual); or

(iv) ensure a QPRIME caution is created for the person who the officer believes has expressed concerning suicidality (e.g. ideation, plans, gestures or attempts) under the relevant QPRIME occurrence or street check (including for QPS attendance at subsequent QAS EEA and transport). The caution type is to be suicidal and description is to be EEA (see QPRIME User Guide and s. 1.6.11 of this Manual).

If it is necessary to enter a place in order to take the person to a public sector health service facility, officers are to consider using the provisions of s. 609: 'Entry of place to prevent offence, injury or domestic violence' of the PPRA where appropriate.

See s. 8.12: 'Suicide' of this Manual for additional action to be taken by officers when a person suffering mental ill-health has expressed concerning suicidality.

OPM Issue 113 Public Edition

6.6.3 Transporting persons with impaired mental capacity

The *Mental Health Act* (MHA) and *Public Health Act* (PHA) provide an authority for officers to transport a person experiencing mental ill-health. Further, an MHA transport may be required as the result of an order of a court or by a request from a public official.

An officer is authorised to detain and transport a person to a treatment or care place if the officer believes all three criteria under s. 157B(1): 'Ambulance officer or police officer may detain and transport person' of the PHA are met. If that treatment or care place is a public sector health service facility (PSHSF), an emergency examination authority (EEA) form is to be completed. An officer may use the force that is necessary and reasonable in the circumstances to exercise the power to detain and transport the person (see s. 157L: 'Use of force to detain and transport' of the PHA).

For further detailed information on EEAs under the PHA see s. 6.6.2: 'Emergency examination authority (EEA)' of this chapter.

Under s. 359: 'Who is an *authorised person*' of the MHA, an officer is an authorised person to conduct a transport for the purposes of the MHA, other than for the return of an absent person (see s. 364(1)(a): 'Particular persons may require return of absent person' of the MHA) as stated in s. 361: 'Transport to or from authorised mental health service and other particular places' of the MHA:

> An authorised person may transport an involuntary patient or classified patient (voluntary) to or from an authorised mental health service, public sector health service facility, place of custody, court or a place in the community for the purposes of this Act.

An officer's general power as an authorised person for transport under s. 359 of the MHA (excluding the return of absent persons) includes the power to detain the person and to use force that is necessary and reasonable in the circumstances (see s. 373: 'Power to detain' of the MHA).

Transport of persons in custody

An officer is authorised to transport a person who is subject to a court examination order from a court to an authorised mental health service (AMHS). (see s. 670: 'Transport, detention and examination of person under court examination order' of the MHA).

Officers are authorised to transport a person from a place of custody (i.e. watch-house) to an inpatient unit of an AMHS under:

(i) s. 65: 'Transport for assessment' of the MHA if subject to a recommendation for assessment and the following have been made:

(a) an administrator consent; and

(b) a custodian consent;

(ii) s. 66: 'Transport for treatment and care under treatment authority or particular orders' of the MHA if:

(a) subject to a:

- treatment authority;
- forensic order (mental health); or
- treatment support order; and

(b) the following have been made:

- a transfer recommendation;
- an administrator consent; and
- a custodian consent; and

(iii) s. 67: 'Transport for treatment and care by consent' of the MHA if:

(a) not subject to a:

- treatment authority;
- forensic order (mental health); or
- treatment support order; and

(b) they consent to treatment and the following have been made:

- a transfer recommendation;
- an administrator consent; and
- a custodian consent.

ORDER

A member receiving a request for an officer to transport a person from a place of custody to an inpatient unit of an AMHS, are to:

(i) ascertain from the person making the request what section of the MHA is applicable,

(ii) ensure all the relevant recommendations and consents have been obtained as required; and

(iii) if transporting under s. 67 of the MHA, the person still consents to receiving treatment.

Officers transporting persons from a place of custody under Chapter 3, Part 2 of the MHA are to ensure:

(i) all the approved forms have been completed as required under the relevant section;

(ii) if the person is being transported under s. 67 of the MHA, the person understands their consent can be withdrawn at any time; and

(iii) a QPRIME custody report is completed prior to the completion of the shift (see s. 16.8: 'QPRIME custody, search and property reports' of this Manual).

See also s. 16.15.2: 'Removing a prisoner at a watch-house, suffering from a mental illness, to an authorised mental health service for assessment' of this Manual.

If a person is transported from their place of custody to an AMHS under a court examination order, the person may remain in the inpatient unit to receive treatment and care only if all the conditions of s. 74: 'Person subject to examination order or court examination order remaining in authorised mental health service' of the MHA are satisfied, including a

OPM Issue 113 Public Edition

custodian consent. For this section custodian of a person means the custodian of the person immediately before the making of an examination order or a court examination order for the person (see s. 74(12) of the MHA.)

Requests for police to assist with transport

A 'Request for Police Assistance (RFPA) is the approved form for formal transport requests under the MHA to Service for the following categories:

(i) when an MHA examination authority is in force under s. 32: 'Powers of doctor or authorised mental health practitioner' of the MHA, and assistance is required by a doctor or authorised mental health practitioner;

(ii) a person is an involuntary patient or classified patient (voluntary) and requires transport to or from an AMHS, PSHSF, place of custody, court or a place in the community for the purposes of the MHA; or

(iii) an authorised person requires police assistance to help transport an absent patient to an AMHS.

For transport requests of persons in custody, an officer may conduct the transport without a health practitioner present.

Transport of absent persons

For persons who are deemed absent without approval (AWA), an authority to detain and transport the absent person is not directly conferred to an officer under the s. 364 of the MHA or an authority to transport person who absconds under s. 157H: 'Person in charge of facility may require return of absent person' of the PHA.

However, an authorised person mentioned in s. 359 of the MHA (other than a police officer) is a public official and may, in accordance with s. 16: 'Helping public officials exercise powers under other Acts' of the PPRA, ask an officer to help transport a named absent person. (see ss. 366(3) and (4): 'Authorised person may transport absent person' of the MHA or 157J(3) and (4): 'Authorised person may transport absent person' of the PHA).

The AWA transport requests from an authorised public official must be in the approved form and include:

(i) identifying the risk the person presents to:

(a) themselves;

(b) the authorised person or officer; and

(c) others; and

(ii) state the reasons why the authorised person considers it necessary to ask an officer to help transport the person.

When helping a public official, officers have the same powers and protection under the authorising law as the public official (see s. 16 of the PPRA and s. 13.3.2: 'Helping public officials exercise powers under various Acts' of this Manual).

For a request for an officer to assist a mental health service with an AWA transport, the RFPA is the approved form. For MHA requests to police to act alone in the transport of a person who is AWA, an 'Authority to Transport Absent Person' (ATAP) is the approved form.

For PHA AWA requests to police to act alone, an 'Authority to Transport Person Who Absconds' (ATT) is the approved form.

For further detailed information on MHA and PHA AWA processes including the transport request process, correct forms and powers of entry, see s. 6.6.6: 'Returning absent persons from authorised mental health service or a public sector health service facility' of this chapter.

Powers of entry to enact a transport

Section 21: 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA provides a power to enter a place to detain a person under another Act, including the MHA and PHA, but only if the officer reasonably suspects the person is at the place.

Officers should consider each mental health transport on its merits when on scene. Situations may present differently to those expressed in the transport request form. Persons suffering from mental ill-health may be in an agitated state. Further information and clarification can be sought from the contact details of the authorising person provided on the form in the first instance, or the local district MHIC or MH co-responder team or the Brisbane PCC Mental Health Liaison Service.

Additionally, if required, force likely to cause damage can be used in compliance with s. 635: 'Use of force likely to cause damage to enter places' of the PPRA. This power of entry stems from the power to detain under the MHA and PHA.

Alternatively, an authorised person may apply to a magistrate for a warrant for apprehension (see ss. 377: 'Application for warrant for apprehension of person' of the MHA or 157Q: 'Application for warrant for apprehension of person' of the PHA) outlining the significant risk which requires forced entry. The issue of the warrant confers a power to the authorised person to enter a dwelling in order to detain and transport the person.

OPM Issue 113 Public Edition

An application for a warrant for apprehension should be done by an authorised person who is not an officer in order to provide a clinical lead in expressing to a magistrate the risks present necessary to force entry. Having a clinical lead lens approach is better practice for attendance at any mental health incident.

The application for a warrant for apprehension may be undertaken after consideration of the level of risk the person presents to themselves and others, a known location of the person, and possible delays due to the timeframe for the application process. An issued warrant for apprehension is valid for 7-days. Also, if attending an incident for any reason and there is an imminent risk of injury to a person, officers have a power of entry under s. 609: 'Entry of place to prevent offence, injury or domestic violence' of the PPRA.

Transports, the interagency agreement and determining the most appropriate response

The Service, Queensland Health and Queensland Ambulance Service have signed the 'Queensland Interagency Agreement for the Safe Transport of People Accessing Mental Health Assessment, Treatment and Care 2019' (the interagency agreement) available on the Mental Health SharePoint page.

The interagency agreement is not legally binding and does not supersede the directives or protocols of any agency. It serves as a best practice guide.

However, the interagency agreement does outline the roles and responsibilities of each agency involved in the transportation of persons experiencing mental ill-health crisis, the intent for agencies to be aware of a least restrictive methodology and refers to the relevant sections of the MHA, PHA and Chief Psychiatrist policies that must be complied with.

Officer presence may be requested by health service staff or ambulance officers only when there is a demonstratable risk of harm that cannot otherwise be safely managed.

Officers may refer to the Multi Agency Risk Information and Assistance (MARIA) Guideline at Appendix 14 of the interagency agreement as a brief guide to assist with assessing risk and to indicate the type of information that may be sought, when determining agency presence at a community mental ill-health incident.

The Service will prioritise requests for transport assistance and determine the most appropriate response based on the nature of the situation, risk and safety considerations and the availability of operational resources.

Officer involvement in transport may take several forms:

(i) officer/s accompanying the patient in an ambulance or health service vehicle;

(ii) Service vehicle escorting an ambulance or health service vehicle; and

(iii) officers conveying the person in a Service vehicle.

Transport in a Service vehicle should be an option of last resort, and should be restricted to short distances wherever possible, as it can result in:

(i) heightened distress;

(ii) agitation of the patient and/or family members; and

(iii) a contribution to stigma.

An officer should always request and insist that a health practitioner or ambulance officer accompany the person to the health service, where practicable, to ensure the medical supervision of the person. A clinical lead lens approach is better practice and in line with least restrictive.

An acutely unwell, agitated patient travelling in a Service vehicle may require restraint to ensure the safety of the individual and others. The use of restraints may pose additional risks, especially when occurring in the context of a patient's drug or alcohol intoxication and/or travel in a prisoner pod, where monitoring of a patient during transit is difficult. Wherever possible, alternative means of safe transport should be arranged.

Where police are transporting an acutely mentally ill person from a rural or remote area, and the person is likely to require admission to an AMHS a considerable distance away, all agencies have a responsibility to consider alternative transport options to ensure the most appropriate and safest outcome for the patient. By negotiation between the Service and the relevant health facility, transport by police to a local health facility for initial examination and medical care may be required. This may be followed by interfacility transport by ambulance or aircraft, with health and/or police escorts as required.

Patients who have been sedated for the purpose of safe transport should be transported by ambulance.

Where officers are transporting a person to an AMHS or place of custody and the person is not accompanied by a health practitioner, an AMHS administrator or a person lawfully helping the administrator, officers are to:

(i) deliver a copy of any document authorising the detention of the person in the AMHS or place of custody to the person taking custody of the person at the AMHS or place of custody or ensure that an electronic copy of the authorising documents has been received; and

OPM Issue 113 Public Edition

(ii) ensure any property, which belongs to the person and is to be transported with the person, is itemised before commencing the transport and a receipt is obtained from the person taking custody of the person at the AMHS or place of custody.

6.6.4 Assistance to public officials

For the purpose of s. 16: 'Helping public officials exercise powers under other Acts' of the PPRA the following persons are public officials when exercising a power under the *Mental Health Act* (MHA):

(i) a doctor or authorised mental health practitioner performing a function or exercising a power under s. 32: 'Powers of doctor or authorised mental health practitioner' of the MHA, when examining a person to decide whether a recommendation for assessment for the person subject to an examination authority; and

(ii) an authorised person other than a police officer.

Section 16 of the PPRA requires that before an officer helps a public official (as listed above):

(i) the public official must explain their relevant powers under the MHA or *Public Health Act* (PHA); and

(ii) if the public official is not present, the officer must be satisfied that giving the help is reasonably necessary in the particular circumstances.

ORDER

Officers are not to take responsibility for the medical supervision of a person under health care.

An officer asked to help:

(i) a doctor or authorised mental health practitioner in relation to a person subject to an examination authority under s. 32 of the MHA:

(a) is to ensure that reasonable help is given as soon as practicable if they have provided a clear indication about:

- what assistance is required; and
- the circumstances (especially risks to the life or safety of the patient or others);

(b) should sight a copy of the 'examination authority' and ensure that it is current before helping;

(c) may enter:

- a place stated in the authority;
- another place in which the person considers the person may be found; and
- any other place necessary for entry to either of those places,

to find the person;

(d) may detain the person at:

- the place found;
- an authorised mental health service; or
- public sector health service facility; and

(e) may transport the person to a treatment or care place for the examination to be carried out by the doctor or authorised mental health practitioner; and

(f) may use force that is necessary and reasonable in the circumstances (see s. 33: 'Reasonable help and force to exercise powers' of the MHA); or

(ii) an authorised person transport a person under the MHA or PHA is to:

(a) ensure that reasonable help is given as soon as practicable if the authorised person has provided a clear indication about:

- what assistance is required; and
- the circumstances (especially risks to the life or safety of the patient or others);

(b) ensure that the authorising documents are in force and state the reasons why it is considered necessary for an officer to transport the person; and

(c) only enter a place if:

- entry is authorised by s. 21: General power to enter to arrest or detain someone or enforce warrant' of the PPRA;
- it is a public place and open to the public;

OPM Issue 113 Public Edition

- the occupier of the place consents to the entry; or
- entry is authorised by a warrant under s. 378: 'Issue of warrant' of the MHA or 157R: 'Issue of warrant' of the PHA has been obtained (see also s. 6.6.5: 'Warrant for apprehension of a person under Mental Health Act and Public Health Act' of this chapter).

Requests for help by public officials in relation to mental illness, authorised by the MHA, will generally be a request to assist with the transportation of the persons. As outlined in s. 18: 'Police involvement in transport' of the 'Queensland Interagency Agreement for the Safe Transport of People Accessing Mental Health Assessment, Treatment and Care 2019' on the Memorandums of Understanding—QPS Database SharePoint page, when a health practitioner or ambulance officer requests assistance with transport they should:

(i) explain the serious risk to the individual or others that requires police assistance rather than other 'less restrictive' options; and

(ii) negotiate regarding how and when assistance is to be provided.

In accordance with QH Chief Psychiatrist policy, where police assistance is requested by health service personnel authorised by the MHA, a health practitioner must still accompany the person when being transported to the health service(see s. 3.5: 'Request for police assistance' of the Chief Psychiatrist policy 'Transfers and transport' available on the Queensland Health website.

See also s. 6.6.3: 'Transporting persons with impaired mental capacity' of this chapter.

Note: Requests for help by public officials, especially those authorised by the PHA, can include requests to assist with detaining, assessing, or searching the persons, by negotiation with consideration to the nature of the situation, safety considerations, and the availability of operational resources.

6.6.5 Warrant for apprehension of a person under Mental Health Act and Public Health Act

Officers have the power of entry by virtue of s. 21: 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA (see s. 6.6.3: 'Transporting persons with impaired mental capacity' of this chapter).

ORDER

Before helping a public official to exercise a power under the provisions of the *Mental Health Act* (MHA) or *Public Health Act* (PHA), officers are to ensure that if entry to a place is required, and such entry is not authorised by the provisions of:

(i) s. 32: 'Powers of doctor or authorised mental health practitioner' of the MHA; or

(ii) s. 376: 'Power to enter particular places' of the MHA; or

(iii) s. 21: 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA,

a warrant for apprehension of the person has been obtained by the public official under ss. 378: 'Issue of warrant' of the MHA or 157R: 'Issue of warrant' of the PHA.

OPM Issue 113 Public Edition

6.6.6 Returning absent persons from authorised mental health service or a public sector health service facility

Officer may be asked to transport absent person

Officers may be asked to:

(i) transport an absent person by a:

(a) responsible person under s. 364: 'Particular persons may require return of absent person' of the *Mental Health Act* (MHA); or

(b) person in charge of a public sector health service facility (PSHSF) under s. 157H: 'Person in charge of facility may require return of absent person' of the *Public Health Act* (PHA); or

(ii) help an authorised person transport an absent person under:

(a) s. 366: 'Authorised person may transport absent person' of the MHA; or

(b) s. 157J: 'Authorised person may transport absent person' of the PHA,

but that request must:

(i) be in the approved form:

(a) 'Authority to Transport Absent Person' (see MHA s. 364);

(b) 'Authority to Transport Person who Absconds' (see PHA s. 157H);

(c) 'Request for Police Assistance' (see MHA s. 366); or

(d) 'Request for Police Assistance' (see PHA s. 157J);

(ii) state the name of the person to be transported;

(iii) state the name of the authorised mental health service (AMHS) or PSHSF to which the person is to be transported;

(iv) identify the risk the person presents to themselves, the officer, and others; and

(v) state the reasons why the requestor considers it necessary:

(a) for an officer to transport the person under ss. 364 of the MHA and 157H of the PHA, or

(b) to ask a police to help transport the person under s. 366 of the MHA and 157J of the PHA.

ORDER

Before transporting a person under ss. 366 of the MHA or 157J of the PHA officers must:

(i) tell the person they are detaining and transporting them to the AMHS or PSHSF stated in the authorisation; and

(ii) explain to the person how taking the above action may affect them.

Completed 'Authority to transport absent person' forms are sent to the Police Information Centre (PIC) to enter in QPRIME and may be sent to the police communications centre (PCC) responsible for the area in which the AMHS or PSHSF is located.

The Manager, PIC is to ensure that any 'Authority to transport absent person' form, or revocation of authority to transport absent person issued in relation to the cancellation of such authorities, received at the PIC are promptly recorded in QPRIME under a 'Mental Health—Authority to Return/Transport' [1691] occurrence and the relevant station or establishment is tasked to finalise the occurrence. The details of the authority to transport absent person form to be entered in QPRIME should include the information required for MHA warrants in s. 13.18.12: 'Mental Health Act warrants' of this Manual.

Initial police action

The OIC of a station or PCC receiving an authority to transport absent person form or receiving a task with a request for action in relation to an outstanding authority to transport absent person recorded in QPRIME, is to ensure that:

(i) officers are tasked a job to attend the health service, or such other place as may be appropriate, to make inquiries into the location of the patient;

(ii) details of the authority are accurately recorded in QPRIME under a 'Mental Health—Authority to Return/Transport' [1691] occurrence, and a task is created and sent to the officer responsible for making inquiries into the location of the patient;

(iii) if no occurrence exists in QPRIME in relation to the authority to transport absent person, a copy of the form is forwarded by email to PIC with a request for the authority details to be recorded in QPRIME. Officers are not to email a copy of an authority that has been executed; and

(iv) ensure that any original forms are retained at the station or establishment unless executed or otherwise revoked by the issuing AMHS or PSHSF; or requested by the PIC.

Officers tasked to assist in returning a person, in addition to carrying out first response duties and incident evaluation, are to:

(i) request a certified copy of the authority via the relevant QPRIME occurrence;

(ii) in cases where the patient:

(a) is classified by Queensland Health as a Person of Special Notification;

(b) has a history of serious violent offences; or

(c) is a patient who represents a high risk of violence to themselves or others,

evaluate the incident as a major investigation (see s. 1.4.6: 'Responsibilities of RDO, patrol group inspector, DDO and shift supervisor' and s. 2.4.5: 'Major investigations' of this Manual for the responsibilities of officers in regard to major investigations); and

(iii) if the patient cannot be located after extensive inquiries, ensure that necessary action is taken to report the matter in accordance with s. 12.4: 'Missing person occurrence' of this Manual. A task is to also be created and sent to the Missing Persons Unit and the investigating officer, for information only.

Obtaining patient photographs

Officers making inquiries to locate a person who is to be returned to an AMHS may, if considered necessary, request the relevant AMHS to provide a recent photograph of the person if they are a classified patient (voluntary) or an involuntary patient.

Before requesting a photograph, officers should ensure that a suitable recent photograph:

OPM Issue 113 Public Edition

(i) has not been previously supplied by the AMHS; and

(ii) is not available from Service sources,

(see s. 786: 'Disclosure of photograph of patient required to return' of the MHA).

Notification of victim, victim's family or other persons on advice from an authorised doctor

Where an authorised doctor at an AMHS or PSHSF believes that the patient poses a threat of harm to a person, the doctor will complete 'Notification of other persons' section on the Authority to Transport form.

The OIC receiving the Authority to Transport form is to:

(i) arrange for the nominated person to be contacted and advised about the patient's absence from, or failure to return to, the AMHS or PSHSF; and

(ii) notify a commissioned officer having responsibility for the area in which the nominated person lives or is located.

A commissioned officer who is notified that there is a threat of harm from a patient to a nominated person located or residing within their area of responsibility should determine what, if any, action should be taken to ensure the safety of the nominated person.

Notification of victim, victim's family or other persons on determination by an officer

This policy does not apply in cases where an AMHS or PSHSF has notified the Service that there is a threat of harm to a person from a person.

Where officers making inquiries to locate a patient to whom an authority to transport absent person applies, have determined that there is a threat of harm to a person from the patient, the senior officer is to report details of the threat to their RDO, patrol group inspector or DDO, who is to contact the psychiatrist on call at the relevant AMHS or PSHSF to assess the credibility of the threat. Where threat of harm to a person from the patient is credible, the RDO, patrol group inspector or DDO is to ensure that:

(i) the nominated person is contacted and advised of the patient's absence from, or failure to return to, the AMHS or PSHSF; and

(ii) a commissioned officer having responsibility for the area in which the nominated person lives or is located is advised.

A commissioned officer who is notified that there is a threat of harm from a patient to a nominated person located or residing within their area of responsibility is to determine what, if any, action is to be taken to ensure the safety of the nominated person.

Action on location of person named in an authority to transport absent person

ORDER

Officers locating a person named in an 'Authority to transport absent person' are to:

(i) take custody of the person, which is an enforcement act for the purposes of the PPRA (see ss. 2.1.2: 'Registers required to be kept' and 16.8: 'Custody, search and property reports' of this Manual);

(ii) notify the AMHS or PSHSF listed on the 'authority to transport absent person';

(iii) unless otherwise advised, take the person to the nearest inpatient facility of an AMHS or PSHSF;

(iv) endorse the 'authority to transport absent person' as set out in s. 638: 'Record of execution or warrant or order' of the PPRA;

(v) return the endorsed form to the AMHS or PSHSF where the person was taken; and

(vi) if the person has been reported as a missing person, take the action required by s. 12.5.1: 'Responsibility of officers who locate' of this Manual.

Officers who take custody of a person under ss. 366 of the MHA or 157J of the PHA are to execute the Authority to Return record in QPRIME prior to the termination of their shift.

When the patient is located interstate or overseas and a officer is notified of this location, the officer is to immediately advise the Chief Psychiatrist. Appropriate action with respect to the patient will be decided after consultation between the Service and Queensland Health.

When Authority to return ceases to have effect

When an Authority to return ceases to have effect a 'Revocation of Authority to Transport Absent Person' will be emailed to the:

(i) Brisbane PCC; and

(ii) PIC.

OPM Issue 113 Public Edition

The Brisbane PCC officer receiving a 'Revocation of Authority to Transport Absent Person' is to check if the person was reported as a missing person, and if so, create a task and send it to the Missing Persons Unit and the investigating officer, for information only.

Doubt about the current validity of an authority to transport absent person

If an officer has any doubt about the current validity of an authority to transport absent person they should check with the authorised doctor, AMHS or PSHSF who issued the form, or QPRIME to determine if the authority is still valid.

If the validity cannot be ascertained, the authority is not be exercised, and further inquiries are to be made.

Release of information to media

The OIC of the investigation is to determine whether it is necessary to release information, including photographs, to the media that identifies a person to whom s. 364: 'Particular persons may require return of absent person' of the MHA applies. The decision on whether to release information is to be based on the best interests of the patient balanced with the safety needs of the community. As the premature release of a photograph and information may impede an investigation, officers are to take all reasonable steps to locate the patient before considering release of a photograph and information.

In making decisions about the release of information, officers are to consider information provided by Queensland Health and where necessary, seek further advice. Any release of information or comment to the media should be consistent with guidelines provided on the Service Media webpage.

6.6.7 Person with a mental illness suspected of having committed or charged with offence

Persons with mental ill-health suspected of having committed an offence

Persons with mental ill-health may be criminally responsible for their actions despite their illness. It should not be assumed that a person with mental ill-health will automatically be entitled to a defence under s. 27: 'Insanity' of the CC or that they are necessarily unfit for trial. Section 26: 'Presumption of sanity' of the CC provides that every person is presumed to be of sound mind, and to have been of sound mind at any time which comes in question, until the contrary is proved.

A person who has, or is reasonably suspected of having, mental ill-health and who is suspected of having committed an offence should generally be dealt with in the same manner as any other person suspected of having committed an offence. In addition to any other relevant provisions regarding the interviewing of suspects for indictable offences, officers are to apply the provisions of s. 422: 'Questioning of persons with impaired capacity' of the PPRA when interviewing suspects who are reasonably suspected to be suffering from a mental illness.

In deciding what action to take with regard to a person who is reasonably suspected to be suffering from a mental illness, officers should consider:

(i) the seriousness and nature of the alleged offence;

(ii) the severity and nature of the person's apparent mental ill-health;

(iii) the need to collect and preserve evidence which may be on the person or in their possession;

(iv) the need to interview the person promptly;

(v) the apparent capacity of the person to take part in any interview; and

(vi) the likelihood that an investigation with regard to the person could be adequately conducted at a later time.

After considering the circumstances officers should either:

(i) complete their investigation and commence any proceeding prior to taking any necessary action to have the person's mental health assessed; or

(ii) take the necessary action to have the person's mental health assessed prior to completing the investigation into the alleged offence.

Appropriate actions to have the person's mental health assessed include:

(i) facilitating a voluntary referral for assessment;

(ii) making an emergency examination authority; or

(iii) requesting a doctor or authorised mental health practitioner examine them to decide whether a recommendation for assessment for the person would be appropriate,

(see 'Voluntary referrals to authorised mental health services' of ss. 6.6.1: 'Mental distress or crisis', 6.6.2: 'Emergency examination authority (EEA)' and 'Transport of persons in custody to authorised mental health services' of 6.6.3: 'Transporting persons with impaired mental capacity').

Where officers take a person to an AMHS prior to completing their investigation into the alleged offence, the officer should note the relevant occurrence number on the 'Emergency Examination Authority' in the 'Reasons' section.

OPM Issue 113 Public Edition

The authorised mental health service (AMHS) to which a person is taken will notify the officer who completed the emergency examination authority whether the person meets the eligibility criteria for treatment. Upon receipt of such advice the officer should update the report on the relevant occurrence report. The investigation should then be completed and decision made whether to commence a prosecution in accordance with s. 3.4.2: 'The decision to institute proceedings' and s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual and Guideline 5(vi): 'Mental Illness' of the Director of Public Prosecutions (State) Guidelines.

Persons in watch-houses suffering mental ill-health

Where a prisoner charged with an offence appears to be suffering from mental ill-health and is in need of immediate treatment or control, the watch-house manager should consider the provisions of s. 16.15.2: 'Removing a prisoner at a watch-house, suffering from a mental illness, to an AMHS for assessment' of this Manual.

Persons before the court

Persons appearing before a magistrate's court for a simple offence for which the court is reasonably satisfied the person was of unsound mind at the time of the alleged offence or is unfit for trial may:

(i) have their complaint dismissed;

(ii) be subject to an examination order;

(iii) have their hearing adjourned;

(iv) be referred for appropriate treatment and care; or

(v) have their case referred to the Mental Health Court,

see s. 22: 'Magistrates Courts' and Chapter 6, Part 2: 'Magistrates Courts' of the MHA.

Persons appearing before a magistrates, district or supreme court for an indictable offence other than an offence against a law of the Commonwealth under conditions specified under s. 175: 'When reference may be made' or Chapter 6, Part 3, Division 1: 'Making reference to Mental Health Court if person pleads guilty to indictable offence' of the MHA the court may refer the matter to the Mental Health Court.

An examination order or court examination order may require an officer to transport the person to an inpatient unit of an AMHS in which officers should ensure written notice has been provided to the administrator or person in charge of the service by the relevant court registrar (see also s. 6.6.3 of this chapter).

Examination orders and court examination orders

Officers to whom an examination order or court examination order are directed, are to ensure that the person to whom the order was made is transported to the stated AMHS as soon as practicable (see ss. 177: 'Power to make examination order for person charged with simple offence' and 670: 'Transport, detention and examination of person under court examination order' of the MHA).

Police prosecutors receiving notice that proceedings have been suspended should advise the investigating officer as soon as practicable.

Investigating officers who are advised that proceedings have been suspended should notify the complainant and any witnesses who have either been subpoenaed or requested to make themselves available to give evidence.

Action required upon revocation of order by mental health court

ORDER

Police prosecutors receiving notice that the order suspending the proceedings has been revoked by the Mental Health Court must advise the investigating officer as soon as practicable.

Investigating officers who are advised that the order suspending the proceedings has been revoked must notify the complainant and any witnesses who have been subpoenaed or requested to make themselves available to give evidence.

Officers to whom orders of the Mental Health Court are directed are to ensure that the person named in the order is promptly transported to the place nominated in the order (see s. 124: 'Related orders if person fit for trial' of the MHA and s. 6.6.3 of this chapter). Officers should ensure that a copy of the relevant order is delivered to the person in charge of the place of custody or AMHS upon the arrival at that place.

6.6.8 Effect of mental illness on matter before the court

The Mental Health Court will make decisions on a person's fitness for trial and soundness of mind at the time of committing offences. Where a proceeding has been stayed for a temporary unfitness for trial, the Mental Health Review Tribunal will periodically review the mental condition of persons to decide if they are fit for trial. This decision will be reviewed by the Director of Public Prosecutions (DPP). The relevant prosecutor must be given written notice within 7 days of proceedings being discontinued (see s. 492: 'Effect of discontinuing proceeding' of the *Mental Health Act* (MHA)).

OPM Issue 113 Public Edition

Responsibilities of officers when continuing proceedings

On advice that proceedings are to be continued for an offence, the police prosecutor should:

(i) consult with the registrar of the court, where the matter is to be dealt with, to ascertain:

(a) whether, if the defendant is in custody, it is more convenient and practicable that the matter should be transferred to another court closer to the relevant authorised mental health service (AMHS) (see 'Transfer of matters to the court nearest the authorised mental health service' of this section); and

(b) a suitable time and date for the proceedings to continue (which should be within 7 days of the registrar being notified);

(ii) notify the investigating officer (IO) and their OIC of the time, date and place of the proceedings; and

(iii) where a defendant is in custody, request the OIC of the division in which the AMHS is located to make arrangements for the transportation of the defendant to the relevant court to ensure they appear at the appropriate time and date (see ss. 496: 'Director of public prosecutions to give notice of fitness for trial' and 497: 'Listing proceeding for mention' of the MHA).

In matters being prosecuted by the DPP, the IO and their OIC should be advised by the prosecutor attached to the Office of the DPP (ODPP) of the time, date and place of the proceedings. Where a defendant is in custody, officers should request the OIC of the division in which the AMHS is located to make arrangements for the transportation of the defendant to the relevant court to ensure they appear at the appropriate time and date.

An OIC who receives a 'Notice of decision in relation to charges' form to serve for the DPP is to ensure that the notice is detailed to an officer for service and that the matter is attended to promptly.

Officers required to serve a 'Notice of decision in relation to charges' form for the DPP, are to serve the notice personally on the defendant unless the person is in lawful custody other than in an AMHS. An appropriate oath of service should be made on the notice which should be returned to the DPP.

If an officer is unable to serve the 'Notice of decision in relation to charges' on the defendant after taking reasonable steps to do so, the officer is to prepare an affidavit outlining the steps taken to serve the notice and forward both documents to the relevant prosecutor prior to the date set for the continuation of proceedings. In such cases the prosecutor should, if the defendant does not appear before the court, request that the court issue a warrant for the defendant's arrest to be brought before the court.

Responsibilities of officers when proceedings are discontinued or stayed

The DPP is required to give notice when proceedings are discontinued or stayed to the prosecuting authority within 7 days (see s. 155: 'Notice of decisions and orders' of the MHA).

Members receiving advice that proceedings have been discontinued or stayed at the order of the Mental Health Court (MHC) or the DPP are to ensure that the relevant prosecutor and/or the IO are aware of the status of the proceeding (see ss. 119: 'Unsound mind—discontinuance of proceeding', 120: 'Diminished responsibility—discontinuance of proceeding', 121: 'Temporary unfitness for trial—stay of proceeding', 122: 'Permanent unfitness for trial—discontinuance of proceeding', 490: 'Director of public prosecutions to decide whether proceeding to be discontinued', 491: 'Proceeding discontinued at end of prescribed period' and 492: 'Effect of discontinuing proceeding' of the MHA).

Police prosecutors who are advised that a proceeding has been discontinued on the order of the MHC or the DPP are to:

(i) withdraw the charge(s) as soon as practicable;

(ii) notify the IO; and

(iii) attach a copy of the written advice of the MHC or DPP to the relevant court brief (QP9) for forwarding to the Manager, Police Information Centre (PIC).

The Manager, PIC, should ensure a relevant flag is entered against the person's name in QPRIME in circumstances where information is received indicating that proceedings against a person have been withdrawn on the order of the MHC or DPP. Specific details concerning the date and place of confinement of the person should be entered on the street check occurrence where such details are available.

An IO who is notified a prosecution has been discontinued or stayed as a result of a decision of the MHC or DPP is to notify all complainants and any witnesses who have been subpoenaed or requested to make themselves available to give evidence.

Officers conducting inquiries in relation to persons flagged as MHA patients in QPRIME should update the street check occurrence accordingly (see s. 16.4: 'Responsibilities of officers' of this Manual).

If the MHC orders either the staying or discontinuing of proceedings after finding that a person is of unsound mind or is not fit for trial either temporarily or permanently, the court may make a forensic order or treatment support order that the person be detained in a stated AMHS for involuntary treatment or care (see ss. 131: 'Orders if unsound mind or permanent unfitness for trial' and 132: 'Orders if temporary unfitness for trial' of the MHA).

OPM Issue 113 Public Edition

Transfer of matters to the court nearest the authorised mental health service or forensic disability service

There may be cases where a person has been detained in an AMHS forensic disability service or outside the court district where the matter is to be heard. In such cases, the relevant prosecutor is to make a determination on whether to seek the transfer of the matter taking into consideration:

(i) financial costs to the Service;

(ii) human resource commitments;

(iii) the consent or otherwise of the defendant; and

(iv) the well-being of the defendant,

(see ss. 133: 'Remand to another place' and 139: 'Where summary cases to be heard' of the *Justices Act*).

If the police prosecutor has determined to seek the transfer of the matter, the request is to be made to the registrar of the relevant court.

The registrar of the relevant court will forward in writing, their consent or refusal to transfer. Upon receiving consent, the police prosecutor should:

(i) inform the police prosecutor, in that district where the matter is to be transferred and ascertain a suitable time and date for the matter to be heard;

(ii) ensure all documentation required for the hearing is forwarded to the police prosecutor; and

(iii) inform the IO where the matter is to be transferred and the time and date of hearing.

Information to be supplied to the Mental Health Court and assessing psychiatrists

Requests by the registrar of the Mental Health Court (MHC) pursuant to s. 663: 'Registrar's power to require prosecuting authority to give particular documents' of the MHA for a brief of evidence or a written report about the criminal history of a person will generally be made directly to the Manager, PIC. Other members receiving such requests should refer the request to the Manager, PIC. Requests for criminal histories will be supplied by authorised members of PIC.

Requests under s. 663 of the MHA for briefs of evidence will generally be made directly to the relevant prosecuting authority. Where the brief is held by the Service, the request should be directed to the OIC of the police prosecutions corps at which the brief is held, who is to comply with the request and provide the required brief of evidence. Where the brief is held by the ODPP, the request should be referred to that office. Where a brief is held at PIC the request should be referred to the Manager, PIC.

Where an offender's mental condition relating to an offence is referred to the MHC under the MHA, victims may submit material for consideration of the MHC under s. 162: 'Preparation of victim impact statement' of the MHA, and when submitted must be given to the MHC as required by s. 163: 'Production of victim impact statement by prosecuting authority' of the MHA (see also s. 2.12.1: 'Victims' Commissioner and Sexual Violence Review Board Act and Victims of Crime Assistance Act', under heading 'Victim impact statement', of this Manual).

Occasionally, the registrar of the MHC may request information, other than criminal histories or briefs of evidence, from an officer. In these cases officers should respond to such requests in writing and in accordance with s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM.

Officers who are requested to supply information to an administrator of a treating health service, authorised psychiatrist or chief psychiatrist under s. 96: 'Information from prosecuting authority' of the MHA should refer to s. 3.4.31: 'Supply of information under Mental Health Act' of this Manual and s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM.

6.6.9 Execution of warrant on person detained under the Mental Health Act

PROCEDURE

When officers become aware that the subject of a warrant is a patient of an authorised mental health service, contact should be made with the clinical director of the service before executing or attempting to execute the warrant. Information should be sought from the clinical director or treating medical practitioner regarding the condition and treatment needs of the patient.

After contacting the clinical director or treating medical practitioner, but before taking any action with regard to the warrant, officers should consult with a commissioned officer to determine the appropriate course of action.

A patient subject to the provisions of the *Mental Health Act*, who is on leave from a mental health service is still a patient of that mental health service while on leave and contact should be made with the mental health service as outlined above.

6.6.10 Death of person suffering mental ill-health

Specific requirements relating to the investigation of the death of a person whilst detained under a provision of the *Mental Health Act* are contained in s. 8.7: 'Deaths in care' of this Manual.

OPM Issue 113 Public Edition

6.6.11 Mentally ill person and weapons/weapons licences

Officers who believe that a person who appears to be mentally ill is not a fit and proper person to hold a weapons licence or possess weapons are to:

(i) check QPRIME to ascertain if the person holds a weapons licence; and

(ii) if QPRIME indicates that the person holds a weapons licence:

(a) make application to an authorised officer for the issue of a revocation notice pursuant to s. 29: 'Revocation of licence by giving revocation notice' of the *Weapons Act*;

(b) upon determination of the application, notify the Director Weapons Licensing Group if a revocation notice has been issued; and

(c) if a revocation notice has been issued ensure that the notice is served on the person and the person's weapons licence and any weapons are surrendered as required by the notice (see s. 30: 'Suspension or revocation notice' of the *Weapons Act*).

6.6.12 Orders with non-contact conditions

Under certain circumstances, the Mental Health Review Tribunal (ss. 447: 'Conditions' and 478: 'Conditions' of the *Mental Health Act* (MHA)) or the Mental Health Court (ss. 135: 'Conditions' and 144: 'Conditions' of the MHA), may make a non-contact condition against a person who is subject to a forensic order or treatment support order.

PROCEDURE

Members who receive an order containing a non-contact condition should ensure that the order is forwarded to the Manager, Police Information Centre for input into QPRIME.

Officers investigating allegations of breaches of orders should check QPRIME to ascertain details of the relevant non-contact condition. Details of the non-contact condition are recorded in the 'Cautions/flags' tab of the QPRIME record for the person against whom the order has been made.

6.6.13 Mental health intervention coordination and training

Definitions

For the purposes of this section:

Mental disorder

is a generic term referring to a clinically significant behavioural or psychological condition that is associated with current distress, disability or risk. Examples of mental disorder include schizophrenia, mood disorders, anxiety disorder, personality disorder, substance-use disorders and intellectual disability.

Mental health incident

means an incident that:

(i) involves a series of events and a combination of circumstances in which a person appears to be mentally disturbed, impaired in judgement and exhibiting highly disordered behaviour;

(ii) may involve serious and imminent risk to the health and/or safety of the person or of another person; and

(iii) requires:

(a) communication and coordination between relevant mental health services and police; and

(b) assessment at the earliest opportunity to:

- ascertain the need for treatment;
- prevent further deterioration in the mental condition and/or physical health of the person; and
- thereby prevent or lessen harm to the safety and health of the person or any other person or to the safety and health of the public in general.

Mental illness

as defined in s. 10: 'Meaning of mental illness' of the *Mental Health Act*.

as a condition characterised as a clinically significant disturbance of thought, mood, perception or memory.

Mental health intervention first response officer training

A critical element of Mental Health Intervention (MHI) Program is the training of first response officers in de-escalation of mental health incidents through enhanced tactical communication skills. It is anticipated these officers will have the

OPM Issue 113 Public Edition

ability to identify, provide support and effectively intervene in situations which may otherwise result in mental health incidents.

Officers in charge of regions are to ensure sufficient first response officers under their control complete the 'Mental Health Intervention' training package (Course Code QC0550). Where practicable, the numbers trained should support the maintenance and rostering of a trained officer on every shift.

Regional MHI coordinators

ORDER

Officers in charge of regions are to appoint a regional MHI coordinator to coordinate mental health issues and activities within their region and allocate adequate time and resources to those officers to enable them to carry out their stated functions.

The functions and duties of the regional MHI coordinator are listed on Domestic, Family Violence & Vulnerable Persons Command 'State Mental Health Team' SharePoint page.

District MHI coordinators

ORDER

Officers in charge of regions are to appoint district MHI coordinators within their area of responsibility and allocate adequate time and resources to those officers to enable them to carry out their stated functions.

An acting or appointed MHI coordinator is to ensure they are able to be tasked through their district Mental Health Intervention Coordinator QPRIME org unit.

The functions and duties of the district MHI coordinator are listed on the Domestic, Family Violence & Vulnerable Persons Command 'State Mental Health Team' SharePoint page.

Information sharing

For the performance of their role, mental health intervention coordinators have been delegated the Commissioner's power in relation to the disclosure of information to QH and/or the QAS as required in the relevant Memorandum of Understanding (MOU) and Information Sharing Guidelines between those agencies (See Delegation D 15.46 of the Delegations and Authorities Library SharePoint page).

Pursuant to the guidelines, QH has agreed to provide mental health consultation for the prevention and intervention phases of mental health incidents.

Prevention planning

The prevention phase of mental health response includes pre-planning and the development of crisis intervention plans. A crisis intervention plan is a mechanism by which clients of mental health services can actively contribute to their treatment and maximise their health and safety. The plan is designed to outline relevant aspects of the person's illness, behaviour, disability, culture, history and treatment that may be used by police to resolve mental health incidents. Importantly for police, the crisis intervention plan should identify a person (i.e. a senior clinician) whom the client would prefer the police to contact in a mental health incident.

Although a crisis intervention plan is confidential, QH will notify the Service of the existence of the plan for recording in QPRIME. In addition, QH will disclose the information contained in the plan to the Service where the client to whom the plan relates, has given consent for its release or where a mental health incident exists. The information will ordinarily be disclosed to a MHI coordinator.

For the purpose of prevention planning and case management, a MHI coordinator may exchange information with authorised representatives of QH or QAS to ensure the safety and effective treatment of a person suffering a mental disorder.

MHI coordinators are to, as far as practicable, ensure any release of information held by the Service complies with the relevant provisions of s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the Management Support Manual.

Intervention in incidents

The intervention phase of mental health response allows the Service to initiate a request for consultation for which the following action will be taken by QH.

Where a person is not known to the contacted health service district, but is known as a client to another health service district, then police will be provided with contact details for the relevant health district. If the person is not known at all to QH mental health services then general advice only will be provided.

If the person is known to a mental health service (e.g. is a mental health service client) and the incident involves a serious risk of harm to the person or others, the mental health service will provide relevant information specific to the person in order to prevent or lessen the risk of harm to the person or others. The type of information that QH has agreed to provide includes:

(i) the person's name, date of birth, present address;

OPM Issue 113 Public Edition

(ii) nature of mental illness;

(iii) medical history/chart information, including recent behaviour, latest evaluation and expected responses;

(iv) details of individuals who could best assist (e.g. caseworker, psychiatrist, treating doctor);

(v) propensity for violence or self-harm;

(vi) current medication including effects of medication and of non-compliance;

(vii) warning signals indicating deterioration in the person's mental condition;

(viii) 'triggers' (i.e. issues that may escalate the situation);

(ix) previous suicide attempts/tendencies;

(x) de-escalation strategies;

(xi) history of possessing firearms, dangerous weapons or drugs;

(xii) next of kin details; and

(xiii) details of any person(s) nominated for contact in an incident.

This list is not exhaustive and does not limit the provision of further information by QH to the Service.

If the incident for which police have contacted the mental health service does not involve a serious risk of harm to the person or others, or the person is not a mental health service client, the mental health service will only provide general advice that may assist police in de-escalating the incident.

Such assistance may be limited to:

(i) advice about how to respond to a person suffering from a mental illness including an acute episode;

(ii) advice about how particular disturbances of mental state (i.e. symptoms) may impact on the communication process, interpretation of events and behaviour;

(iii) suggestions of possible communication strategies; and

(iv) advice from a medical practitioner with regard to the type and effects of medications.

QH will provide on-site mental health consultation for mental health incidents where the relevant district mental health service has the capacity to provide such a response and information supplied by police strongly indicates the person requires assessment and/or treatment for a mental disorder.

Where officers responding to an incident identify the call for service may fall within the definition of a mental health incident, they should as soon as reasonably practicable, seek advice or information regarding the subject person from the relevant QH mental health service to ensure the health and safety of the person or any other person.

The request should be made:

(i) by the senior officer attending the scene of the mental health incident;

(ii) where it is not practicable for an officer attending the scene to make the request, by a member working in a police communications centre or otherwise performing the role as a communications officer; or

(iii) a member assigned by the relevant supervisor (i.e. shift supervisor, district duty officer), to make such a request.

Request for information from Queensland Health

A member of the Service who requests advice or information from a mental health service in relation to a mental health incident, may release the following information to an employee of QH:

(i) the nature of the incident;

(ii) the person's name, date of birth and present address;

(iii) the current location of the person;

(iv) any problems relating to the person including indications the person is suffering a mental disorder;

(v) the current behaviour of the person;

(vi) if the risk of harm to the person or others is serious, imminent and likely;

(vii) details of other services that are involved in the incident;

(viii) the presence or availability of family members;

(ix) any evidence of firearms, dangerous weapons or drugs; and

(x) any other information requested by QH which the member believes may assist in ensuring the health and safety of any person.

OPM Issue 113 Public Edition

Pursuant to s. 10.2: 'Authorisation of disclosure' of the *Police Service Administration Act*, the Commissioner has, in relation to a mental health incident, authorised delegated members to release the information in above points (i) to (x).

ORDER

A member of the Service who requests advice or information from a mental health service is to provide their full name, rank/designation and employee number, station and contact details, and the reasons for the request.

Notification of information sharing to be provided to district MHI coordinator

MHI Coordinators or nominated officers are to monitor requests for information made to QH and ensure any issues arising as a result of the request are addressed.

Mental Health Information Sharing under the MOU should be completed by the MHI Coordinator, with consideration to the urgency of the matter. Members sharing information are to record the request and response within the QPRIME occurrence for the interaction and share it with the MHI coordinator using a for your information (FYI) task.

Members requesting information non-urgently are to forward an administrative task linked to a QPRIME occurrence that contains sufficient details of the request for the MHI coordinator to action. A MHI coordinator is to contact Queensland Health using the communication channels permitted within the MOU to share information.

As soon as practicable after any information sharing, the MHI coordinator is to record the request/s and response/s within QPRIME. If the information was requested by another member, the MHI coordinator is to inform the relevant officer and station using an FYI task.

6.7 Forensic Disability Act

The *Forensic Disability Act* (FDA) is an Act included in Schedule 1: 'Acts not affected by this Act' of the PPRA. As such, the PPRA does not affect the powers or responsibilities an officer has under the FDA. However, this does not prevent an officer from exercising a power or performing a responsibility under the PPRA that the officer does not have under the FDA. Consequently, officers should fulfil any responsibilities imposed upon them by the provisions of the PPRA, which are not imposed by a similar provision of the FDA (see s. 2.1.1: 'Use of Police Powers and Responsibilities Act' of this Manual).

The FDA applies to persons who have committed indictable offences and are subject to a forensic order (disability), as issued by the Mental Health Court (see s. 547: 'Mental Health Court may make forensic order or treatment support order' of the *Mental Health Act* (MHA)).

OPM Issue 113 Public Edition

6.7.1 Definitions

Cognitive disability

is a condition that is attributed to a cognitive impairment and a disability within the meaning of the *Disability Services Act* (DSA) (see s. 11 of the *Forensic Disability Act* (FDA)).

Forensic disability client

is an adult with an intellectual or cognitive disability for whom a forensic order (Mental Health Court—Disability) is in force for the persons detention in a forensic disability service (see s. 10 of the FDA).

Intellectual disability

is a disability within the meaning of the DSA that is characterised by significant limitations in intellectual functioning and adaptive behaviour and originates before a person reaches 18 years of age (see s. 12 of the FDA).

Relevant Place

is referred to in section 113(4) and (5) of the FDA as a forensic disability service or an authorised mental health service or a place for limited community treatment.

6.7.2 Return of a forensic disability client

An officer asked to help a 'practitioner' or an 'authorised person under the Mental Health Act'(MHA) under the provisions of s. 113: 'Taking client to forensic disability service or authorised mental health service' of the *Forensic Disability Act* (FDA) to take forensic disability client to a forensic disability service or authorised mental health service, must ensure that reasonable help is given as soon as practicable. Additionally an officer may detain the client which then infers the power to enter a place including a dwelling without consent of the occupier to detain a person only if the officer reasonably suspects the person is at the dwelling (see s. 21: 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA).

In circumstances where the forensic disability client is located in a division outside of the stated location of the forensic disability service, police should;

(i) take the forensic disability client to the nearest in-patient facility of the authorised mental health service; and

(ii) notify and advise the location of the forensic disability client to the forensic disability service or the authorised mental health service that is listed on the 'Authority to Return—Forensic Disability Client' form.

In accordance with s. 113 of the FDA if a forensic disability client is taken to an authorised mental health service under s. 113(2)(b) or (4) of the FDA the client may be detained in the health service.

Initial police action

An 'Authority to Return—Forensic Disability Client' form is issued for the return of a forensic disability client to the forensic disability service or the authorised mental health service pursuant to the provisions of s. 113 of the FDA. Officers tasked to assist in returning a forensic disability client, in addition to carrying out an incident evaluation, are to:

(i) obtain a scanned copy of the 'Authority to Return—Forensic Disability Service' via the relevant QPRIME entry;

(ii) in cases where the forensic disability client has a history of serious violent offences or represents a high risk of violence to themselves or others, evaluate the incident as a major investigation (see s. 2.4.5: 'Major investigations' and s. 1.4.6: 'Responsibilities of regional duty officer, patrol group inspector, district duty officer and shift supervisor' of this Manual for the responsibilities of officers in regard to major investigations); and

(iii) if the forensic disability client cannot be located after extensive inquiries, ensure that any necessary action is taken to report the matter in accordance with s. 12.4: 'Missing person occurrence' of this Manual. A task is to also be created and sent to the Missing Persons Bureau and the investigating officer for information only.

Police Information Centre, Information Management Services

Generally, a forensic disability service or an authorised mental health service will email the completed 'Authority to Return—Forensic Disability Client' form to the Police Information Centre (PIC) for entering in QPRIME. However, in some instances, it may be desirable to immediately notify officers of the existence of the 'Authority to Return—Forensic Disability Client' form. In these cases, the form will be emailed or faxed to a police communications centre.

The Manager, PIC is to ensure that 'Authority to Return—Forensic Disability Client' form, or 'Recall Notice—Cancellation of Authority to Return Forensic Disability Client' form is issued in relation to the cancellation of such authorities received at PIC are promptly recorded in QPRIME under a Forensic Disability Act—Authority to Return occurrence [1689] and the relevant station or establishment is tasked to finalise the occurrence.

Officers in charge of stations or police communication centres

Officers in charge of stations receiving an 'Authority to Return—Forensic Disability Client' form from a forensic disability service or an authorised mental health service, or else receiving a task with a request for action in relation to an outstanding 'Authority to Return—Forensic Disability Client' recorded in QPRIME, should ensure that:

(i) officers are tasked a job, via police communications, to attend the forensic disability service or the authorised mental health service, or such other place as may be appropriate, to make inquiries into the location of the forensic disability client;

(ii) particulars of the authority are accurately recorded in QPRIME under a Forensic Disability Act—Authority to Return occurrence [1689], and a task is created and sent to the officer responsible for making inquiries into the location of the forensic disability client;

(iii) if no occurrence exists in QPRIME in relation to the 'Authority to Return—Forensic Disability Client' form, a copy of the form is forwarded by way of email to the PIC with a request for the authority details to be recorded in QPRIME. Officers are not to forward a copy of an authority that has been executed; and

(iv) ensure that any original forms are retained at the station or establishment unless executed or otherwise recalled by the issuing forensic disability service, authorised mental health service or requested by PIC.

6.7.3 A practitioner is a public official under the Police Powers and Responsibilities Act

POLICY

If an officer is asked by a 'practitioner' or an 'authorised person under the Mental Health Act' to help in the exercise of powers under s. 113 of the *Forensic Disability Act* (FDA), they should ensure that reasonable help is given as soon as reasonably practicable. For further requirements for helping a public official see ss. 13.3.2: 'Helping public officials exercise powers under various Acts' of this Manual and 16: 'Helping public officials exercise powers under various Acts' of the PPRA.

6.7.4 Release of information

Release of information to media

POLICY

The officer in charge of the investigation is to determine whether it is necessary to release information, including photographs, to the media that identifies a forensic disability client to whom s. 113 of the *Forensic Disability Act* applies. The decision on whether to release information is to be based on what are the best interests of the forensic disability client balanced with the safety needs of the community. As the premature release of a photograph and information may

OPM Issue 113 Public Edition

impede an investigation, officers are to take all reasonable steps to locate the forensic disability client before considering release of a photograph and information.

In making decisions about the release of information, officers are to take into account information provided and, where necessary, seek further advice. Any release of information or comment to the media should be consistent with the media guidelines provided on the QPS Media and Public Affairs webpage.

Obtaining patient photographs

POLICY

Officers making inquiries to locate a forensic disability client who is to be returned to a forensic disability service or an authorised mental health service may, if considered necessary, request that the relevant forensic disability service or authorised mental health service provide a recent photograph of the forensic disability client.

Before requesting a photograph from a forensic disability service or an authorised mental health service, officers should ensure that a suitable recent photograph:

(i) has not been previously supplied by the forensic disability service or the authorised mental health service; and

(ii) is not available from sources within the Service.

6.7.5 Notification of victim, victim's family or other persons on advice from a forensic disability service or an authorised mental health service

POLICY

Where an authorised practitioner or health practitioner at a forensic disability service or an authorised mental health service believes that the forensic disability client poses a threat of harm to a person, the practitioner or the health practitioner will complete the relevant section on the 'Authority To Return—Forensic Disability Client' form.

The officer in charge receiving the 'Authority to Return—Forensic Disability Client' form is to:

(i) Identify and verify the threat level; and

(ii) notify a commissioned officer, regional duty officer or district duty officer having responsibility for the area in which the nominated person lives or is located.

Commissioned officers, regional duty officers, patrol group inspectors or district duty officers who are advised of a threat of harm to a person from a forensic disability client should contact the practitioner or the health practitioner on call at the relevant forensic disability service or authorised mental health service to assess the credibility of the threat.

Where the commissioned officer, regional duty officer, patrol group inspector or district duty officer, in consultation with the practitioner or the health practitioner on call, determines that a threat of harm to a person from the forensic disability client is credible, the commissioned officer, regional duty officer, patrol group inspector or district duty officer should ensure that the nominated person is contacted and advised about the forensic disability client's absence from, or failure to return to, the forensic disability service or the authorised mental health service.

OPM Issue 113 Public Edition

Referral to support provider

Officers in charge, commissioned officers, regional duty officers, patrol group inspectors or district duty officers should consider if a referral to support link may be appropriate upon notification of the victim, victim's family or other person (see s. 5.6.25: 'Release of information under the Victims of Crime Assistance Act' of the Management Support Manual and s. 6.3.14: 'Police Referrals' of this chapter).

6.7.6 Action to be taken on location of forensic disability client

POLICY

Officers locating a forensic disability client to whom s. 113 of the *Forensic Disability Act* (FDA) applies in Queensland are to:

(i) detain and take the forensic disability client to a forensic disability service or an authorised mental health service;

(ii) notify the forensic disability service or the authorised mental health service listed on the 'Authority to Return—Forensic Disability Client' form;

(iii) endorse the 'Authority to Return—Forensic Disability Client' form as set out in s. 638: 'Record of execution of warrant or order' of the PPRA;

(iv) fax or email the endorsed 'Authority to Return—Forensic Disability Client' form to the forensic disability service or the authorised mental health service where the forensic disability client was taken; and

(v) if the forensic disability client has been reported as a missing person, take the action required by s. 12.5.1: 'Responsibility of officers who locate a missing person' of this Manual.

In circumstances where the forensic disability client is located in a division outside of the stated location of the Forensic Disability Service, officers should;

(i) take the forensic disability client to the nearest in-patient facility of an authorised mental health service; and

(ii) notify the forensic disability client to the forensic disability service or the authorised mental health service listed on the 'Authority to Return—Forensic Disability Client' form of the location of the forensic disability client;

In accordance with s. 113 of the FDA if a forensic disability client is taken to an authorised mental health service under s. 113(2)(b) or (4) of the FDA the client may be detained in the health service.

ORDER

Officers who detain a forensic disability client to whom s. 113 of the FDA applies are to execute the 'Authority to Return—Forensic Disability Client' recorded in QPRIME prior to the termination of their shift.

Officers have the power to enter any place to take a forensic disability client in accordance with the provisions of s. 21 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA.

POLICY

When the forensic disability client is located interstate or overseas and a member is notified, they are to immediately advise the Director of Forensic Disability or Mental Health. Appropriate action with respect to the forensic disability client will be decided after consultation between the Service, forensic disability service and the authorised mental health service.

Restraining of a forensic disability client

POLICY

Officers should treat and transport forensic disability clients with respect and in a manner which is mindful of their right to privacy and retains their dignity. Restraints should only be used as a last resort to prevent the person causing injury to themselves or someone else.

Completion of QPRIME custody reports for forensic disability clients

POLICY

Officers are to ensure that a Custody Report is recorded against a person in QPRIME under the occurrence 'Forensic Disability Act—Authority to Return [1689]', as soon as practicable after processing the person in accordance with the provisions of the FDA. See s. 16.8: 'QPRIME custody, search and property reports' of this Manual.

OPM Issue 113 Public Edition

6.7.7 When 'Authority to Return—Forensic Disability Client' form ceases to have effect

The administrator of a forensic disability client's treating health service will notify police when the 'Authority to Return—Forensic Disability Client' form ceases to have effect. Notice of this fact will be given in a 'Recall Notice—Cancellation of the Authority to Return Forensic Disability Client' form which will be emailed to the Manager, Police Information Centre (PIC), Information Management Services.

The officer in charge receiving a 'Recall Notice—Cancellation of the Authority to Return Forensic Disability Client' form is to:

(i) update the relevant QPRIME occurrence and forward a task to PIC with a request to amend the status of the 'Authority to Return—Forensic Disability Client' accordingly;

(ii) check QPRIME to ascertain to which station the 'Authority to Return—Forensic Disability Client' is assigned;

(iii) immediately advise the officer in charge of the station to which the 'Authority to Return—Forensic Disability Client' is assigned;

(iv) forward the 'Recall Notice—Cancellation of the Authority to Return Forensic Disability Client' form to that officer in charge;

(v) ensure any BOLO flag that may have been entered against the forensic disability client's name in QPRIME in relation to the 'Authority to Return—Forensic Disability Client' has been removed; and

(vi) where the forensic disability client was reported as a missing person, a task is to be created and sent to the Missing Persons Bureau and the investigating officer for information only. (See 'Tasking' and 'Missing Persons' of the QPRIME User Guide).

'Authority to Return—Forensic Disability Client' form (doubt about validity)

If officers have any doubt about the current validity of the authority described in the 'Authority to Return—Forensic Disability Client' form, before acting under the authority they should check with the practitioner or the health practitioner of the forensic disability service or the authorised mental health service who issued the form, or in QPRIME to determine whether the authority is still valid.

In cases where the authority is no longer valid, members are:

(i) not to return the forensic disability client; and

(ii) to update the relevant QPRIME occurrence and forward a task to PIC with a request to amend the status of the 'Authority to Return—Forensic Disability Client' accordingly.

If the validity of the authority described in the 'Authority to Return—Forensic Disability Client' form cannot be ascertained, the authority should not be exercised and further inquiries should be made to ascertain validity with the practitioner or health practitioner who issued the 'Authority to Return—Forensic Disability Client' form.

6.7.8 Forensic disability clients suspected of having committed or charged with further offences

Forensic disability clients suspected of having committed an offence

Forensic disability clients may be criminally responsible for their actions despite their disability. It should not be assumed that a forensic disability client will automatically be entitled to a defence under s. 27: 'Insanity' of the Criminal Code or that they are necessarily unfit for trial. Section 26: 'Presumption of sanity' of the Criminal Code provides that every person is presumed to be of sound mind, and to have been of sound mind at any time which comes in question, until the contrary is proven.

POLICY

A person who has, or is reasonably suspected of having a disability and who is suspected of having committed an offence should generally be dealt with in the same manner as any other person suspected of having committed an offence. In addition to any other relevant provisions regarding the interviewing of suspects for indictable offences, officers are to apply the provisions of s. 422: 'Questioning of persons with impaired capacity' of the PPRA to interviews of suspects who are reasonably suspected to have a disability (see also s. 6.5: 'Specific physical, age related, intellectual or health needs' of this chapter).

In deciding what action to take with regard to a person who is reasonably suspected to have a disability, officers should consider:

(i) the seriousness and nature of the alleged offence;

(ii) the severity and nature of the person's apparent disability;

(iii) the need to collect and preserve evidence which may be on the person or in their possession;

(iv) the need to interview the person promptly;

(v) the apparent capacity of the person to take part in any interview; and

(vi) the likelihood that an investigation with regard to the person could be adequately conducted at a later time.

After considering the circumstances officers should either:

(i) complete their investigation and commence any proceeding by arrest, notice to appear or complaint and summons prior to taking any necessary action to have the person's disability assessed; or

(ii) take the necessary action to have the person's disability assessed prior to completing the investigation into the alleged offence.

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Orders by the Supreme or District Court

If a person pleads guilty before the Supreme or District Court for an indictable offence (other than a Commonwealth offence) or is appearing for sentencing in respect of an indictable offence (other than a Commonwealth offence), and it is alleged or appears to the court that the person is disabled or was or may have been disabled when the alleged offence was committed, the court may:

(i) order a plea of not guilty be entered for the person;

(ii) adjourn the trial;

(iii) refer the matter of the person's disability relating to the offence to the Mental Health Court; and

(iv) remand the person in custody or grant the person bail.

6.7.9 Deleted

6.7.10 Forensic disability clients and matters before the court

See s. 6.6.8: 'Effect of mental illness on matter before the court' of this chapter.

Transport of forensic clients between court and forensic disability service

POLICY

Section 151: 'Taking client to appear before court and return to forensic disability service' of the *Forensic Disability Act* (FDA) allows a practitioner to take a person from the forensic disability service to appear in the relevant court, also providing provisions for the practitioner to return the forensic disability client back to the forensic disability service.

Section 155: 'Use of reasonable force' of the FDA allows the practitioner to request help, using minimum force, if necessary and reasonable in the circumstances.

See also s. 6.6.3: 'Transporting persons with impaired mental capacity' of this chapter.

6.7.11 Deaths of forensic disability clients

Specific requirements relating to the investigation of the death of a person whilst detained under a provision of the *Forensic Disability Act* are contained in s. 8.7: 'Deaths in care' of this Manual.

6.7.12 Protection of children of forensic disability clients

In the event officers become aware that a person, who is apparently suffering from a disability, is a parent or guardian of a child or children under 18 years of age, officers are to consider the welfare of the children with respect to their obligations and powers under the *Child Protection Act* and the DFVPA.

Officers taking a disabled person into custody under the provisions of the *Forensic Disability Act* are to make all reasonable inquiries to ascertain whether a disabled person has responsibility for the care of children and apply the provisions of s. 16.4.5: 'Arrest of persons who have others in their care' of this Manual as appropriate.

Officers who come into contact with a disabled person who has children in their care are to:

(i) consider whether, due to the nature of the person's disability, the children are at immediate risk of harm, and if so, comply with the provisions of s. 7.4.1: 'Children at immediate risk of harm' of this Manual; or

(ii) if no immediate risk of harm exists but still holds concerns for the welfare of the children, enter a report of suspected harm to a child occurrence [0520] into QPRIME through PIR2 and send a task for information to the local Child Protection and Investigation Unit (CPIU) ensuring the following details are included:

(a) details of the disabled person;

(b) details of the children in their care;

(c) details of what care arrangements have been made for the children;

(d) the nature of the disabled persons behaviour;

(e) any concerns the children may be in need of protection; and

(f) the name and location of the treating forensic disability service or authorised mental health service.

Where advice or assistance is required as to the appropriate course of action, officers should contact the CPIU or if the CPIU is unable to be contacted, inquiries should be directed to the 'Child Safety After Hours Service Centre' (see SMCD).

OPM Issue 113 Public Edition

Chapter 7—Child Harm

7.1 Introduction 653

7.1.1 Child Abuse and Sexual Crime Group, Crime Command 653
7.1.2 Principles for the administration of the Child Protection Act 653
7.1.3 Reporting to Department of Families, Seniors, Disability Services and Child Safety 654

7.2 Child abuse coordination 654

7.2.1 Coordination of child protection capability 654

7.3 Investigating child harm 655

7.3.1 Initial action for reports of child harm 655
7.3.2 Responsibility for reviewing child harm referral reports 658
7.3.3 Responsibility for investigating criminal allegations of child harm 658
7.3.4 Initial inquiries by officer investigating the report 659
7.3.5 Assessment of child's wellbeing and safety during an investigation 660
7.3.6 Checks of Unify 660
7.3.7 Reports of suspected harm where other legal proceedings have been initiated 660
7.3.8 Allegations of child harm where child is subject of family law proceedings 660
7.3.9 Finalisation of a report of harm to a child (QPRIME occurrence to be concluded) 661
7.3.10 Section 229B: 'Repeated sexual conduct with a child' of the Criminal Code 661
7.3.11 Considerations when a child victim does not wish to make a formal complaint 661
7.3.12 Right to review—child victims of sexual violence 662

7.4 Children in need of protection 662

7.4.1 Children at immediate risk of harm 662
7.4.2 Moving a child to a safe place 663
7.4.3 Assessment orders 663
7.4.4 Warrant for apprehension of a child under the Child Protection Act 665
7.4.5 Forty-eight-hour care and treatment order (Public Health Act) 666
7.4.6 Consultation with Chief Executive before prosecution 666
7.4.7 Seizure of evidence 666
7.4.8 Concerns with Child Safety response 667
7.4.9 Joint investigations 667
7.4.10 Child welfare checks 668

7.5 Infant abusive head trauma 668

7.6 Interview with a child 669

7.6.1 Preparation for an interview with a child (including special witnesses 16 to 17 years) 669
7.6.2 Persons to be present for an interview 672
7.6.3 Procedures for interviewing a child 673
7.6.4 Interviews at schools or places where child care is provided 673
7.6.5 Recording of evidence of a child witness 674
7.6.6 Releasing and copying video and audio recordings of an affected child 675
7.6.7 Releasing and copying images of an affected child 676
7.6.8 Video and audio recordings no longer required by a court 676
7.6.9 Child cannot be compelled to give evidence 676

7.7 Medical examination of children 676

7.7.1 Forensic evidence collection kits—child sexual assault investigation 677

7.8 Allegations of physical/sexual harm committed against a child which may amount to corrupt conduct by Government employees 678

7.8.1 Notifications relating to corrupt conduct 678
7.8.2 Responsibility for investigating reports of physical/sexual harm committed against a child which may amount to corrupt conduct involving Government employees 679

OPM Issue 113 Public Edition

7.9 Information exchange 680

7.9.1 Relevant information exchange 680
7.9.2 Confidential Information from a health services designated person 680
7.9.3 Information from Chief Executive to police officer investigating or reporting a child death under the Coroners Act 680
7.9.4 Information from Chief Executive to police officer conducting a criminal investigation into a child death 681
7.9.5 Confidentiality and liability (information disclosure) 681

7.10 Suspected child abuse and neglect (SCAN) team system 681

7.10.1 Suspected child abuse and neglect (SCAN) teams 681
7.10.2 Suspected child abuse and neglect (SCAN) team referral 682
7.10.3 Responsibilities of the Service representative on the suspected child abuse and neglect (SCAN) team 683
7.10.4 Escalation process for suspected child abuse and neglect (SCAN) team 684
7.10.5 Departing from suspected child abuse and neglect (SCAN) team recommendations 685
7.10.6 Ownership of suspected child abuse and neglect (SCAN) team documents 685

7.11 Suspected child exploitation material 685

7.11.1 Responsibility for investigating online child exploitation 685
7.11.2 Argos responsibilities 686
7.11.3 Investigating online child exploitation 686
7.11.4 Child exploitation victim identification 687
7.11.5 Other on-line exploitation activities 687

7.12 Impact statements 689

7.13 Preparation of child witnesses for court 689

7.14 Child Protection Offender Registry 690

7.14.1 Child protection 692
7.14.2 Roles and responsibilities 692
7.14.3 Offender reporting orders 694
7.14.4 Reporting obligations 696
7.14.5 Giving written notice and taking the initial report 696
7.14.6 Applications for review 698
7.14.7 Application for name change 699
7.14.8 Suspension of reporting 699
7.14.9 Extension of reporting 701
7.14.10 Ongoing reporting obligations 701
7.14.11 How reports are to be made by a reportable offender 702
7.14.12 When a reportable offender is a protected witness 704
7.14.13 Police officer not reasonably satisfied of reportable offender's identity 705
7.14.14 Investigation of offences against the Child Protection (Offender Reporting and Offender Prohibition) Act 705
7.14.15 DNA sample 706
7.14.16 Finalisation of reporting 707
7.14.17 Digital devices and device inspections 707

7.15 Child Protection (Offender Reporting and Offender Prohibition Order) Act 709

7.15.1 Initial action after concerning conduct of relevant sexual offender is identified 710
7.15.2 Temporary prohibition order 710
7.15.3 Action upon the issuance of a temporary prohibition order 711
7.15.4 Application for extension of a temporary prohibition order 712
7.15.5 Responsibilities of district National Child Offender System investigator 713
7.15.6 Responsibilities of Detective Senior Sergeant, State Registrar CPOR upon creation of an offender prohibition order occurrence 713
7.15.7 Investigation to determine whether application for prohibition order can be supported 714
7.15.8 Action where relevant sexual offender is a prisoner 714
7.15.9 Section 74D (Giving information to police commissioner) 714
7.15.10 Preparation of application for prohibition order 715
7.15.11 Approval to start proceeding for a prohibition order 716
7.15.12 Legal officer representation 716
7.15.13 Starting proceeding for a prohibition order 716

OPM Issue 113 Public Edition

7.15.14 Notice to Chief Executive 717
7.15.15 Lodging application documents with the court 718
7.15.16 Applying to the court for authorisation of substituted service 718
7.15.17 Applying for variation or revocation of an offender prohibition order 718
7.15.18 Action on the issuance or variation of a prohibition order or registration of a corresponding prohibition order 718
7.15.19 Service of prohibition order 719
7.15.20 Breach of order or conditions 719
7.15.21 Registration of a corresponding prohibition order 719
7.15.22 Disqualification order 721
7.15.23 Disclosure of information 721
7.15.24 Daniel's Law—Publication and disclosure of information about child sex offenders 722

7.16 Blue card management 726

7.16.1 Information sharing with Blue Card Services 727
7.16.2 Blue Card offence investigations 727
7.16.3 Power to demand production of blue card 728

Appendix 7.1 Schedule of relevant offences 729

Appendix 7.2 Sample wording for QPRIME occurrence 731

Appendix 7.3 Sample wording for report concerning Government employee 732

Appendix 7.4 Guidelines for conducting child exploitation material investigations 733

OPM Issue 113 Public Edition

7.1 Introduction

Definitions

For the purposes of this chapter:

Chief Executive

means the Chief Executive, Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS).

Child harm

means any detrimental effect of a significant nature on the child's physical, psychological, or emotional wellbeing caused by a single act, omission or circumstance or by a series or combinations of acts, omissions or circumstances (see s. 9: 'What is *harm*' of the *Child Protection Act*).

Child Safety

means Child Safety services within DFSDSCS.

Serious concerns for a child's wellbeing

are those concerns that do not amount to 'significant child harm' requiring Child Safety intervention but a member earnestly and sincerely requires a community-based support agency having contact with a family to offer support to address the serious concerns identified.

Significant child harm

equates to a child in need of care and protection by the DFSDSCS.

Wellbeing

means a good or satisfactory condition of existence.

7.1.1 Child Abuse and Sexual Crime Group, Crime Command

Information on Child Abuse and Sexual Crime Group's (CASCG):

(i) role and functions;

(ii) specialist response, support and expertise in child harm investigation; and

(iii) engagement in regional investigations,

can be obtained on the CASCG SharePoint page.

The Child Abuse and Sexual Crime Group consists of the following specialist capability areas:

(i) Child Trauma and Sexual Crime Unit;

(ii) Child Death Review Unit;

(iii) Child Protection Offender Registry;

(iv) Argos;

(v) Policy and Programs Unit; and

(vi) Sexual Violence Response Team.

7.1.2 Principles for the administration of the Child Protection Act

The purpose of the *Child Protection Act* (CPA) is to provide for the protection of children. The main principle for its administration is that the safety, wellbeing and best interests of a child, both through childhood and for the rest of the child's life, are paramount (see s. 5A: 'Paramount principle' of the CPA).

The CPA introduces concepts of relevance to police, which include:

(i) dealing with children at risk of harm;

(ii) temporary assessment orders;

(iii) court assessment orders;

(iv) the SCAN system; and

(v) giving information and confidentiality.

Child harm should be investigated by CPIU, CIB or Child Abuse and Sexual Crime Group officers.

Investigations into allegations of harm or risk of harm to a child should be undertaken as far as practicable and consistent with this Manual.

OPM Issue 113 Public Edition

7.1.3 Reporting to Department of Families, Seniors, Disability Services and Child Safety

In accordance with Chapter 5A: 'Service delivery coordination and information sharing' of the CPA, officers are required to report relevant information including information regarding significant harm to a child to the Chief Executive.

Relevant information can be reported to the DFSDSCS through:

(i) a regional intake service;

(ii) the Child Safety service centre; or

(iii) the Child Safety After Hours Service Centre,

(see SMCD).

7.2 Child abuse coordination

7.2.1 Coordination of child protection capability

The Detective Superintendent, Operations Commander, Child Abuse and Sexual Crime Group (CASCG) holds the additional positions of:

(i) QPS Child Safety Director; and

(ii) State Coordinator, Child Protection and Investigation Unit (CPIU).

The responsibilities of the Detective Superintendent, CASCG's role relating to the protection of children, is to:

(i) provide assistance to the Commissioner or delegate in gathering and determining whether information is 'investigative information' in accordance with s. 305: 'Police commissioner may decide that information about a person is investigative information' of the *Working with Children Check Act*;

(ii) monitor and support the provision of access to appropriate training in child protection and information disclosure for relevant staff; and

(iii) assist in the development of quality training materials to assist members of the Service in dealing with child protection matters and make recommendations to the Assistant Commissioner, Recruiting and Development Command where appropriate.

The QPS Child Safety Director's role is to:

(i) develop, implement and coordinate the Service's delivery of strategic child protection objectives;

(ii) ensure Service operations effectively contribute to an integrated child protection system across government, including support for Aboriginal and Torres Strait Islander children and families;

(iii) prepare and provide authoritative high-level policy/operational advice and support to the Minister and Commissioner on strategic child protection issues and projects, as well as legal and legislative matters with child protection implications;

(iv) lead the development of appropriate programs, policies and practices that meet the needs of children and young people who have been harmed or are at risk of harm;

(v) provide support to the Commissioner's role on the relevant Committees chaired by the Department of the Premier and Cabinet;

(vi) ensure consistency across agencies in implementing agency-based actions by representing the Service in negotiations and executive level steering committees with:

(a) Child Safety;

(b) the Treasury and Premier's Departments; and

(c) other departments as required;

(vii) attempt to resolve conflict which may arise out of suspected child abuse and neglect (SCAN) team meetings between the police representative and officers of other government departments or agencies where local attempts to resolve conflict are not appropriate or have failed;

(viii) monitor compliance with the policies and procedures relating to child deaths (see s. 8.5: 'Deaths of children' of this Manual);

(ix) monitor, analyse, evaluate and be responsible for coordinating the response for the mandatory annual reporting on child protection services delivered by the Service; and

(x) develop appropriate mechanisms to raise awareness within the Service of its responsibilities for child protection.

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The State Coordinator, CPIU role is to:

(i) maintain an over-viewing role of all CPIU and SCAN team operations throughout the State;

(ii) maintain an ongoing review of policies and procedures across all service areas in relation to child protection matters, including the operations of CPIU and SCAN teams and make appropriate recommendations to inform planning, policy and operations; and

(iii) lead and influence Service operational changes required, including the establishment of governance arrangements and dedicated CPIU and SCAN teams throughout the State.

Each detective inspector within CASCG holds the position of deputy state coordinator, CPIU.

A deputy state coordinator, CPIU is responsible for assisting the State Coordinator, CPIU in discharging the roles of that position.

District officers retain responsibility for the supervision of CPIU and SCAN representatives within their district.

7.3 Investigating child harm

7.3.1 Initial action for reports of child harm

Officers are to consider the wellbeing of children at every job they attend. A child may or may not be present to form a concern for a child. If concerns are held for the child's safety or wellbeing, officers are to apply the Child Harm Referral Process flowchart available on the Child Abuse and Sexual Crime Group (CASCG) SharePoint page.

An officer who determines there are serious concerns for the child's wellbeing or risk of significant child harm (see 'Definitions' in s. 7.1: 'Introduction' of this chapter) are to submit a Report of Suspected Harm to a child [0520] occurrence in QPRIME and take appropriate action, with consideration of the child's circumstances, as outlined in this chapter.

QPRIME reporting when a Child Harm Referral Report is not required

Where an officer has attended a job, which may have included a potential child harm event, and subsequent investigations reveal there is no existing concern for the wellbeing of any child present or usually present (including unborn child/ren), the officer is to complete a supplementary report in QPRIME on the relevant occurrence explaining why a Child Harm Referral Report (CHRR) is not required. Articulating the officer's decision in a supplementary report for why a CHRR has not been completed, is important information for assessing previous police contact in the event of future CHRR's, a child death review, or serious injury review. Officers should consider at the time what referral options are available for the family and child (see s. 6.3.14: 'Police Referrals' of this Manual).

Children at immediate risk of harm

ORDER

Officers who identify or receive information a child is at immediate risk of harm are to investigate and take action in accordance with s. 7.4.1: 'Children at immediate risk of harm' of this chapter.

The Service as a mandatory reporter of significant child harm

ORDER

All officers are responsible for mandatory reporting and ensuring allegations of significant child harm, including an unacceptable risk of significant harm (see 'Definitions' located at s. 7.1: 'Introduction' of this chapter), are recorded and caused to be investigated.

The following OIC are responsible for making mandatory reports on behalf of the Service in accordance with s. 13E: 'Mandatory reporting by persons engaged in particular work' of the CPA—for where a reasonable suspicion a child has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse and may not have a parent willing and able to protect the child from the harm:

(i) the OIC or an officer of a suspected child abuse and neglect (SCAN) team which reviews a reported Report of Suspected Harm to a child [0520] occurrence;

(ii) the OIC of the CPIU responsible for investigating a child harm criminal complaint;

(iii) where a CPIU does not exist, the OIC of the local CIB responsible for investigating the child harm criminal complaint; or

(iv) where a CPIU and a CIB does not exist, the OIC of the station responsible for investigating the child harm criminal complaint.

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Criminal investigations of child harm

ORDER

The officer who identifies or receives a report of child harm, where a criminal offence has been committed against a child (see Appendix 7.1 of this chapter), is to ensure a QPRIME occurrence is furnished and immediately notify the shift supervisor of the report.

The shift supervisor is to ensure allegations of child harm are, where possible, investigated in accordance with s. 7.3.3: 'Responsibility for investigating criminal allegations of child harm' of this chapter.

Where a report of child harm alleging a criminal offence is received by the Service, shift supervisors or DDOs are to ensure the CPIU, CIB or CASCG are immediately advised of the allegations (see s. 7.3.3 of this chapter).

The officer receiving the complaint of child harm alleging a criminal offence is:

(i) to advise the informant not to discuss the allegations with the child; and

(ii) not to allow any other person to discuss the allegations with the child,

until the arrival of the investigating officers. This should occur irrespective of the time occurring between the informant becoming aware of the allegations and the notification of police.

An officer receiving a complaint of child harm alleging a criminal offence should consider the requirements of s. 93A: 'Statement made before proceeding by child or intellectually impaired person' of the *Evidence Act*. Statements in this format should be undertaken in accordance with the Interviewing Children And Recording Evidence (ICARE) interviewing model, available under the sub category 'Training' of the Crime Command Information Hub SharePoint page.

The ICARE interviewing model encompasses an electronically recorded free narrative of the witnesses' recall of the event. The initial information obtained from a child is critical in the prosecution process. In instances of child abuse, sexual assault or where the witness suffers an intellectual disability, the matter is to be referred to the OIC of the district CPIU for their consideration, advice and where appropriate, the appointment of a suitably qualified officer to undertake an ICARE interview.

Officers should record and include the following details in the QPRIME occurrence when taking a report of child harm alleging a criminal offence:

(i) the time, date and place the information was received;

(ii) the name, address and telephone number of the informant;

(iii) the names, addresses, dates of birth and telephone numbers of the child, the child's parents and any siblings if known;

(iv) the relationship between the child and the alleged offender;

(v) the details of the nature of the complaint;

(vi) the school the child attends and the present location of the child;

(vii) the details of any preliminary complaint and the wording of such a complaint in the first person;

(viii) any other background information including any other residents in the household/place;

(ix) the details of any relevant Child Safety involvement including Disability Service orders concerning the child;

(x) whether the child identifies as being of Aboriginal or Torres Strait Islander origin; and

(xi) the details of any witnesses to any preliminary complaint (see s. 94A: 'Admissibility of preliminary complaint in sexual offences and domestic violence offences' of the *Evidence Act*).

Child harm allegation during investigations (Additional child harm reporting responsibilities)

Where a criminal offence is reported to the Service, which also involves child harm, where appropriate, the reporting officer is to include a Report of Suspected Harm to a child [0520] occurrence into the 'Incident/Count' stats tab of the relevant QPRIME occurrence. The Report of Suspected Harm to a child [0520] occurrence information is multi-classed to the criminal offence occurrence.

A criminal offence occurrence classified multi-classed with a Report of Suspected Harm to a child [0520] occurrence should contain the following information in the child harm referral template:

(i) is there a parent willing and able to protect the child (if no explain why);

(ii) what is the significant harm or your serious concerns for the child's wellbeing;

(iii) what are your observations of the child, siblings, parents and/or residence;

(iv) factors you believe are impacting the family environment (physical health, mental/emotional health/child development and wellbeing, household relationships, household resources & basic care);

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(v) social factors impacting on the family (for example alcohol and drug use, social/community support network/unemployment/finances);

(vi) child's current educational institution (school, grade/day care etc.);

(vii) previous relevant interactions with the family by the Service;

(viii) previous referrals to support agencies or Child Safety;

(ix) are the family currently receiving support (if yes, describe); and

(x) any other relevant information (including what action the responding officers have taken).

Protection of unborn children

In accordance with s. 22: 'Unborn children' of the CPA, where the Chief Executive, reasonably suspects the unborn child may be in need of protection after the child is born, the Chief Executive is to take appropriate action to protect the child, for example:

(i) assessing whether the child will need protection after birth; or

(ii) offering help and support to the pregnant woman.

When an officer reasonably suspects an unborn child may be in need of protection after birth, the officer is to create a Report of Suspected Harm to a child [0520] occurrence and complete the template provided in the child harm referral report (see subsection 'Child harm allegation during investigations (Additional child harm reporting responsibilities)' of this section).

For protection of unborn children, the child harm referral report should include:

(i) the names, addresses, dates of birth and telephone numbers of the unborn child's parents and any siblings, if known;

(ii) the due date, or an estimate of the due date, of the child's birth; and

(iii) the grounds for, and the circumstances which lead to, the officer reasonably suspecting the unborn child may need protection after the child is born.

In appropriate cases, reviewing officers are to amend the Report of Suspected Harm to a child [0520] occurrence to indicate the date and details of the person notified at Child Safety, and initiate referral to the SCAN team (see s. 1.11.3: 'Amendments/updates of Policelink entered occurrences (supplementary reports)' of this Manual).

Actioning non-criminal child harm reports received from the public or non-prescribed entities

Where an officer becomes aware of or receives information from a member of the public, other than a prescribed entity (see s. 159M of the CPA), leading the officer to have serious concerns for the wellbeing of a child, the officer is to, where:

(i) the concern does not relate to an allegation of a criminal offence (see Appendix 7.1 of this chapter) take appropriate action under the circumstances to address or mitigate risk of harm to the child; and

(ii) if the reporting officer still has serious concerns for the wellbeing of a child despite taking actions to address or mitigate these serious concerns,

the officer is to create a Report of Suspected Harm to a child [0520] QPRIME occurrence and complete the child harm referral template (see subsection 'Child harm allegation during investigations (Additional child harm reporting responsibilities)' of this section).

Role of other agencies in the child protection system

The Service is committed to working collaboratively with Government and non-government organisations which have the responsibility and expertise in the provision of child protection and support services outside the ambit of the Service's primary criminal investigation responsibility.

Where an officer receives information from a member, or from the public, other than a prescribed entity (see s. 159M: 'Definitions for part' of the *Child Protection Act* (CPA)), which leads the officer:

(i) to reasonably suspect a child:

(a) has suffered;

(b) is suffering; or

(c) is at unacceptable risk of suffering significant harm,

and may not have a parent willing and able to protect the child from the harm, the Service will report the child to Child Safety; or

(ii) to have serious concerns for the child's wellbeing (see 'Definitions' in s. 7.1: 'Introduction' of this chapter) the Service will refer the child to Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS).

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In both instances, the officer will commence the referral process by submitting a Report of Suspected Harm to a Child [0520] occurrence in QPRIME including the information contained in subsection 'Additional child harm reporting responsibilities' of this section.

DFSDSCS is the lead agency in Queensland's child protection system. DFSDSCS has primary responsibility for investigating, assessing and responding to allegations of harm to children, including by making plans for their protection and care (see s. 159B: 'Principles for coordinating service delivery and sharing information' of the CPA). Other core agencies include Department of Education and Queensland Health.

7.3.2 Responsibility for reviewing child harm referral reports

A crime manager who receives a Report of Suspected Harm to a child [0520] occurrence is to assign a task to the OIC of the local SCAN unit. Where a SCAN unit does not exist, the occurrence is to be assigned to the OIC of the district CPIU.

The OIC of the unit receiving the task is to select an officer, subject to local reporting arrangements of at least the rank of detective sergeant with sufficient child protection investigation experience or where a detective sergeant is not available, a senior or experienced officer with sufficient child protection investigation experience, to review the Report of Suspected Harm to a child [0520] occurrence.

In the instance of a Report of Suspected Harm to a child [0520] occurrence:

(i) relating to a criminal allegation:

(a) update the QPRIME occurrence with any additional information known to the officer, that the officer believes may assist the Chief Executive, to subsequently review the occurrence; and

(b) liaise with the OIC of the relevant CPIU or CIB who will assume responsibility for the investigation of the criminal offence; or

(ii) that does not relate to a criminal allegation:

(a) update the QPRIME occurrence with any additional information known to the officer, that the officer believes may assist the community-based intake referral agency or Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS) who may subsequently review the occurrence;

(b) liaise with the OIC of the relevant CPIU or the CIB; and

(c) where the reviewing officer believes that other policing actions are necessary regarding the Report of Suspected Harm to a child [0520] occurrence, ensure the matter is referred back to the OIC of the reporting officer for further action.

In either case (i.e. for a Report of Suspected Harm to a child [0520] occurrence whether it relates to a criminal allegation or not), where:

(i) the reviewing officer believes serious concerns for the wellbeing of a child exist, refer the matter directly to the relevant Family and child support agency (this includes Family and Child Connect (FaCC)) who may subsequently review the occurrence containing the child harm referral report;

(ii) the reviewing officer has serious concerns for the child's wellbeing and identifies no family and child connect agency exists, indicate this on the relevant occurrence;

(iii) the reviewing officer believes a child has suffered significant harm or is at risk of significant harm, report the matter directly to the DFSDSCS in accordance with mandatory and non-mandatory reporting requirements under the *Child Protection Act*, ensuring DFSDSCS subsequently review the Report of Suspected Harm to a child [0520] occurrence; and

(iv) where the reviewing officer believes that the Report of Suspected Harm to a child [0520] occurrence does not require referral or report to a family and child support agency or DFSDSCS, the officer is to indicate this on the occurrence.

7.3.3 Responsibility for investigating criminal allegations of child harm

The fundamental role of the Service in the child protection system, through the CPIU, is the investigation of criminal offences committed against children. Generally, child harm criminal investigations fall into the broad categories of:

(i) sexual abuse;

(ii) physical abuse; and

(iii) serious neglect where there is a suspected criminal offence.

For a list of criminal offences constituting child harm, see Appendix 7.1: 'Schedule of relevant offences' of this chapter.

Unless valid reasons exist, the responsibility for the investigation of an allegation of a criminal offence against a child rests with, where a CPIU:

(i) is established in a district, an officer from that unit; or

OPM Issue 113 Public Edition

(ii) does not exist, an officer from the local criminal investigation branch.

Where there is no CPIU or CIB office, first response officers are to commence the investigation with specialist assistance provided remotely, by contacting the neighbouring CPIU/CIB or alternatively a member of Child Abuse and Sexual Crime Group. Assistance such as witness statements or evidence gathering may be provided remotely until investigators can physically attend. In absence of specialist investigators, first response officers may be required to conduct a child harm investigation.

See s. 2.7.3: 'Child Abuse and Sexual Crime Group' of this Manual.

7.3.4 Initial inquiries by officer investigating the report

ORDER

An officer who has been detailed to investigate an allegation of a criminal offence against a child should:

(i) check QPRIME for any criminal history or domestic violence entries where sufficient particulars of individuals are provided;

(ii) liaise with the nearest CPIU, CIB or the Child Abuse and Sexual Crime Group where appropriate;

(iii) conduct a check of 'Unify' to obtain particulars of any previous notifications; (see s. 7.3.6: 'Checks of Unify' of this chapter)

(iv) in cases where the investigating officer knows or suspects that the child is a child 'in need of protection', notify the manager of the nearest Child Safety service centre of the Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS), or an officer nominated by the manager of the area office, for the purpose of planning the most appropriate way of undertaking a joint investigation. In emergency situations Child Safety After Hours Service Centre may be contacted (see SMCD);

(v) record all liaison with and responses from officers from the DFSDSCS regarding their involvement during a joint investigation in the relevant criminal offence occurrence or Report of Suspected Harm to a child [0520] occurrence;

(vi) determine the urgency attached to the investigation of the complaint. Urgency may be determined by considering such matters as the:

(a) level of immediate risk to the child;

(b) potential for loss or destruction of evidence;

(c) application of the provisions of s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the *Evidence Act*;

(d) likelihood of an offence re-occurring without intervention exposing the child to further risk, which may include the failure to protect by the non-abusing parent;

(e) relationship of the child to the offender;

(f) age and developmental level of the child;

(g) seriousness of the harm; or

(h) in cases where the injury to the child is suspected to be Infant Abusive Head Trauma, officers should conduct inquiries in accordance with s. 7.5: 'Infant Abusive Head Trauma' of this chapter.

See Chapter 2: 'Investigative Process' of this Manual for process applicable to conducting investigation.

Telling parents about allegations and outcome of investigation

ORDER

In accordance with s. 15: 'Child's parents and long-term guardians to be told about allegation of harm and outcome of investigation' of the *Child Protection Act*, officers investigating an allegation of harm, or risk of harm to a child, are to give details of the alleged harm or risk of harm to at least one of the child's parents.

Additionally, as soon as practicable after completing the investigation, the officer is to:

(i) tell at least one of the child's parents about the outcome of the investigation; and

(ii) if asked by the parent, give the information in writing to the parent.

However, if the officer reasonably believes:

(i) someone may be charged with a criminal offence for the harm to the child and the officer's compliance with this order may jeopardise an investigation into the offence; or

(ii) compliance with this order may expose the child to harm;

the officer need only comply with this order to the extent the officer considers is reasonable and appropriate in the particular circumstances.

OPM Issue 113 Public Edition

7.3.5 Assessment of child's wellbeing and safety during an investigation

The safety of children is of paramount importance. Consistent with s. 5A: 'Paramount principle' of the *Child Protection Act* (CPA), officers are to ensure that their actions are directed at the safety and well-being of children.

Children who are the victims of serious criminal offences, should not be returned to an environment where the investigating officer believes harm is likely to reoccur. Investigators are to work with officers from Child Safety to coordinate a response where a child should not be returned to an environment which presents a risk of offending or significant harm. For a list of offences that may constitute harm to a child, see Appendix 7.1: 'Schedule of relevant offences' of this chapter.

ORDER

Where there are no concerns for the child to return home following an interview with a child, where a parent was not present, the officer should:

(i) return the child to a parent where the officer is satisfied that recurrence of the behaviour under investigation would be unlikely, or the child's version of events would not be likely to be influenced; or

(ii) where a school based interview has been conducted with the child, leave the child in the care of the school where the officer is satisfied that a recurrence of the behaviour under investigation would be unlikely, or the child's version of events are not likely to be influenced, if the child returns home after school. Police are not to remove a child from school for the purpose of an interview or medical examination unless s. 18: 'Child at immediate risk may be taken into custody' of the CPA applies or a Temporary Assessment Order has been issued by a court (see s 7.4.3: 'Assessment orders' of this chapter).

7.3.6 Checks of Unify

Where an officer has been detailed to investigate an allegation of a criminal offence against a child, an inquiry is to be made with Child Safety for them to access the case management system UNIFY (a Department of Families, Seniors, Disability Services and Child Safety computer system which records relevant child protection information) to determine if there has been any prior involvement with the child by Child Safety and the relevant linked Services.

Officers are authorised to request a search of information stored on Unify by:

(i) completing a 'Unify Request' form within the relevant QPRIME occurrence. Ensure that urgent requests are marked accordingly; and

(ii) telephoning Child Safety, for purposes of obtaining the business email address and informing of intent to send the completed information request, to either:

(a) during business hours—the relevant local Child Safety Centre or Regional office (see SMCD); or

(b) after hours—the Child Safety After Hours Service Centre by telephone on the police only line (see SMCD).

For checks relating to the deaths of children see s. 8.5: 'Deaths of children' of this Manual.

OPM Issue 113 Public Edition

7.3.7 Reports of suspected harm where other legal proceedings have been initiated

Where a report that a child is being or has been harmed is received officers should investigate that report irrespective of any proceedings before the family court or any other jurisdiction.

7.3.8 Allegations of child harm where child is subject of family law proceedings

Where allegations of harm alleging a criminal offence has been committed against a child are made by or on behalf of a child who is the subject of a family court order, in addition to conducting an investigation into the allegations of harm, the officer responsible for the investigation should:

(i) recommend to a non-offending parent that legal advice should be sought with a view to advising the family court of the allegations and obtaining any variations to existing family court orders which the non-offending parent considers necessary; and

(ii) advise a non-offending parent in whose favour a residence order has been made to seek legal advice as to the possibility of denying contact to the allegedly offending parent if reasonable grounds for concern about the health or safety of the child if placed with that parent exist.

Where a parent refuses or declines to return a child to another parent in accordance with a residence order, police have no authority to return the child to the parent in whose favour the residence order was made without a recovery order issued by the family court. (These orders are normally directed to and held by the Australian Federal Police, see s. 11.13: 'Family Law Act' of this Manual.)

Prior to executing a recovery order, officers should sight the order and take note of the conditions and requirements endorsed on the order.

7.3.9 Finalisation of a report of harm to a child (QPRIME occurrence to be concluded)

In all cases where an investigation into a criminal allegation of harm to a child has been completed, the investigating officer is responsible for the finalisation of the associated QPRIME occurrence or submission of a QPRIME occurrence if not already done.

Where a case has been discussed at the suspected child abuse and neglect (SCAN) team meeting, this information should be included in the general report section of the QPRIME occurrence report (see Appendix 7.2: 'Sample wording for QPRIME occurrence' of this chapter).

7.3.10 Section 229B: 'Repeated sexual conduct with a child' of the Criminal Code

Section 229B(6): 'Repeated sexual conduct with a child' of the CC provides that an adult cannot be prosecuted for an offence under that section without a Crown Law officer's consent.

Guideline 14 'Charges requiring Director's consent' of the Director of Public Prosecutions (State) Guidelines provides the circumstances where a Crown Law officer will not give consent to prosecute an offence under s. 229B of the CC.

Consent will not be given where:

(i) the sexual contact is confined to isolated episodes; or

(ii) the period of offending is brief and can be adequately particularised by discrete counts on the indictment.

Officers proposing to commence a prosecution for an offence against s. 229B of the CC should submit a full brief of evidence with a covering report through their chain of command to the Executive Director, Legal Division.

The Executive Director, Legal Division should consider all the available evidence relating to the alleged offence and, where appropriate, refer the matter to the Director of Public Prosecutions (State) with a request for the consent of a Crown Law officer in accordance with s. 229B(6) of the CC to prosecute the offence.

7.3.11 Considerations when a child victim does not wish to make a formal complaint

When an officer is investigating an offence of alleged criminal harm against a child, and it is apparent that the child is indicating an unwillingness to give evidence in court, the investigating officer should:

(i) assess the child's ability to make informed decisions throughout the investigation, considering:

(a) the child's age;

(b) maturity; and

(c) other relevant factors to determine the child's ability to understand the nature of the investigation, its consequences and risks, and the available alternatives;

(ii) ensure the police investigation, court and witness support processes are explained to the child victim in an age appropriate manner;

(iii) where possible, electronically record the conversation (this conversation is not to form any part of any statement obtained under provisions of s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the *Evidence Act*);

(iv) if the conversation is not electronically recorded, record details of any conversation in the officer's official police notebook;

(v) ensure the relevant QPRIME occurrence is updated in accordance with s. 1.11.1: 'Policelink entered occurrences' of this Manual;

(vi) ensure, where possible, that an appropriate support person is present for the child. In determining who is an appropriate support person, consider:

(a) the wishes of the child;

(b) the relationship of the support person to the child (see s. 7.6.2: 'Persons to be present for an interview' of this chapter);

(c) whether the support person in a position of authority to the child;

(d) the support persons involvement in the alleged offence(s); and

(e) the relationship of the support person to the alleged offender(s); and

(vii) consider the sufficiency of the evidence and the public interest tests and take appropriate action in accordance with ss. 3.4.2: 'The decision to institute proceedings' and 3.4.4: 'Withdrawal of charges' of this Manual.

For the definition of harm, see s. 9: 'What is *harm*' of the *Child Protection Act*.

OPM Issue 113 Public Edition

7.3.12 Right to review—child victims of sexual violence

For the purpose of this section:

Reviewable decision

means the decision to:

(i) not charge a suspect, where a suspect has been identified;

(ii) unfound a matter;

(iii) discontinue a charge or prosecution; or

(iv) substantially change or reduce a charge.

A child victim or a child victim's parent or guardian (if they are under 16 years of age) may request a review of a decision relating to the 'investigation of' or 'the prosecution of' a sexual offence matter. For guidance with 'Right to review' requests see s. 2.6.3: 'Sexual offences' subheading 'Right to review–sexual violence investigations' of this Manual.

7.4 Children in need of protection

For the purpose of this section:

Child in need of protection

means a child who:

(i) has suffered significant harm, is suffering significant harm, or is at unacceptable risk of suffering significant harm; and

(ii) does not have a parent able and willing to protect the child from the harm.

7.4.1 Children at immediate risk of harm

Section 16: 'Contact with child at immediate risk of harm' of the *Child Protection Act* (CPA) allows police to enter, search and remain at a place in circumstances where a police officer is investigating an allegation of harm or risk of harm to a child and the officer has been denied contact with the child or cannot reasonably gain entry to the place where the officer reasonably believes the child is in and the officer reasonably suspects the child is at immediate risk of harm or is likely to leave or be taken from a place and suffer harm if the officer does not take immediate action.

Similarly s. 17: 'Contact with children in school, education and care service premises, family day care etc.' of the CPA allows a police officer to have contact with a child for as long as the officer considers reasonably necessary to investigate an allegation of harm or risk of harm to a child under certain circumstances (see s. 7.6.4: 'Interviews at schools or places where child care is provided' of this chapter).

Section 18: 'Child at immediate risk may be taken into custody' of the CPA empowers a police officer to take a child into the custody of the Chief Executive, Department of Families Seniors Disability Services and Child Safety (DFSDSCS) if the officer is investigating an allegation of harm, or risk of harm to the child, and the officer reasonably believes the child is at risk of harm if the officer does not immediately take the child into custody.

To take a child into custody, an officer may enter the place where the officer reasonably believes the child is, search the place to find the child, and remain in the place for as long as the officer reasonably considers is necessary to find the child (see s. 18(3) of the CPA).

ORDER

Once an officer takes a child into the Chief Executive's custody, the officer is to:

(i) apply for a temporary assessment order for the child as soon as practicable (see s. 18(5) of the CPA and s. 7.4.3: 'Assessment orders' of this chapter); and

(ii) in compliance with s. 20: 'Officer's obligations on taking child into custody' of the CPA, as soon as reasonably practicable:

(a) take reasonable steps to tell at least one of the child's parents:

- that the child has been taken into custody; and
- the reasons for the action; and
- when the Chief Executive's custody ends under s. 18(7) of the CPA;

(b) tell the child, subject to s. 195: 'Compliance with provisions about explaining and giving documents' of the CPA, about his or her being taken into the Chief Executive's custody; and

OPM Issue 113 Public Edition

(c) tell the Chief Executive the child has been taken into the Chief Executive's custody and where the child has been taken, by advising the local Child Safety service centre of the Department of Families, Seniors, Disability Services and Child Safety, or Child Safety After Hours Service Centre after hours (see SMCD).

The officer is not required to tell the child's parents in whose care the child has been placed. The officer is only required to give reasons for taking the child into custody to the extent the officer considers reasonable and appropriate in the circumstances, including where the officer reasonably believes:

(i) someone may be charged with a criminal offence for harm to the child and the officer's provision of reasons for taking the child may jeopardise an investigation into the offence; or

(ii) providing details of the reasons for the actions may expose the child to additional harm.

Officers who take a child into the custody of the Chief Executive are to discuss the placement of the child with officers from Child Safety as soon as practicable after taking the child into custody and comply with all reasonable recommendations made by such officers.

When the provisions of ss. 16 or 17 of the CPA are used, the officer concerned is required to record full details about the exercise of the powers and other actions taken, ensure that these details are recorded in the 'Child/Young Person Report' in the QPRIME occurrence.

The 'Child/Young Person Report' in the QPRIME occurrence is to contain the words 'Child Protection Act', and the section under which the powers were exercised. Details should be listed in the narrative tab of the QPRIME occurrence.

Details include:

(i) any name and aliases of the child;

(ii) name and date of birth of the parent(s) of the child;

(iii) any existing family law, domestic violence or child protection orders;

(iv) name and date of birth of the alleged offender, and the relationship of the alleged offender to the child;

(v) what powers were exercised, such as searching the place to find the child;

(vi) action taken, and/or to be taken in relation to the matter; and

(vii) any reference numbers, e.g. QPRIME occurrence number.

7.4.2 Moving a child to a safe place

In accordance with s. 21: 'Moving child to safe place' of the *Child Protection Act* (CPA), where an officer reasonably believes a child who is under 12 years is at risk of harm, but does not consider it necessary to take the child into the Chief Executive's custody to ensure the child's protection, and:

(i) a parent or other member of the child's family is not present at the place where the child is; and

(ii) after reasonable inquiries, the officer cannot contact a parent or other member of the child's family,

the officer may, with the help that is reasonable in the circumstances, move the child to a safe place and make arrangements for the child's care at the place.

ORDER

A watch-house is not to be used as a safe place for children who are moved under the provisions of s. 21 of the CPA.

To establish the location of the safe place where the child is to be taken, officers are to contact the local Child Safety service centre of the Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS), or if after hours to contact Child Safety After Hours Service Centre after hours (see SMCD or 'Contacts – child harm' SharePoint page), and take the child to the nominated place.

As soon as practicable after moving the child to a safe place, the officer is to:

(i) take reasonable steps to tell at least one of the child's parents or a family member of the child's whereabouts; and

(ii) tell the Chief Executive the child has been moved to a safe place and where the child has been moved, by advising the local Child Safety service centre of the DFSDSCS, or Child Safety After Hours Service Centre (see s. 21(3) of the CPA).

7.4.3 Assessment orders

Officers intending to enter a place under authority of a temporary assessment order or a court assessment order, are to comply with the provisions of ss. 31: 'Order—procedure before entry' and 46: 'Order—procedure before entry' of the CPA respectively.

OPM Issue 113 Public Edition

Temporary assessment orders

A temporary assessment order under Chapter 2, Part 2: 'Temporary assessment orders' of the *Child Protection Act* (CPA) authorises necessary investigative activities to assess whether a child is a child in need of protection, if the consent of a parent of the child has not been obtained or it is not practicable to take steps to obtain the parent's consent. A temporary assessment order remains in force for a period of up to 3 days as ordered by a magistrate unless it is extended in accordance with the provisions of s. 34: 'Extension of temporary assessment orders' of the CPA.

Officers should only make applications for temporary assessment orders where the provisions of s. 18: 'Child at immediate risk may be taken into custody' of the CPA have been invoked and the police officer has taken the child into the Chief Executive's (Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS)) custody. When the officer does not reasonably believe that a child is likely to suffer from harm if the officer does not immediately take the child into custody, the matter of harm or risk of harm to the child is to be referred to the local area office of Child Safety for investigation and appropriate action.

Applications for extensions or variations of temporary assessment orders should only be made by officers where the original application for the relevant temporary assessment order was made by police.

When officers are required to make applications for temporary assessment orders pursuant to s. 18 of the CPA, they are to consult and liaise with officers from the local Child Safety service centre, DFSDSCS or Child Safety After Hours Service Centre (after hours) prior to making such applications.

When making an application to a Childrens Court for a temporary assessment order, officers are to complete a Form 1: 'Application for a Temporary Assessment Order' available in QPRIME and on QPS Forms Select), selecting appropriate provisions for the order sought. Orders are to be linked to the relevant child in the QPRIME occurrence.

The completed Form 1 is to be filed with the Registrar of the appropriate Childrens Court, who will fix a time and place for hearing the application and endorse the form accordingly.

All evidence in support of an application of a temporary assessment order should be presented to the Childrens Court hearing the application. The Childrens Court is not bound by the rules of evidence (see s. 105: 'Evidence' of the CPA). Generally, the sworn application would be sufficient for a Childrens Court magistrate to hear and determine the application. However, in contested matters, the applicant police officer should provide an affidavit containing the facts of the application and any affidavits from witnesses such as neighbours, relatives, welfare officers, medical practitioners and others.

Where the applicant for a temporary assessment order is a police officer, a police prosecutor is to appear and represent the applicant.

ORDER

Once a temporary assessment order has been made for a child, the applicant police officer is to:

(i) give copies of the application and order to the Chief Executive by providing such copies to the local Child Safety service centre of the DFSDSCS or through Child Safety After Hours Service Centre outside of office hours (see SMCD or 'Contacts – child harm' SharePoint page);

(ii) give a copy of the order to at least one of the child's parents and explain the terms and effect of the order (see s. 32: 'Explanation of temporary assessment orders' of the CPA); and

(iii) tell the child about the order, to the extent that the police officer reasonably considers is appropriate in the circumstances having regard to the child's age or ability to understand the matter (see s. 195(5) of the CPA).

Generally, when a temporary assessment order is made, officers from Child Safety should undertake the investigation to assess whether the child in respect to whom the order was made is in need of protection, and any application for an extension or variation of the temporary assessment order.

However, police officers may in appropriate cases assist by making applications for an extension or variation of a temporary assessment order, for example, in localities, where it is not possible for officers from Child Safety to attend and make the required application.

Court assessment orders

A court assessment order authorises necessary investigative activities to assess whether a child is a child in need of protection if:

(i) the consent of a parent of the child has not been obtained or it is not practicable to take steps to obtain the parent's consent; and

(ii) more than 3 days is necessary to complete the investigation and assessment.

A court assessment order is made in accordance with Chapter 2, Part 3: 'Court assessment orders' of the CPA.

Generally, applications for court assessment orders should be made by officers from Child Safety.

However, police officers may in appropriate cases assist by making applications for court assessment orders, for example, in localities, where it is not possible for officers from Child Safety to attend and make the required application.

OPM Issue 113 Public Edition

Applications for extensions or variations of court assessment orders can only be made by authorised officers (not police officers) under the CPA.

When making an application to a Childrens Court for a court assessment order, officers are to complete a Form 5: 'Application for a Court Assessment Order' (available in QPRIME and on QPS Forms Select) selecting appropriate provisions for the order sought. Orders are to be linked to the relevant child in the QPRIME occurrence (see QPRIME Users Guide).

The completed Form 5 is to be filed with the Registrar of the appropriate Childrens Court, who will fix a time and place for hearing the application and endorse the form accordingly.

All evidence in support of an application of a court assessment order should be presented to the Childrens Court hearing the application. The Childrens Court is not bound by the rules of evidence (see s. 105: 'Evidence' of the CPA). Generally, the sworn application would be sufficient for a Childrens Court magistrate to hear and determine the application. However, in contested matters, the applicant police officer should provide an affidavit containing the facts of the application and any affidavits from witnesses such as neighbours, relatives, welfare officers, medical practitioners and others.

Where the applicant for a court assessment order is a police officer, a police prosecutor is to appear and represent the applicant.

ORDER

Once an application for a court assessment order has been filed, the applicant police officer is to:

(i) give a copy of the application for a court assessment order to the Chief Executive, by providing such copies to the Child Safety service centre of the DFSDSCS or through Child Safety After Hours Service Centre outside of office hours (see SMCD or 'Contacts – child harm' SharePoint page);

(ii) personally serve a copy of it on each of the child's parents. The copy of the application is to state when and where the application is to be heard, and that the application may be heard and decided even though the parent does not appear in court; and

(iii) tell the child, subject of the application, about the application, to the extent that the police officer reasonably considers is appropriate in the circumstances having regard to the child's age or ability to understand the matter (see s. 195(5) of the CPA).

Child protection orders

The *Child Protection Act* does not allow police officers to make applications for child protection orders, and therefore the responsibility for such applications rests solely with officers from Child Safety.

7.4.4 Warrant for apprehension of a child under the Child Protection Act

Chapter 6, Part 3: 'Warrant for apprehension of child' of the *Child Protection Act* (CPA) provides for applications and issuing of warrants and special warrants by a magistrate for the apprehension of a child who under an order has been placed into the custody or guardianship of the Chief Executive (Department of Families, Seniors, Disability Services and Child Safety) or a child who has been unlawfully removed from a person's custody or guardianship.

Generally, authorised officers (not police officers) appointed under the CPA should make applications under this part for issue of a warrant for the apprehension of a child.

Where required, officers should assist in the execution of any such warrants (see Chapter 1, Part 3, Division 2: 'Helping public officials' of the PPRA).

Members receiving information that a child who is the subject of a child protection warrant may be located interstate are to pass this information on, as soon as possible, to the Detective Inspector of the Child Trauma and Sexual Crime Group, who has been appointed as the Interstate Child Protection Warrant Liaison Officer (ICPWLO). The ICPWLO will liaise directly with interstate counterparts with a view to having the warrant enforced in accordance with the Interstate Child Protection Warrants Protocol and the *Service and Execution of Process Act* (Cwlth). The member who provided the initial advice to ICPWLO is responsible for ensuring the original warrant and associated documentation is given to the ICPWLO as soon as practicable thereafter.

Members receiving requests for assistance from an interstate government agency or law enforcement agency to enforce an interstate equivalent of a child protection warrant are to refer such requests to the ICPWLO. The ICPWLO is responsible for ensuring the child who is the subject of the interstate warrant is entered in QPRIME as a person of interest. The ICPWLO should create a QPRIME 'Order—other agency' flag indicating that the child is the subject of a child protection warrant and that the ICPWLO is to be advised of the child's location immediately.

Officers who are detailed to finalise interstate child protection warrants are to provide advice of any developments in the investigation to the ICPWLO.

When contact with the ICPWLO is required officers are to comply with the instructions contained in s. 2.7.2: 'Notifying Crime Command' of this Manual.

OPM Issue 113 Public Edition

7.4.5 Forty-eight-hour care and treatment order (Public Health Act)

In accordance with s. 197: 'Designated medical officer may make care and treatment order for child' of the *Public Health Act*, a designated medical officer may order that the child be held at the health service facility for 48 hours if the officer becomes aware that the child at a health service facility has been harmed or is at risk of harm and the child is likely to leave or be taken from the facility and suffer harm if immediate action is not taken. Section 201: 'Designated medical officer may extend care and treatment order' of the *Public Health Act* provides that the designated medical officer may extend the care and treatment order, but only for a maximum of 96 hours from the time the original order was first made.

Officers may make use of these provisions where there is a need to have a child medically examined as part of a child harm investigation and the parents have not co-operated in the investigative process. Officers should note that the section does not give police the authority to take the child to the health service facility. In cases where there is a need for a medical examination and the child is not at a health service facility, s. 18(6): 'Child at immediate risk may be taken into custody' of the *Child Protection Act* (CPA) provides that an officer may arrange a medical examination of, or for medical treatment for the child.

Once a child is at a health service facility, officers should request that a designated medical officer order that the child be held at the facility for 48 hours. The hospital emergency department maintains the necessary forms.

Once the care and treatment order has been made, the officer conducting the investigation into the alleged harm is responsible for providing the medical staff at the hospital with as detailed a case history as possible to enable medical staff to determine what medical examinations are appropriate.

Breach of forty-eight-hour care and treatment order

Should a child under a current care and treatment order leave or be removed from the health facility without the permission of the designated medical officer, officers should consider taking the child into the custody of the Chief Executive (Department of Families, Seniors, Disability, and Child Safety) under the provisions of s. 18: 'Child at immediate risk may be taken into custody' of the CPA. Under the provisions of s. 18(7), officers may also arrange for a medical examination of the child.

Where a child subject of a care and treatment order, leaves or has been removed from the hospital regardless, the order continues to be in force until the expiration of the period ordered by the designated medical officer.

7.4.6 Consultation with Chief Executive before prosecution

Section 169: 'Consultation with chief executive before prosecution' of the *Child Protection Act* (CPA) applies to an offence against:

(i) s. 162: 'Offence to remove child from carer' or s. 164: 'Offence to remove child from custody or guardianship' of the CPA relating to the unlawful removal or keeping of child within or outside Queensland; or

(ii) s. 163: 'Offence to remove child from carer—order made in another State' or s. 165: 'Offence to remove child from custody or guardianship—order made in another State' of the CPA.

ORDER

Before commencing a proceeding against a person for any of the offences to which s. 169 of the CPA apply, officers are to consult with the Chief Executive, Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS). However, if a proceeding against a person is commenced by way of arrest because the officer believes, in the circumstances, it is reasonably necessary to arrest the person without first consulting with the Chief Executive, the officer is to notify the Chief Executive as soon as practicable after the arrest.

The Chief Executive may be consulted or notified by contacting the manager, Child Safety service centre, DFSDSCS, or through Child Safety After Hours Service Centre (see SMCD or 'Contacts – child harm' SharePoint page).

7.4.7 Seizure of evidence

Under Chapter 6, Part 4, ss. 176 to 181: 'General powers of authorised officers and police officers' of the *Child Protection Act* (CPA), where a police officer enters a place:

(i) whilst performing a function or exercising a power under Chapter 2: 'Protection of children' of the CPA; or

(ii) under a warrant of apprehension issued under s. 172: 'Issue of warrant' of the CPA,

the officer may seize a thing at the place if the officer reasonably believes:

(i) the thing:

(a) may be received in evidence in a proceeding on an application for an order for the child; or

(b) is evidence of an offence in relation to the child or the child's unlawful removal from custody or guardianship; and

(ii) the seizure is necessary to prevent the thing being:

(a) hidden, lost or destroyed; or

OPM Issue 113 Public Edition

(b) used to commit, continue or repeat the offence.

These provisions also provide for procedure after seizing a thing, forfeiture and dealing with forfeited things.

ORDER

When officers seize things under the provisions of the CPA they are to comply with the specific provisions dealing with procedure, forfeiture and dealing with forfeited things under Chapter 6, Part 4, Division 2: 'Power of seizure' of the CPA and Chapter 4: 'Property' of this Manual as applicable.

7.4.8 Concerns with Child Safety response

Child Safety procedure requires departmental staff to provide the Service's Suspected Child Abuse and Neglect Team (SCAN) representative with details of the outcome (and rationale) for matters referred to regional intake services (RIS) by the Service. Where the Service's SCAN team representative or an officer from the Child Protection Investigation Unit requires further information regarding the outcome or has concerns about the quality of the decision by RIS, they may raise the concerns with the RIS team leader where the decision was made. If after speaking with the team leader, the Service SCAN team representative or an officer from a Child Protection Investigation Unit believes a multi-agency response is required, a request for an information coordination meeting is to be made by the Service SCAN team representative in accordance with s. 7.10: 'Suspected Child Abuse and Neglect Team system' of this chapter and the SCAN Team System Manual.

In relation to general concerns regarding decision making by Child Safety or the actions of individual child safety officers, all attempts should be made to resolve the issue at the local level. Investigating officers should first raise any issues or concerns with their officer in charge, and if supported by the officer in charge, contact:

(i) the team leader of the relevant RIS or Child Safety service centre; or

(ii) if not satisfied with the responses from the relevant RIS team leader or Child Safety service centre, the manager of that Regional Intake Service or Child Safety service centre; and

(iii) if not satisfied with the response of the manager of the RIS or Child Safety service centre, the Client Complaints officer in the relevant Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS) regional office.

Matters may also be referred through the Child Safety Director to a senior officer within the DFSDSCS, in accordance with the SCAN Team System Manual.

7.4.9 Joint investigations

Definition

For the purpose of this section:

Joint investigation

means the investigation of a child protection matter by an officer of the Service in company with an officer from Child Safety.

The purpose of a joint investigation is to:

(i) minimise the number of interviews conducted with children and young people;

(ii) provide a timely and comprehensive investigative process, which minimises delay and promotes information exchange between the relevant agencies;

(iii) conduct interviews in an environment that is focussed on the child or young person and promotes their participation;

(iv) assess the individual needs of children, young people and families;

(v) ensure timely access to relevant support services throughout the investigation process;

(vi) use protective intervention to ensure the safety of children and young people;

(vii) support the non-offending parent or carer;

(viii) identify and where appropriate prosecute offenders; and

(ix) enhance the standard of briefs of evidence.

Joint investigation criteria

For a child protection matter to be considered for joint investigation:

(i) it must contain an allegation of a criminal offence committed against a child requiring investigation by a member of the Service; and

(ii) it must contain a suspicion of child harm that has met the threshold for statutory involvement of Child Safety; and

OPM Issue 113 Public Edition

(iii) both the Service and Child Safety are required to actively investigate the matter.

Roles and responsibilities

Where it is identified that a child protection matter meets the joint investigation criteria set out above the investigating officer is to ensure that contact is made with Child Safety and consultation with the relevant Child Safety officer occurs with respect to agency priorities, agency actions, roles and responsibilities.

Where a matter meets the criteria for joint investigation and either agency is not able to investigate in company with the other agency, the matter is not a joint investigation. For example, the Service is required to respond urgently to preserve evidence and Child Safety do not have the staff resources to respond. In such circumstances the investigating officer is required to record the reasons for not conducting a joint investigation with Child Safety within the relevant QPRIME entry.

Joint investigations—reports of suspected child harm

Officers jointly investigating a report of child harm are to do so in accordance with the provisions contained in s. 7.3.1: 'Initial action for reports of child harm' and 7.6: 'Interview with a child' of this chapter. Additional guidance for joint investigation processes and planning procedures is available in the Child Protection Joint Response Team policy guidelines.

Referral to a suspected child abuse and neglect (SCAN) team

Where an investigating officer is involved in a joint investigation and is giving consideration to a SCAN team referral, the investigating officer is to refer to s. 7.10: 'Suspected child abuse and neglect (SCAN) team System' and in particular the provisions of s. 7.10.2: 'Suspected child abuse and neglect (SCAN) team referral' of this chapter as it relates to the agency responsible for the submission of a Form 1: 'Request for Multi-Agency Meeting'.

7.4.10 Child welfare checks

Where a member receives a request for a welfare check to be undertaken on a child, to assess the wellbeing of a child, the member is to make a determination to the lawfulness of any such inquiry. In determining the appropriate response, officers are to consider whether the information received meets the following criteria:

(i) is a criminal offence alleged to have been committed against the child; and

(ii) is the child, a child in need of protection pursuant to the *Child Protection Act* (CPA).

Where these circumstances exist, the matter is to be referred to a shift supervisor, district duty officer or a member from the Child Protection and Investigation Unit, for assessment and determination as to the appropriate response (see Flowchart 7.1: 'QPS Welfare checks' available under sub category 'OPM resources' of the Crime Command Information Hub SharePoint page.

In the absence of these circumstances, officers have no lawful authority to undertake inquiries regarding the wellbeing of a child regardless of the notifier's intentions or interest.

Officers are to subject all information to scrutiny to ensure the veracity of the request. Consideration is to be given to the following:

(i) nature of the allegations;

(ii) a notifier's capacity to have knowledge of the allegations;

(iii) any motive or advantage that the notifier may have or receive; and

(iv) previous requests as recorded in QPRIME/CAD.

Where after consideration of all information a determination is decided that a welfare check will not be undertaken, a record of this decision should be recorded in Queensland Computer Aided Dispatch for later reference.

Assistance to Child Safety

Where the request is as a result of a child safety officer's concern for their officers' safety whilst performing a function in accordance with the CPA, a job request is to be generated with the local communications centre for officers to assist child safety officers within mutually agreed time frames.

7.5 Infant abusive head trauma

When conducting an investigation into possible infant abusive head trauma, the investigating officer is to:

(i) interview the parents/caregivers of the injured infant at the earliest opportunity with a view to obtaining their versions of how the infant came to be injured. Where possible these interviews should be conducted separately and prior to the release of any medical information. Officers should consider conducting a video re-enactment of the events where appropriate;

OPM Issue 113 Public Edition

(ii) document the injuries as they are known to the attending physician, keeping in mind that they will almost certainly be awaiting the results of further tests or examinations, and may only be able to provide an interim opinion;

(iii) ascertain what the attending physician believes was the mechanism for the injuries sustained (i.e. if they are indicating that the child has been shaken, establish why they have reached this opinion). It should be noted that the key issue is whether the injuries have been inflicted;

(iv) discuss the further tests or examinations which are going to be conducted;

(v) document carefully the version obtained by medical staff from the infant's parent/s or caregiver/s. Medical staff should be asked to record any conversations had with the parent/s or caregiver/s in the infant's medical file and be reminded that this information may later be required in statement form;

(vi) speak with the attending physician about evidence to show the presence of retinal haemorrhaging. This may involve the taking of retinal slides or the use of more sophisticated imaging equipment in certain larger hospitals. Such evidence if obtainable may be shown to an ophthalmological expert at a later date, who will be in a position to comment on the infant's condition even without seeing him or her in person; and

(vii) determine the infant's prognosis. If the child is not expected to recover the following steps need to be arranged prior to death:

(a) any blood taken from the infant must be retained for later analysis as post mortem blood is not suitable (hospitals have been known to destroy blood samples in these circumstances, so it is important to intervene to ensure that this is not the case);

(b) obtain further evidence (such as skin cultures, spinal taps and urine samples); and

(c) the investigating officer needs to make contact with the pathologist prior to death to discuss all of these issues.

Officers investigating deaths of children or sudden unexplained deaths of infants, see ss. 8.5: 'Deaths of children' and 8.5.6: 'Sudden unexpected death in infancy' of this Manual.

OPM Issue 113 Public Edition

7.6 Interview with a child

Definitions

For the purposes of this section:

Affected child

means as defined in s. 21AC: 'Definitions for div 4A' of the *Evidence Act* (EA).

Special witness

means as defined in s. 21A: 'Evidence of special witnesses' of the EA.

Information provided confidentially through the administration of the *Child Protection Act* (CPA) can be used by officers to commence an investigation into the alleged offence. Prior to commencing an investigation into an alleged offence, officers intending to use information obtained under one of the circumstances outlined in s. 187(1)(a): 'Confidentiality of information obtained by persons involved in administration of Act' of the CPA should only use the information for the investigation or for a proceeding for the offence after consulting with:

(i) Child Safety; or

(ii) the suspected child abuse and neglect (SCAN) team member (if the information was obtained from a SCAN team member); or

(iii) the prescribed entity (if the information was obtained from a prescribed entity),

to determine if the proposed use of the information would be in the best interests of the child involved (see s. 188A: 'Police use of confidential information' of the CPA).

However, s. 188A(5) of the CPA provides officer ability to utilise information obtained under s. 187 of the CPA without consultation, if the alleged offence is an offence committed against a child, or where an officer must use the information immediately in the performance of a function.

7.6.1 Preparation for an interview with a child (including special witnesses 16 to 17 years)

Where an officer is investigating an alleged offence, the officer intending to interview a child should make every effort to notify the child's parent prior to any interview and subject to the requirements of s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the *Evidence Act* (EA) and if requested, allow them to be present for any interview. However, parents should be encouraged not to be present during the interview as the presence of a parent has the potential to adversely affect the child's willingness to disclose information.

Where the parent may be the offender, or is suspected of being party to the alleged offence or the parent is likely to compromise the gathering of the evidence of the child, an officer should refer to ss. 7.3.4: 'Initial inquiries conducted by officer investigating report' and 7.6.4: 'Interviews at schools or places where child care is provided' of this chapter. In relation to harm to a child occurring inside the child's home there may be additional requirements which are dealt with under ss. 7.3.5: 'Assessment of circumstances of child harm by investigating officer' and 7.3.11: 'Considerations when a child victim does not wish to make a formal complaint' of this chapter.

When an officer is preparing to conduct an interview with a child witness or a child victim, the following guidelines for the interview apply:

(i) consider the use of a Queensland Intermediary Scheme (QIS) member to assist during the interview process for witnesses with communication difficulties, in cases of a child sexual abuse offence (see subsection below titled 'Queensland Intermediary Scheme');

(ii) arrange a venue which is appropriate to give effect to the provisions of s. 93A of the EA. The venue should be free from any interruption and be as non-threatening an environment as possible for the child (for the conduct of interviews at a school see s. 7.6.4 of this chapter);

(iii) officers interviewing a child should ensure a minimum number of persons are present for the interview. It is difficult for a child to disclose details of an offence or harm, particularly sexual harm, in front of a group of strangers.

Persons recommended to be present are:

(a) the investigating officer;

(b) a corroborating officer; or

(c) a representative from Child Safety if the child is in need of protection (see s. 7.4: 'Children in need of protection' of this chapter); and

(d) the child;

(iv) if the child is an Indigenous child, make contact with the independent Aboriginal or Torres Strait Islander entity (see s. 11A: 'Who is an *independent Aboriginal or Torres Strait Islander entity*' of the CPA) for that child before conducting any interview. If this is not practicable because a person is not available or urgent action is required to protect the child, the officer is to make contact with the independent Aboriginal or Torres Strait Islander entity as soon as practicable after making the decision;

(v) obtain information relating to the purpose of the interview including the circumstances in which disclosures had been made by the child and/or the circumstances existing that caused the notifier to report their concerns about harm or risk of harm to that child (e.g. unusual incidents or recent behavioural changes);

(vi) obtain background information in relation to the child and the child's surroundings including but not limited to:

(a) information about the:

- age and developmental levels;
- linguistic abilities and communication skills;
- culture or religion;
- personality and temperament; and
- attention span of the child;

(b) the child's family and community:

- information about family circumstances i.e. separated families, extended families and the relationship of the child to each family member;
- information about previous child protection, criminal history or domestic violence history from both Department of Families, Seniors, Disability Services and Child Safety and QPRIME; and
- how people communicate in the child's community and protocols for discussing certain topics (e.g. possible gender issues).

(c) the educational and social network of the child:

- information about the child's performance and attendance at school as well as information on education or relationship problems;
- if possible, information about the child's social networking including involvement in clubs or community groups;
- information about the child's interactions with adults in a position of authority; and

OPM Issue 113 Public Edition

- any significant legal or medical issues including medication and/or disabilities or conditions that may affect the child's functioning or ability to recall information; and.

(d) any other specific information about the child (e.g. interests, achievements, recent innocuous events involving the child) which may assist in structuring the rapport building phase of the interview;

(vii) adequate consideration should be given to any hypothesis or alternate explanations that may account for the concerns raised or individuals involved; and

(viii) the roles of the persons present during an interview should be clearly negotiated prior to the commencement of the interview. Discussions should include, but not be limited to:

(a) clarifying the role that each person present will play during the interview i.e. who will lead the interview, corroborator, note taker;

(b) interview techniques to be employed during the interview (e.g. use of silence);

(c) possible offences and elements that need to be covered during the interview; and

(d) appropriate assist signals to use to indicate a change in roles or if an area of questioning has been left out or not sufficiently explored.

Where a large number of interviews are to be conducted under the provisions of s. 93A of the EA over consecutive days by the same officers, issues of quality, compliance to the Interviewing Children and Recording Evidence (ICARE) model and officer welfare should be addressed.

See Appendix 7.3: 'Preparation for an interview with a child or person with an impairment of the mind' available on the Crime Command Information Hub—All Resources SharePoint page.

Queensland Intermediary Scheme (QIS)

The QIS is an initiative of the Department of Justice established in response to recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse (see Division 4C: 'Intermediaries' of Part 2: 'Witnesses' of the EA). An intermediary is a qualified professional with expertise in fields such as speech pathology, psychology, occupational therapy, or social work. Their role is to assess the communication needs of child witnesses and provide advice on the most effective methods to facilitate communication and obtain evidence. Importantly, intermediaries do not assess the competency or capacity of a witness (see DPP Guideline 7: Competency of a child witness' of the Director of Public Prosecutions Guidelines).

Role of an Intermediary

Intermediaries may perform the following functions:

(i) assess the communication needs of a witness;

(ii) attend police interviews to ensure the witness understands the questions posed by police and that their responses are accurately understood;

(iii) assist police in effectively communicating with the witness; and

(iv) support the witness in reviewing a written statement.

These services may be provided in person or remotely, depending on the circumstances.

QIS is available in child sexual offence investigations including urgent referrals at the investigation stage. The intermediary is impartial, does not act as a support person for the witness and must not be left alone with the witness at any time. The use of an intermediary does not excuse officers from the duty of properly preparing their witnesses before court (see s. 7.13: 'Preparation of child witnesses for court' of this Manual) and providing referrals to support organisations.

Eligible witness for intermediary use

Under the QIS, any adult or child prosecution witness involved in a child sexual offence (see s. 207A: 'Definitions for this chapter' of the CC) matter is eligible for an intermediary if they:

(i) are under 16 years old;

(ii) have an impairment of the mind; or

(iii) have difficulty communicating.

Intermediaries are not available to defendants or those accused of committing a crime.

Whilst provisions in the *Evidence Act* limit the court's ability to appoint an intermediary to proceedings in Brisbane and Cairns, police can request QIS assistance in matters outside these geographical areas. Such requests may be made and accepted where it is considered that an intermediary could assist police to obtain useful evidence from a witness. This may include QIS providing advice if an intermediary cannot be appointed.

Once the matter is before the Court, where it is outside Brisbane or Cairns, the prosecution may:

OPM Issue 113 Public Edition

(i) apply transfer the matter to Brisbane so that an intermediary may be appointed; or

(ii) apply for the appointment of an intermediary under the special witness provisions.

Requesting an intermediary

A request for an intermediary is to be submitted through the QIS online portal (hosted by Registry of Births, Deaths and Marriages) with the requesting officer providing:

(i) confirmation that the request is for a witness in a child sexual offence investigation;

(ii) QPRIME occurrence number;

(iii) mandatory offender details;

(iv) mandatory witness details, including QPRIME SPI number;

(v) witness communication needs (e.g. age, intellectual impairment, language or speech disorder);

(vi) associated persons (name and descriptor e.g. preliminary complaint witness);

(vii) details of carer (if applicable);

(viii) time and date the intermediary is required; and

(ix) name and contact details of the requesting officer.

Once the request is submitted, QIS staff will assign an intermediary to the matter. The intermediary will then contact the requesting officer directly to coordinate their involvement.

Interactions between a witness and an intermediary should be electronically recorded and are disclosable in a court of law. The intermediary must not be left alone with the witness at any time. The work of an intermediary is confidential however it is not privileged and does not fall within the sexual assault counselling privilege.

At the completion of the interview, the requesting officer will be asked to verify the intermediary's attendance and number of hours worked via the QIS online portal. Further details, including manuals and processes are contained on the QIS webpage.

OPM Issue 113 Public Edition

7.6.2 Persons to be present for an interview

For information on evidence given by an affected child in a proceeding for a relevant offence refer to s. 3.10.6: 'Special witnesses' of this Manual.

Where officers are intending to interview a child or person with an impairment of the mind, who is the victim or suspected victim of an offence, or is a witness to an offence, which may reveal matters to be investigated by Child Safety, officers should consider conducting a joint interview with an officer from Child Safety (see Flowchart 7.2: 'Person present for an interview' available on the Crime Command Information Hub SharePoint page).

Whenever practicable, a child should be interviewed in the company of a corroborating officer. Wherever possible, a support person should not be present in the interview room. If this is unavoidable, the interviewer should, before the commencement of the interview, ensure the support person understands:

(i) they will be a witness in any subsequent proceeding and will be required to supply a statement;

(ii) they will have to sit behind or out of view of the child;

(iii) they will not be able to talk to, touch or prompt the child at any time either verbally or non-verbally;

(iv) they will not be able to answer questions or provide information in response to any of the discussions, unless directly asked;

(v) where any disclosure made by the child may be of an explicit or sexual nature, they should prepare themselves for such material or exclude themselves from the interview prior to the commencement; and

(vii) if they disrupt the interview in any manner it will be suspended, and they will be excluded from the interview.

People who cannot act as a support person include:

(i) any person to whom the child or person with an impairment of the mind has disclosed relevant information to;

(ii) a child (including older siblings);

(iii) any person who may place undue influence or pressure on the child i.e. school principal, parent, carer; and

(iv) any person who may be a witness in the matter to which the interview relates.

When an officer is to interview a child who is the victim, a suspected victim of a crime or a witness who is likely to be classed as an 'affected child' or a special witness in a proceeding, that officer should ensure:

(i) the interview is conducted in such a manner so as to reduce the amount of trauma to the child;

(ii) there is a limited number of people present during the interview; and

(iii) when the child requests that persons other than investigators be excluded from the interview, the wishes of the child be respected where possible.

7.6.3 Procedures for interviewing a child

Whenever practicable, where a child is to be interviewed and is:

(i) under 16 years; or

(ii) a special witness (see s. 21A: 'Evidence of special witnesses' of the *Evidence Act* (EA)), including person with an impairment of the mind,

the interviewing officer should:

(i) follow the ICARE interviewing model (see also the Operational Assistance Kit (OAK) Interviewing children and recording evidence guide on the Service Intranet) where the matter is a:

(a) summary offence;

(b) regulatory offence; or

(c) indictable offence:

- which can be dealt with summarily (see ss. 552A: 'Charges of indictable offences that must be heard and decided summarily on prosecution election', 552B: 'Charges of indictable offences that must be heard and decided summarily unless defendant elects for a jury trial' and 552BA: 'Charges of indictable offences that must be heard and decided summarily' of the CC); and
- are not offences within Chapter 22: 'Offences against morality' of the CC;

(ii) for where the matter relates to all other indictable offences—including offences found in Chapter 22: 'Offences against morality' of the CC, have completed the Interview Children and Recording Evidence (ICARE) course and is to follow the ICARE interviewing model; and

(iii) consider the use of the Queensland Intermediary Scheme (QIS) member to assist investigators gain an appreciation for the best communication strategies to use with the child witness (see s. 7.6.1: 'Preparation for an interview with a child (including special witnesses 16 to 17 years' of this chapter).

ICARE interviewing model

The ICARE interviewing model encompasses an electronically recorded free narrative of the witnesses' recall of the event and should be followed during the investigators taking of the statement (see Appendix 7.6: 'Interviewing a child' available on the Crime Command Information Hub—All Resources SharePoint page).

7.6.4 Interviews at schools or places where child care is provided

For the purposes of this section:

Carer

means parent or long-term guardian.

Relevant place

includes schools, education facilities, child care centres, family day care centres or any other place where a child receives education and care whether regulated or unregulated.

The Service recognises the principal is in charge of a school and of its students whilst at school and in the case of other relevant places, the person in charge of a relevant place exercises the same responsibilities. A principal or person in charge has a responsibility to children in their care and may deny police involvement with a child at the relevant place unless officers are exercising a power authorised under a relevant Act.

Officers should seek consent in the first instance to conduct an interview with a child. Consent does not negate mandatory reporting requirements. Authority to enter a school or relevant place to investigate child harm is provided under s. 17: 'Contact with children in school, education and care service premises, child care centre, family day care etc.' of the *Child Protection Act* (CPA).

For children suspected of committing offences, or who are assisting in the investigation of an offence see s. 2.5.8: 'Entering school premises' of this Manual.

Children who are victims of offences or harm should not be interviewed (see s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the *Evidence Act*) at a relevant place unless:

(i) a delay in conducting the interview may result in the contamination or loss of evidence;

(ii) the child may be at further risk of harm; or

(iii) a carer or family member is responsible for the offence.

OPM Issue 113 Public Edition

Where a suspected offender is the carer of the child, officers are not required to notify the carer prior to the interview. The carer should be notified as soon as reasonably practicable after the interview unless doing so will jeopardise the investigation of a criminal offence. The officer is to explain this to the principal or person in charge of the relevant place.

In cases where the suspected offender may be an employee or regularly at the relevant place for some other reason, the interview should be conducted at another location.

ORDER

When the provisions of s. 17 of the CPA are used, the officer concerned is required to:

(i) notify the principal or person in charge of the relevant place of the intention to exercise the power before exercising the power;

(ii) as soon as practicable after contact with the child, tell at least one of the child's carers of the contact with the child and the reasons for the contact, unless the officer reasonably believes this may jeopardise an investigation into the offence or may expose the child to harm; and

(iii) at the first reasonable opportunity, record the exercise of the powers and action taken in the relevant QPRIME occurrence. Enforcement actions under the CPA is to be recorded in the Child/young person report.

Prior to conducting an interview at a relevant place, officers should:

(i) consider whether a joint interview with an officer from Child Safety should be conducted (see s. 7.4.9: 'Joint investigations' of this chapter);

(ii) provide sufficient additional information regarding the allegations to the principal or person in charge to enable the person to account for any possible subsequent acting out behaviour exhibited by the child. The principal or person in charge is to be asked to maintain confidentiality;

(iii) ensure an appropriate person is present during the interview (see s. 7.6.2: 'Persons to be present for an interview' of this chapter); and

(iv) request the principal to provide a neutral setting for the interview where the child feels most at ease. Principals may offer their office, but this venue may have implications for:

(a) the child; and

(b) for the information obtained (could be argued using the principal's office compelled the child to answer questions in a certain manner),

and an alternative venue should be sought.

If a principal or person in charge of a relevant place denies access to a child suspected of being the victim of harm or at risk of harm, the officer is to obtain the assistance of an officer from the CPIU or shift supervisor/DDO who are to explain to the principal or person in charge of the relevant place, action may be taken under:

(i) s. 16: 'Contact with child at immediate risk of harm'; or

(ii) s. 18: 'Child at immediate risk may be taken into custody',

of the CPA. See also Chapter 2, Part 2: 'Temporary assessment orders' of the CPA and s. 7.4.3: 'Assessment orders' of this chapter.

If access is still denied, inquiries should be conducted with the next higher authority of the relevant place before further action is commenced under the CPA.

Removal of the child from the school should only occur:

(i) with the consent of the parent; or

(ii) by virtue of an Act or an order made by a justice or a magistrate.

7.6.5 Recording of evidence of a child witness

Recording of statements under s. 93A of the Evidence Act

An officer interviewing either:

(i) a child witness under the age of 16, or a child deemed a special witness (see s. 21: 'Meaning of *special witness*' of the *Evidence Act* (EA));

(ii) an affected child witness in a relevant proceeding and the child is not a defendant in the proceeding (see s. 21AC: Definitions' of the EA); or

(iii) any person with an impairment of the mind under s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the EA,

should be aware of the conditions described in that section and should, as a first preference, use video and audio facilities to record that statement where practicable.

OPM Issue 113 Public Edition

Before commencing any interview, officers should personally check the equipment they will be using during the interview to ensure that it is in working order, including any audio equipment.

Officers should ensure cameras used for visual recordings adequately capture all the persons involved in the interview. The face of the child witness or person with an impairment of the mind should be able to be seen clearly in the screen. Where this is not the case, the interview should not commence or be suspended to rearrange the interview setting to ensure these essential images are captured.

Officers in charge of stations and establishments who have recording equipment under their control that is used to obtain statements under s. 93A of the EA are to ensure such equipment is tested monthly (see s. 3.7: 'Testing of equipment used to obtain statements under s. 93A of the Evidence Act' of the DERIE Manual).

Recording statements of persons who do not fall under s. 93A of the Evidence Act

Video and audio equipment to record statements from victims of crime, who do not fall within the provisions of s. 93A of the EA, should be used if the investigating officer considers recording the information would be beneficial to the investigation. Where video and audio equipment are used to record statements from victims of crime, the investigating officer should still prepare a typed statement for presentation to a court.

7.6.6 Releasing and copying video and audio recordings of an affected child

Audio recordings

Officers should ensure the privacy rights of victims and witnesses are protected. Information contained on audio recordings that relates to an affected child can include, but is not limited to an audio recording of:

(i) a pretext conversation between an affected child and a suspect;

(ii) a conversation between an affected child and a suspect, recorded under the provisions of the *Invasion of Privacy Act*; and

(iii) an interview conducted under s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the *Evidence Act* (EA) with an affected child.

ORDER

Where a statement is obtained from a child under s. 93A of the EA for a relevant proceeding, an extra copy of the audio recorded statement is to be included with the brief of evidence. This copy is to be provided by the police prosecutor responsible for the matter to the defendant or lawyer acting for the defendant in accordance with s. 590AH: 'Disclosure that must always be made' of the CC (see s. 3.14.4: 'Mandatory disclosure' of this Manual).

Where a request is made by a manager from Child Safety for an audio copy of an interview with a child, a copy of the interview may be provided to Child Safety free of charge (see s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM). The audio copy of an interview with a child remains the property of the Service.

An officer supplying a copy of an audio recording to Child Safety is to advise that any third-party request to obtain a copy or gain access to the audio recording is to be referred back to the Service.

Members are not to supply a copy of a recording of an interview/statement of an affected child to other government or non-government agencies without the consent of the OIC, Child Abuse and Sexual Crime Group, a district officer or an officer of the rank of superintendent.

Video recordings

ORDER

When a video recording is made of a statement by an affected child under s. 93A of the EA for a relevant proceeding, officers are not to give an original or copy of the video recording of the affected child's statement to the defendant or lawyer acting for the defendant.

Any request to obtain a copy or view the video recording of an affected child's statement for a relevant proceeding is to be referred to the prosecutor responsible for the matter (see s. 3.14.6: 'Disclosure of sensitive evidence in a relevant proceeding' of this Manual).

Where an arresting officer receives advice from the prosecutor responsible for the matter that the video recording of the statement made under s. 93A of the EA does not constitute 'sensitive evidence' (see s. 590AF: 'Meaning of *sensitive evidence*' of the CC) officers are to make appropriate arrangements for a copy of the video recording to be made.

An arresting officer who is requested to copy a video recording of a statement should forward the copy to the police prosecutor for disclosure in accordance with s. 590AH of the CC.

See also Flowchart 7.4: 'Releasing and Copying video and audio recording of an affected child' available on the Crime Command Information Hub SharePoint page.

OPM Issue 113 Public Edition

7.6.7 Releasing and copying images of an affected child

Officers in possession of evidence relating to an affected child should be aware such evidence may be deemed 'sensitive evidence' by the prosecution as provided by s. 590AF: 'Meaning of *sensitive evidence*' of the CC.

Examples of sensitive evidence may include:

(i) a computer hard drive containing obscene or indecent images;

(ii) a photo of a naked rape victim taken to preserve evidence of the victim's condition at a particular time; and

(iii) any indecent or obscene images in the form of photographs, video recordings, of the affected child.

For information on the disclosure of 'sensitive evidence' in a relevant proceeding see s. 3.14.6: 'Disclosure of sensitive evidence in a relevant proceeding' of this Manual.

ORDER

Where any image of a child that may be 'sensitive evidence' is in the possession of police, officers are to ensure the image, whether it be a video recording or otherwise is not copied unless:

(i) ordered by a court under s. 590AO(5): 'Limit on disclosure of sensitive evidence' of the CC; or

(ii) for a legitimate purpose connected with a proceeding as authorised under s. 590AX: 'Unauthorised copying of sensitive evidence' of the CC.

Where officers receive a request from a defendant or lawyer acting for a defendant to view 'sensitive evidence' that relates to a relevant proceeding, officers are to refer the request to the prosecutor responsible for the matter (see s. 3.14.6 of this Manual).

7.6.8 Video and audio recordings no longer required by a court

The officer responsible for the investigation of a complaint of child sexual harm should make arrangements to recover the master video recording and any copy or edited version of the master video or audio recordings relating to a statement/interview of an affected child at the finalisation of each proceedings at which the video or audio recordings are produced in evidence.

ORDER

The police prosecutor who is prosecuting a matter of alleged child harm is to make an application to the court at the conclusion of the proceedings for the return of any video and audio recordings relating to an affected child, to the custody of the investigating officer. Where the matter is before a higher court the investigating officer is to request the Crown prosecutor to seek an order from the presiding judge.

7.6.9 Child cannot be compelled to give evidence

Officers should be mindful that a child under 12 years of age cannot give evidence of harm to substantiate an application for an order made under the *Child Protection Act* (CPA). Where possible, corroboration should be sought (see s. 112: 'Child can not be compelled to give evidence' of the CPA).

OPM Issue 113 Public Edition

7.7 Medical examination of children

Where a child is the subject of alleged harm, and it is likely that a medical examination of the child may result in further evidence being made available, the officer conducting the investigation should make every effort to have the child medically examined as soon as reasonably practical. Provided that the officer considers that a medical examination is necessary, there is no requirement for the officer to personally interview the child prior to the medical examination.

In some circumstances, where a medical examination is conducted at a private medical facility (not associated with Queensland Health) the Service may be required to meet costs associated with any such medical examination and therefore requires prior approval from the OIC of the station or establishment prior to obtaining the medical examination.

A detailed case history of the alleged child harm particulars may be sought from the investigating officer by the doctor, to provide medical staff with necessary information to determine the most suitable medical examination to undertake.

Such examinations should include photographs where necessary (see Chapter 2: 'Investigative Process' of this Manual).

Child's age in relation to the examination processes

Queensland Health may refer child victims to selected medical facilities to best meet the child's needs and support for a more holistic response. For children aged 14 to 16 years of age presenting to a paediatric facility, an assessment to complete an examination at the facility will be completed on a case-by-case basis, this may mean the child could be transferred to another facility for examination.

In general, children who are:

(i) under 14 years of age, may be examined by a medical officer or nurse with appropriate paediatric skills including child protection or sexual assault medical examination training or skills;

(ii) aged 14 years or older, may be examined by a suitably trained:

(a) forensic nurse examiner;

(b) sexual assault nurse examiner;

(c) Government Medical Officer;

(d) forensic physician; or

(e) other medical officers who have received training in forensic examinations.

For children 14 years or older, where there is no trained clinician available and the child requires a forensic medical examination as soon as possible, the child may be examined by any medical officer (other than an intern) when the examiner has accessed 24/7 telephone support from Forensic Medicine Queensland.

Consent for medical examination

For general medical assessments, including genital examination, not related to a sexual assault, verbal consent must be obtained from the child who is deemed to have the capacity to provide consent (e.g. the child is able to comprehend the nature of examination). Where this is not possible, verbal consent is to be sought from the guardian. Additional guidance for understanding capacity to consent and decision-making model for the treatment and care for patients under 18 years of age can be located on the Queensland Health website under the page 'Children and minors'.

Consent for forensic medical examinations associated with the disclosure of a sexual assault requires written consent from the parent or carer, unless the parent or guardian is identified as a suspect for the alleged sexual assault offence. In this instance consent is to be obtained from the Chief Executive, Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS) pursuant to s. 18: 'Child at immediate risk may be taken into custody' of the *Child Protection Act* (CPA).

Consent for 'Collect and Store' examination

Queensland Health's 'Guideline for the Management of care for people 14 years and over disclosing Sexual Assault' provides that a child with capacity to consent (a 'Gillick-competent' child), who is aged between 14 to 17 years and indicating they do not want police involved in a sexual assault allegation, may choose to have a Collect and Store forensic examination completed as an alternative. To be deemed 'Gillick-competent', the child must have sufficient understanding, intelligence and maturity to appreciate the nature of care to be provided and the consequences and risks, and the alternatives. In cases of Collect and Store, Queensland Health will store the sample in a central location until such time the patient decides to report the sexual assault to police, or the sample is destroyed after 24 months.

Mandatory reporting requirements

Doctors and registered nurses are required to comply with mandatory reporting obligations under s. 13E: 'Mandatory reporting by persons engaged in particular work' of the CPA. This applies to any child, under the age of 18 years, who discloses allegations of unacceptable risk of suffering, or significant harm caused by physical or sexual abuse.

Parental / guardian refusal to medical examination

Where a parent/guardian refuses permission for a medical examination or photographs of a child, and the investigating officer believes there is an urgent need for such procedures, the officer should consider lodging an application for a temporary assessment order under s. 25: 'Making of application for order' of the *Child Protection Act*.

7.7.1 Forensic evidence collection kits—child sexual assault investigation

The medical examination of a child should occur at the earliest available opportunity to assist in obtaining the necessary evidence for subsequent production to a court. The Service utilises forensic evidence collection kits for this purpose.

There are 4 modular forensic evidence collection kits used by Queensland Health Hospitals, these are:

(i) Forensic Medical Examination Kit (FMEK)—for collection of DNA evidence following alleged sexual assault;

(ii) Contamination Reduction Kit (CRK)—used in conjunction of a FMEK to establish a controlled setting where DNA contamination is minimised;

(iii) Clothing Collection Kit (CCK)—for gathering and preserving external clothing (or other) for DNA evidence; and

(iv) Toxicology Collection Kit (TOX)—for collection of urine and blood evidence following a suspected drug-facilitated sexual assault.

These kits are available for males, females and children, and contain all the necessary instructions to the medical practitioner conducting the examination, together with all the syringes, storage vessels, slides and swabs necessary to obtain the required forensic material for subsequent examination. The kits are available at Queensland Health facilities and are for use in the medical examination of victims and offenders.

OPM Issue 113 Public Edition

In general, a forensic medical examination on a child will be warranted for up to 72 hours after an alleged sexual assault. Contact should be made with a Queensland Health medical officer or nurse with appropriate paediatric skills or sexual assault examination training to determine if an examination after 72 hours should be performed (see also 'Timeframes for paediatric FMEK sampling decision-making' guidelines available on Forensic Medical Examinations (Sexual Assault) SharePoint page).

ORDER

At the conclusion of the examination, the investigating officer is to take possession of any forensic evidence collection kit used which may subsequently become an exhibit. Medical practitioners may retain the protocol book if they wish. Officers attending medical examinations are to ensure that a copy of each page of the protocol book is removed by the medical practitioner and given to the investigating officer.

It is desirable to have a person of the same gender as the child present at a medical examination. There is no legal requirement for an officer to be present during the medical examination. Generally, a nurse, health worker or other support person will be present during the medical examination to assist with the examination and support of the child. The person who is present for the medical examination may be later required to give evidence to a court and the person should be informed of this obligation prior to the examination.

Release of Forensic evidence collection kit to the Service

Authority for a medical examination and authority to release the forensic evidence collection kit to the Service may be obtained by the investigating officer in the following manner:

(i) consent in writing from the parent or carer, where the parent or carer has not been identified as a suspect (note: the forensic evidence collection kit has provision in its protocol book to be completed by the medical practitioner for the parent to provide consent in writing);

(ii) the authority of s. 18(6): 'Child at immediate risk may be taken into custody' of the *Child Protection Act*, a temporary assessment order or a court assessment order;

(iii) the child has been detained under the provisions of s. 197: 'Designated medical officer may make care and treatment order for child' of the *Public Health Act* for a period not exceeding 48 hours; or

(iv) the child is of such an age that the child can comprehend the nature of the medical examination and exercise discretion to provide informed consent for a medical examination. The age where a child can exercise discretion will vary with the level of development of the particular child.

See also Chapter 17, Part 5, ss. 475 to 494: 'DNA procedures' and Chapter 18, ss. 537 to 548: 'Blood and urine testing of persons suspected of committing sexual or other serious assault offences' of the PPRA, and s. 2.23: 'Forensic procedures' of this Manual.

OPM Issue 113 Public Edition

7.8 Allegations of physical/sexual harm committed against a child which may amount to corrupt conduct by Government employees

Definitions

For the purposes of this section:

Government employee

means a person employed, including contractors employed on a full-time basis, within a Government organisation.

Government organisation

means a 'unit of public administration' as defined in s. 20: 'Meaning of unit of public administration' of the *Crime and Corruption Act*.

Initial Assessing Member

means a member of the Service who is responsible for the initial assessment of a complaint and is a:

(i) police officer at the rank of inspector or above; or

(ii) Staff member at AO8/PO5 level or above.

7.8.1 Notifications relating to corrupt conduct

ORDER

When an officer receives a complaint (receiving member) of physical or sexual harm committed against a child which may amount to corrupt conduct (see s. 15: 'Meaning of corrupt conduct' of the *Crime and Corruption Act*) by a Government employee, the receiving member should notify the Crime and Corruption Commission (CCC) in accordance with this section. Receiving members should liaise, preferably by telephone (see 'contacts – child harm' SharePoint page) with staff from the CCC to clarify if the allegation is of a nature that may amount to corrupt conduct and to ensure

an investigation is commenced immediately. If the CCC advise that a matter may amount to corrupt conduct, the receiving member is to email a formal report in the form prescribed in Appendix 7.3: 'Sample wording for report concerning Government employee' of this chapter (see SMCD).

When there is or appears to be some delay in receiving advice from the CCC to commence an investigation, the receiving member should notify their OIC who should attempt to resolve the delay in the most expeditious manner.

When a member, receives a complaint of physical or sexual harm committed against a child which may amount to a ground for disciplinary action by a member of the Service, the receiving officer is to:

(i) submit a notification to ESC via the Conduct Notification App (available on ESC SharePoint page); and

(ii) bring the information of the complaint to the attention of an Initial Assessing Member,

in accordance with their reporting obligations under s. 6A.1: 'Duty concerning misconduct and other grounds for disciplinary action' of the PSAA and the Complaint Resolution Guidelines available on the ESC SharePoint page). Where satisfied an investigation for ground for disciplinary action is to be conducted, the Initial Assessing Member is to submit a 'Disciplinary Complaint form' available on the ESC SharePoint page.

7.8.2 Responsibility for investigating reports of physical/sexual harm committed against a child which may amount to corrupt conduct involving Government employees

Reports which involve allegations of physical or sexual harm against a child, that may amount to corrupt conduct by a Government employee (includes contractors) should be investigated by an experienced officer from the:

(i) child protection and investigation unit where the report was received;

(ii) where a child protection and investigation unit does not exist, the local criminal investigation branch where the report was received.

Where the allegation may amount to corrupt conduct, if substantiated, officers should notify their OIC and the Crime and Corruption Commission (CCC). Officers may only undertake an investigation into the allegations with the consent of the CCC.

Investigation

Where a report of physical/sexual child harm against a child is received, an investigation should be conducted in accordance with s. 7.3: 'Investigating child harm' of this chapter and every effort should be made to immediately interview the child victim in accordance with s. 7.6: 'Interview with a child' of this chapter.

Various records may exist within Government organisations which may assist police in their investigations. Investigators should inquire with the particular organisation to ascertain the information sharing policies.

If there is any doubt concerning the obtaining of documents or records from existing information sharing arrangements with Government organisations, the investigator should;

(i) obtain a search warrant under the provisions of the PPRA; or

(ii) obtain a subpoena to produce the documents to a court; or

(iii) if the records relate to the personal information of the child, obtain permission from the child or child's parents to seek the records.

Generally, officers should, if documents are taken possession of, provide a photocopy of those documents to the Government organisation where possible to assist in the day to day running of the organisation.

Information sharing during the investigation

During the course of an investigation, and in the process of accessing information from a Government organisation's records, it will be necessary to disclose certain information to various officers of the organisation. In particular, it will often be necessary to provide some details to the Government organisation's employees, such as managers or guidance officers, verbally so that information required by the investigation may be identified and provided. However, any other information should only be disclosed in accordance with s. 1.9: 'Confidentiality of information related to victims, witnesses and other vulnerable persons' of this Manual.

The Government organisation may request information pertaining to a criminal investigation concerning Government employee for disciplinary purposes. See also s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM.

It should also be noted that the CCC liaison officers may gain access to documents relating to investigations which are held by the CCC.

If prosecution is commenced against a government employee, the investigating officer is to provide that information in the summary of facts of the relevant court brief (QP9). It is the prosecutor's responsibility to notify certain agencies of the results of prosecutions (see s. 3.4: 'General prosecution policy' of this Manual).

OPM Issue 113 Public Edition

Finalisation of the investigation

At the conclusion of an investigation of alleged physical/sexual harm by a government employee, the investigating officer should either:

(i) initiate court action where an offence has been established; or

(ii) where there is insufficient evidence to initiate court action, or court action has been finalised,

furnish a report outlining the circumstances of the investigation and forward that report through the OIC of the region to the CCC. The report is to be forwarded within 14 days of completion of the investigation or the court action. A copy of all statements and synopses of any electronic interviews should be attached to the report.

7.9 Information exchange

Chapter 5A: 'Service delivery coordination and information sharing' of the *Child Protection Act* provides for:

(i) information sharing (see Part 4) between particular prescribed entities and the Chief Executive;

(ii) the release of health information or information relevant to coronial investigations (see Part 5); and

(iii) the protection from liability and interaction with other laws' (see Part 6).

7.9.1 Relevant information exchange

The Commissioner is a prescribed entity (see s. 159M: 'Definitions for part' of the *Child Protection Act* (CPA)) and may give to and receive from any other service provider (see s. 159M of the CPA) relevant information under ss. 159MA to 159MD of the CPA. The Commissioner has delegated the power to all officers (see Delegation D 33.3).

The Chief Executive, Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS) or an authorised officer may, under s. 159N: 'Information requirement made by chief executive or authorised officer' of the CPA ask the Commissioner for particular relevant information in the possession or control of the Service. If asked, the Commissioner must comply with the request. The Commissioner has delegated this power to officers in designated positions (see Delegation D 33.4).

Under s. 10.2: 'Authorisation of disclosure' of the *Police Service Administration Act* (PSAA) the Commissioner may, in writing, authorise disclosure of information that is in the possession of the Service. The Commissioner has delegated this power to stated particular positions (see Delegation D 15.46).

Officers may In accordance with ss. 159MA to 159MD of the CPA and Delegation D 33.3:

(i) provide relevant information to service providers; and

(ii) obtain information from any prescribed entity, including information relating to the assessment of a case by Child Safety.

If the Chief Executive DFSDSCS or an authorised officer requests particular relevant information in the possession or control of the Service, officers delegated under Delegation D 33.4 are to comply with the request, unless the provisions of s. 159N(2) or (3) of the CPA apply.

Members who receive a written request for particular relevant information under s. 159N of the CPA are to refer the request to a delegated officer.

A member described in Delegation D 15.46 may authorise an officer in writing to disclose information in the possession of the Service under s. 10.2 of the PSAA. The officer authorised is to comply with any conditions imposed by the written authority.

7.9.2 Confidential Information from a health services designated person

In accordance with s. 159O: 'Release of information by a health services designated person' of the *Child Protection Act* (CPA), a health services designated person may give an officer confidential information if the information is relevant to the protection or welfare of a child. This includes the giving of information, before a child is born, that is relevant to the protection or welfare of the child after the child is born.

Officers who require confidential information from a health service designated person are to request the information from that person. If the designated person refuses to provide the requested information, and officers believe the release of the requested information would be in compliance with the CPA; the local Queensland Health, child protection liaison officer should be requested to assist with the inquiry. For contact details of designated persons see 'Hospital and Health Service (HHS)' of the SMCD.

7.9.3 Information from Chief Executive to police officer investigating or reporting a child death under the Coroners Act

If the death of a child is being investigated under the *Coroners Act*, the Chief Executive, Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS) may give information about the matters stated in s. 159P: 'Release of

OPM Issue 113 Public Edition

information for reporting or investigating a death under the Coroners Act' of the *Child Protection Act* (CPA) to the following:

(i) an officer investigating the death;

(ii) a coroner investigating the death; or

(iii) an officer helping a coroner investigate the death.

Officers investigating or helping the coroner to investigate, the death of a child under the *Coroners Act*, who require information or additional information about the matters stated in s. 159P(2)(a), (b) and (c) of the CPA, are to request from the Chief Executive, DFSDSCS, information held by that Department for the deceased child. This process is to be instituted at the earliest time following the death of a child in compliance with the procedures contained in s. 8.5: 'Deaths of children' of this Manual.

Officers who receive information under s. 159P of the CPA are to comply with s. 159P(3) of the CPA with respect to the use or disclosure of the information provided.

7.9.4 Information from Chief Executive to police officer conducting a criminal investigation into a child death

When police are undertaking a criminal investigation into the death of a child, the Commissioner can request information, including notifier details, from the Chief Executive, Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS) by written notice. The Chief Executive, DFSDSCS is to provide information about the child to assist police in conducting a criminal investigation (s. 188E: 'Chief executive must give police commissioner information about deceased child' of the *Child Protection Act*). Officers are to ensure any information received under s. 188E is maintained securely and not distributed to unauthorised persons.

7.9.5 Confidentiality and liability (information disclosure)

Officers are to be conversant with provisions of the *Child Protection Act* (CPA) which relate to confidentiality and liability, in particular:

(i) Chapter 6, Part 6: 'Confidentiality and disclosure' of the CPA creates offences for disclosure of unauthorised information;

(ii) s. 159Q: 'Protection from liability for giving information' of the CPA provides for protection from civil or criminal liability or liability under an administrative process, for a person who gives information in compliance with Chapter 6, if acting honestly under the Act; and

(iii) s. 197: 'Protection from liability for officials' of the CPA provides that a police officer does not incur civil liability for an act done, or omission made, honestly and without negligence under the Act.

ORDER

Officers are to ensure that information is only disclosed when authorised by the CPA.

OPM Issue 113 Public Edition

7.10 Suspected child abuse and neglect (SCAN) team system

Chapter 5A, Part 3: 'The SCAN system' of the *Child Protection Act*, establishes the Suspected Child Abuse and Neglect (SCAN) team system, purpose, membership and core members and the responsibilities of its core members. The Commissioner is a core member of the SCAN team system.

The purpose of the SCAN team system is to enable a coordinated, multi-agency response to children where statutory intervention is required to assess and meet their protection needs. This is achieved by:

(i) timely information sharing between SCAN team core members;

(ii) planning and coordination of actions to assess and respond to the protection needs of children; and

(iii) holistic and culturally responsive assessments of children's protection needs.

Information about SCAN team processes and practices is contained in the SCAN Team System Manual available on the Suspected Child Abuse and Neglect Team SharePoint page.

7.10.1 Suspected child abuse and neglect (SCAN) teams

SCAN teams are the foundation of the SCAN system. The Service is a core member of the SCAN system as provided by s. 159K: 'Members' of the *Child Protection Act* (CPA) and is to provide a representative at every SCAN team meeting. In addition to the Service, SCAN team core membership includes:

(i) Queensland Department of Families, Seniors, Disability Services and Child Safety (the lead agency);

(ii) Queensland Health; and

(iii) Queensland Department of Education.

Other professionals may be invited as 'invited stakeholders'.

The frequency of SCAN team meetings is determined by SCAN team representatives and is agreed upon in response to operational needs. If a referral requires urgent attention by a SCAN team, an emergency meeting may be called.

Pursuant to section 2.7: 'Ensuring a SCAN team quorum' of the SCAN Team System Manual, the immediate safety of a child should never be compromised by an inability to form a SCAN team quorum. When a quorum is not formed for a SCAN team (or emergency) meeting, a case planning discussion is to be held with the available core member representatives, including any invited stakeholders.

Where possible, a designated Service SCAN team representative is to attend each team meeting. Section 2.8: 'Inability to attend a scheduled or emergency meeting' of the SCAN Team System Manual, available on the SCAN Team SharePoint page, provides guidance for members unable to attend SCAN team (or emergency) meetings. If the designated representative is not available, a suitably qualified proxy is to be nominated, (see s. 7.10.3: 'Responsibilities of the Service representative on the SCAN team' of this chapter).

7.10.2 Suspected child abuse and neglect (SCAN) team referral

Service criteria for a SCAN team referral

The criteria for a SCAN team referral is based on s. 10: 'Who is a *child in need of protection*' of the *Child Protection Act* (CPA) and requires:

(i) a child who has suffered harm, is suffering harm or is at unacceptable risk of suffering harm. See s. 9: 'What is *harm*' of the CPA; and

(ii) concern that the child does not have a parent able and willing to protect the child from the harm; and

(iii) a SCAN team core member believes coordination of multi-agency actions and/or expert advice from more than one core member representative is required to effectively assess and respond to the protection needs of the child.

See 'SCAN team system operational procedures' flowchart available on the Suspected Child Abuse and Neglect Team SharePoint page.

Each SCAN team referral is to meet one of the following criteria:

(i) Notification—the matter has been assessed and screened in by Child Safety as a notification and the investigation and assessment has not been finalised;

(ii) On-going intervention—Child Safety is responsible for ongoing intervention with the child through a support service case, intervention with parental agreement or a Child Protection Order;

(iii) Missing child—a child in care has been reported as missing to the police (see 'Suspected Child Abuse and Neglect (SCAN) Team System Response Protocol—when a child in care is missing'); or

(iv) Child Concern Report (CCR) consult—a matter has been recorded as a CCR by Child Safety and, following a discussion with the Child Safety senior team leader, a core member representative is seeking a multi-agency discussion.

OPM Issue 113 Public Edition

Child Concern Report (CCR) consult referral process

Prior to making a SCAN team referral for a CCR consult, the Service is to confirm:

(i) the matter has been assessed by Child Safety as a CCR;

(ii) the Service SCAN team representative has contacted the approving Child Safety RIS senior team leader for further discussion regarding the decision, rationale and follow up actions; and

(iii) the matter remains a CCR and the Service SCAN team representative seeks a multi-agency discussion.

SCAN team referral process

The identity of the person who provided the initial information to the Service (the 'notifier') is not to be disclosed on the Form 1: 'Request for Multi-Agency Meeting' (in QPRIME) or to any person outside of the SCAN team (see s. 7.9.5: 'Confidentiality and liability (information disclosure)' of this chapter and s. 186A: 'Identity of notifier not to be disclosed' of the CPA).

When an officer is investigating a complaint of alleged harm to a child, and the complaint meets the SCAN team referral criteria (see 'Service criteria for SCAN team referral' of this section) the officer investigating:

(i) is not responsible for the submission of the Form 1: 'SCAN team referral' where the Service is conducting a joint investigation with officers from Child Safety, here Child Safety will submit the Form 1. Officers are to provide any further information on a Form 2: 'SCAN Team Information';

(ii) may be responsible for the submission of the Form 1 where the Service is conducting a joint investigation with another agency. Officers are to consult with the agency to determine who will submit the form;

(iii) is not to rely on other agencies for the submission of Service information to the SCAN team. During joint investigations, officers are to provide Service information on a separate Form 1 or Form 2 for submission;

(iv) is to include all relevant information on the Form 1, including:

(a) details of a relevant offender;

(b) child's exposure to domestic violence;

(c) relevant risk factors;

(d) details on the child of the impact of the alleged harm; and

(e) actions taken by a parent to protect the child from harm.

(v) is to record only factual information on the Form 1. Pursuant to the *Right to Information Act*, members of the public may be granted access to that document; and,

(vi) within 3 days of determining that the referral criteria have been met, officers are to complete a Form 1 or Form 2.

An officer is to continue investigations into the alleged harm to the child without waiting for the case to be considered by the SCAN team. Officers are to consult with Child Safety for planning the most appropriate way of conducting the investigation in accordance with the provisions of s. 248B: 'Consultation about investigations and prosecutions' of the CPA.

Following referrals to the SCAN team, officers are to carry out all investigations required by the SCAN team. All subsequent information is to be forwarded to the Service SCAN team representative on a Form 2.

All SCAN team review forms are to be forwarded to the Service SCAN team representative no later than 3 working days prior to the next scheduled SCAN team meeting.

7.10.3 Responsibilities of the Service representative on the suspected child abuse and neglect (SCAN) team

The Service is to be represented at SCAN team meetings by a nominated SCAN team representative. When the nominated representative is not available, they are to be replaced by a suitable proxy who has the knowledge and experience to appropriately represent the Service, and sufficient authority to commit Service resources to agreed recommendations.

A Service representative on the SCAN team is responsible for:

(i) providing advice, support and consultancy to members to facilitate the effective functioning of the SCAN system;

(ii) assessing the quality of SCAN team referrals from officers to ensure that all elements of the referral criteria have been met. Prior to forwarding the Form 1 to the local SCAN team coordinator, be satisfied that the case will benefit from multi-agency consideration;

(iii) forwarding the referral form to the local SCAN team coordinator within 5 working days of receipt;

(iv) representing the Service at SCAN team meetings;

(v) providing relevant advice and assistance to SCAN team members in relation to Service policy and procedures;

(vi) actively participating in initial case assessment and development of case management recommendations for implementation within the SCAN system;

(vii) providing relevant knowledge and advice about child protection investigations;

(viii) where necessary, making recommendations to commence proceedings;

(ix) updating the relevant QPRIME occurrence following each SCAN team meeting with at least the following information:

(a) the name of the SCAN team;

(b) the date of the SCAN team meeting;

(c) any recommendations; and

(d) any outcomes of the meeting.

(x) providing feedback to investigating officers about outcomes as soon as practicable after the close of a SCAN team meeting;

(xi) requesting Service resources to support SCAN team recommendations as required;

(xii) ensuring that any recommendations relevant to the Service made by the SCAN team are implemented where recommendations are consistent with legislative provisions, SCAN inter-agency agreements and Service policy;

OPM Issue 113 Public Edition

(xiii) participating in the implementation and monitoring of SCAN team recommendations; and

(xiv) participating in inter-departmental development and delivery of SCAN system training and information relating.

In addition to their primary SCAN team responsibilities, Service SCAN representatives are also responsible for:

(i) providing advice, support and consultancy to the regional officer or their delegate attending relevant committees and engagements to assist in the effective functioning of regional child protection;

(ii) consulting, liaising, supporting and assisting OICs of the CPIU within their SCAN area of operation to assist in the effective functioning of the unit;

(iii) providing timely advice to the Detective Inspector, Child Abuse and Sexual Crime Group, Crime Command of strategic issues affecting the Service's role in the SCAN team system; and

(iv) conducting reviews of Child Harm Referral Reports with consideration to cumulative harm, making referrals to appropriate government and non-government agencies and taking other actions deemed necessary including those relevant to the SCAN team system.

Responsibilities within districts

An OIC of a region is to ensure:

(i) district SCAN representatives are able to fulfil duties as representatives of the Service on SCAN team meetings pursuant to this section; and

(ii) in the absence of the appointed district representative, another officer is suitably nominated to perform SCAN duties in the absence of the appointed officer.

7.10.4 Escalation process for suspected child abuse and neglect (SCAN) team

If, after discussion, the SCAN team core member representatives are unable to reach consensus on a recommendation, the issues are to be recorded in the SCAN team minutes. Where necessary, an escalation process is initiated to ensure timely outcomes.

The escalation process can only proceed when there is clear disagreement by SCAN team core member representatives regarding the coordination of multi-agency actions to assess and respond.

This does not include disagreement in relation to an action that is the core business of another SCAN team core member agency. These issues will be addressed outside the SCAN team forum in accordance with the relevant agency's complaint protocols.

If the SCAN team cannot reach agreement the SCAN team coordinator will provide a copy of a Form 2: 'SCAN team information form' (purpose escalation) containing details of the meeting and escalation to all SCAN team core member representatives with a request to provide a summary of each agency's assessment of the protection needs of the child and proposed response actions, and any other relevant information, within two days of the meeting.

On receiving the Form 2, the Service SCAN team representative is to:

(i) consult with the Detective Inspector, Child Abuse and Sexual Crime Group, Crime Command regarding their assessment and response;

(ii) if supported by the detective inspector, enter the assessment details in the relevant section of the Form 2 (purpose escalation);

(iii) forward the Form 2 (purpose escalation) to the SCAN team coordinator within three business days; and

(iv) update QPRIME.

The SCAN team coordinator will collate each agency's response into a Form 2. A copy of the Form 2 is to be forwarded to each SCAN team representative for ratification.

On receipt of the Form 2 the Service SCAN team representative is to provide the form to the Detective Inspector for consideration and review of the recommendations.

The detective inspector is to:

(i) determine the multi-agency actions required based on the information provided in the Form 2;

(ii) uphold, amend or withdraw the original recommendation(s) as necessary; and

(iii) ensure the Form 2 is updated and returned to the Service team representative.

The QPS SCAN team representative is then to provide the amended or approved Form 2 to the SCAN team coordinator for tabling at the next SCAN team meeting for review and action by the SCAN team.

While the matter is being resolved, investigating officers are to, in consultation with their OIC, continue to carry out their statutory responsibilities to ensure the ongoing protection of the child.

OPM Issue 113 Public Edition

7.10.5 Departing from suspected child abuse and neglect (SCAN) team recommendations

Where the SCAN team has made a recommendation and the officer tasked with the implementation of the recommendation has departed from, or is considering departing from the recommendation, the officer is to obtain approval from their OIC. Where the OIC:

(i) does not approve the departure, implement the original SCAN team recommendation; or

(ii) the departure is approved, or departure has already occurred, immediately provide information, including the rationale for the decision, and any possible impacts of the departure to the relevant service SCAN team representative by completing a Form 2 and updating QPRIME.

The SCAN team representative is to forward all information relating to departures to the SCAN team coordinator for discussion at the next SCAN team meeting. Consideration is to be given to requesting an emergency SCAN team meeting.

If the SCAN team agree to the departure/considered departure, the agreement, together with the new recommendation, will be recorded in the meeting minutes. However, if the SCAN team do not approve the departure/proposed departure an escalation process will commence (refer to s. 7.10.4: 'Escalation process for suspected child abuse and neglect (SCAN) teams' of this chapter).

While the matter is being resolved, investigating officers will, in consultation with their OIC, continue to carry out their statutory responsibilities to ensure the ongoing protection of the child.

7.10.6 Ownership of suspected child abuse and neglect (SCAN) team documents

All core SCAN team members retain copies of the SCAN meeting minutes. All requests for access to SCAN team minutes are to be made to the local SCAN team representative. All Service reports and documents tabled at a SCAN team meeting by an officer remain the property of the Commissioner.

7.11 Suspected child exploitation material

Definitions

For the purpose of this section:

Child exploitation material (CEM)

means material that, in a way likely to cause offence to a reasonable adult, describes or depicts a person, or a representation of a person, who is, or apparently is, a child under 16 years—

(i) in a sexual context, including for example, engaging in a sexual activity;

(ii) in an offensive or demeaning context; or

(iii) being subjected to abuse, cruelty or torture.

See s. 207A: 'Definitions for this chapter' of the CC.

The Service is required to investigate complaints which involve suspected CEM offences.

ORDER

Officers who receive information relating to CEM and suspected child abuse imagery whether digital or within films, publications, computer games or other formats are to submit a QPRIME occurrence for the matter.

When investigating offences in relation to obscene publications and exhibitions or the production, distribution, sale and possession of CEM, officers should use the offence provisions in s. 228, and ss. 228A-228D of the CC.

See Chapter 2: 'Investigative Process' and Chapter 7: 'Child Harm' of this Manual.

7.11.1 Responsibility for investigating online child exploitation

Unless valid reasons exist, the responsibility for the investigation of online child exploitation complaints rests within the district for where the suspected offence has occurred, and where:

(i) there is a CPIU established in the district, with an officer from that unit; or

(ii) a CPIU does not exist, with an officer from the local CIB.

Where the suspect is identified as residing outside Queensland or where specialist assistance is required from the Crime Command, inquiries should be conducted with the Operations Leader, Argos, Child Abuse and Sexual Crime Group, Crime Command to determine the level of engagement required with the investigation (see 'Engagement of Child Abuse and Sexual Crime Group' of s. 2.7.3: 'Child Abuse and Sexual Crime Group' and s. 2.7.1: 'Role of Crime Command upon engagement in investigations with regions' of this Manual).

OPM Issue 113 Public Edition

7.11.2 Argos responsibilities

Argos is principally responsible for the investigation of organised paedophilia, child exploitation and computer facilitated child exploitation offences. Argos receive complaints and investigative referrals from various sources, including but not limited to the following:

(i) interstate police agencies;

(ii) Australian Federal Police;

(iii) international law enforcement agencies; and

(iv) National Center for Missing and Exploited Children.

Where an investigation referral has been received from another Australian or international law enforcement agency, the Operations Leader, Argos, Child Abuse and Sexual Crime Group, Crime Command will assess and determine the responsibility for the investigation.

In addition to investigative responsibilities, Argos is also responsible for:

(i) maintaining national and international networks to enhance operational responses to internet child exploitation;

(ii) managing internationally coordinated operations targeting networked paedophiles and offenders involved in possession, production, and distribution of child exploitation material;

(iii) identifying victims of exploitation and providing appropriate assistance;

(iv) review technology and assess its impact on the investigation of child exploitation;

(v) develop a suite of specialist investigation training products in the field of technology facilitated crimes against children; and

(vi) deliver and coordinate state-wide triage software and categorisation training.

7.11.3 Investigating online child exploitation

All information received should be recorded even if:

(i) the parent or child do not wish to proceed with a complaint. A QPRIME occurrence should be submitted in this instance; or

(ii) there is insufficient information to complete a QPRIME occurrence. An intelligence submission should be completed and submitted through the local intelligence unit.

Argos should be contacted for online child exploitation investigations where:

(i) the suspect is identified as residing outside of Queensland; or

(ii) the investigation has been received from another Australian or international law enforcement agency.

Where a member:

(i) receives information concerning online child exploitation offences, the member is to create a QPRIME occurrence; or

(ii) becomes aware of information relating to online child exploitation, the member is to record an intelligence submission,

and notify Argos by QPRIME task.

When an officer detects or suspects an offence relating to online child exploitation, the officer should investigate the complaint in accordance with Chapter 2: 'Investigative Process' of this Manual. The officer should determine the urgency for response based on risk posed to children and/or the application of any approved risk assessment tools used by Argos (see the Argos, CS&SCG SharePoint page).

If a criminal offence has been committed, whether the suspect is a Queensland resident or not, a QPRIME occurrence should be completed and assigned for investigation as per this section. Where it is determined the suspect resides outside Queensland the investigating officer is to notify Argos by a QPRIME notification task.

The eSafety Commissioner is the Commonwealth agency responsible for investigating complaints about prohibited and potentially prohibited online material. If prohibited online content in Australia is identified, or child exploitation material (CEM) hosted in another country is identified, the eSafety Commissioner should be notified via online reporting (see SMCD).

Investigators requiring electronic evidence from social media providers should refer to s. 7.4.5: 'Requesting information from social media providers' of the MSM.

OPM Issue 113 Public Edition

Workplace health and safety consideration for CEM investigations

ORDER

Pursuant to s. 1.4.5: 'Responsibilities of officers in charge of stations or establishments' of this Manual, the OIC of officers tasked to investigate CEM offences is responsible for the welfare, health and safety of their staff. OICs must be aware of their obligations under the *Work Health and Safety Act* (WHSA).

Investigating officers are also to consider their obligations as 'workers' under the WHSA to themselves and others in the workplace.

Officers undertaking CEM investigations are to comply with the provisions of Appendix 7.4: 'Guidelines for conducting child exploitation material investigations' of this chapter with regards to instructions designed to manage officer exposure to CEM.

7.11.4 Child exploitation victim identification

Significant numbers of digital images and videos identified as child exploitation material are seized during investigations.

Officers have an obligation to inspect seized digital images and videos in an attempt to identify child victims suspected of being subjected to exploitation. The victim identification role forms a vital part of the investigation process and commences with the investigator and their observations and actions in dealing with child exploitation material (CEM). The victim identification role is separate to an investigator categorising material for submission in the prosecution process.

The Argos, Victim Identification Unit, Child Abuse and Sexual Crime Group, Crime Command is responsible for coordinating and providing assistance in the identification of victims of online child abuse. The unit also contributes towards the national database solution for seized digital CEM.

Responsibility for investigations to attempt to identify child victims

Investigations established to attempt to identify a child at risk of ongoing exploitation should remain with the relevant CPIU unless it is established the child does not reside in Queensland.

Where:

(i) it is identified that a child victim is outside of Queensland; or

(ii) an investigation requires specialist support relating to the identification of a child at risk,

consideration should be given to engagement with the Manager, Argos Victim Identification Unit.

Investigating officers should:

(i) notify Argos through a QPRIME 'For your information' task;

(ii) process seized digital CEM in accordance with s. 2.6.10: 'Electronic evidence examination' of this Manual; and

(iii) thoroughly analyse for possible evidence which may assist with identifying child victims.

To gain assistance in the identification of victims of child exploitation, the member should notify Argos by emailing Victim.ID@police.qld.gov.au.

Where a child is identified as a victim, the member is to notify the Victim Identification Unit, Argos by emailing Victim.ID@police.qld.gov.au and seek the consideration of images/videos being uploaded to the International Child Sexual Exploitation (ICSE) database for cross referencing with global law enforcement agencies for investigative purposes.

Release of victim images

Public assistance or media releases to identifying victim children should not include re-victimisation of the child unless an urgent need exists. The safety and welfare of the child should always remain the primary consideration.

Officers should be aware of the provisions of s. 189: 'Prohibition of publication of information leading to the identity of children' of the *Child Protection Act* which requires the Chief Executive's written approval prior to publishing information that identifies, or is likely to lead to the identification, of a child in certain circumstances.

Officers should also be aware of the provisions of Part 6C: 'Limits on publishing information in relation to sexual offences' of the *Evidence Act*.

If it is decided as a last resort that a child's image is to be released to the media for public assistance in identifying a victim of child exploitation, officers are to comply with the provisions of Appendix 7.4: 'Guidelines for conducting Child Exploitation Material investigations' of this chapter.

7.11.5 Other on-line exploitation activities

Not all activities which occur online will involve a criminal aspect, but may be reported to the Service, generally by the relevant child's parents. Where inappropriate behaviour occurs, which does not constitute a criminal offence, the person

OPM Issue 113 Public Edition

should be offered a referral to a suitable support provider (see s. 6.3.14: 'Police Referrals' of this Manual), which may include support services and policies within the child's school.

Unless valid reasons exist, the responsibility for investigating other online exploitation activities, identified as serious criminal offending rests with, where a CPIU:

(i) is established in a district, an officer from that unit; or

(ii) if a CPIU does not exist, an officer from the local CIB.

Cyber-bullying

Bullying and cyberbullying is a social and public health issue which particularly impacts upon the safety of children and young people. Cyberbullying is the systematic abuse of power through unjustified and repeated acts of aggressive behaviour intended to inflict harm using electronic communication as a means to carry out the bullying.

Reducing bullying and cyberbullying requires a community-wide approach, including government, parents, carers, young people, children, schools, community groups, and in some instances, police. The Service supports a social and public health approach to address bullying and cyberbullying among children and young people.

The vast majority of the actions which constitute cyberbullying is inappropriate behaviour between children and is adequately dealt with by parents or the schools without police intervention. Schools deal with issues of bullying by using a range of implemented intervention methods according to their individual policies.

If officers are contacted regarding cyberbullying, officers may refer the caller to anti-cyberbullying resources, such as the Queensland Government Bullying and Cyberbullying information page or the national initiative cyberbullying website 'Bullying. No Way'.

Officers contacted about cyberbullying should be mindful of their obligations under the Charter of Victims' Rights in relation to acting with fairness, reasonable compassion, courtesy, respect and dignity in their professional duties.

In some circumstances it may be appropriate for officers to investigate if an offence has occurred. Officers should appropriately investigate and prosecute serious cyberbullying complaints under either State or Commonwealth legislation. Investigative action is to be taken in accordance with the circumstances and through the application of the guiding principles outlined in the YJA, the CC and the ODPP, Director's Guidelines (DPP Guidelines).

Sexting and intimate images

Sexting is the act of taking sexually explicit images or videos and distributing this material to friends or other people via mobile telephones and other communication methods. In most circumstances, sexting between adults is not a criminal offence. However, if an intimate image is distributed without the consent of the subject in a way that would cause the subject person distress reasonably arising in all the circumstances, then it is an offence. It is also an offence to make a threat, to either the subject of the image or another person, to distribute an intimate image or prohibited visual recording when the distribution of the image would cause distress reasonably arising in all of the circumstances.

In circumstances involving young people of similar age, sexting or engaging in consenting sexual experimentation, officers should adopt an alternative approach focused on prevention and education through relevant campaigns, such as the Queensland Government's 'Respectful Relationships Education' campaign. Additional guidance can also be found on the eSafety Commissioner website under the page reference 'How to help someone deal with image-based abuse'.

A criminal investigation should be undertaken by officers where a child or young person has:

(i) menaced, harassed, or coerced a child to provide a sexual image; or

(ii) otherwise acted without the consent of the other person in relation to sexting, including the deliberate forwarding of indecent images or videos to others without consent,

Considerations for investigations include:

(i) whether the child is a willing or knowing participant;

(ii) whether the interaction is between people of disparate ages and mental capacity (e.g. adult and child);

(iii) the nature of the relationship between the involved parties; and

(iv) the context in which the sharing occurred.

Investigative action is to be taken in accordance with the circumstances and through the application of the guiding principles outlined in the YJA, the CC and the DPP Guidelines.

In instances involving persons distributing child exploitation material, officers should consider which charges are most appropriate in the circumstances.

In all instances, officers should:

(i) consider whether or not the distributed material may be of interest to the Victim Identification Unit, Argos;

OPM Issue 113 Public Edition

(ii) consider obtaining a copy of the distributed material for upload to the ICSE database with sufficient detail for the imagery to be flagged as known/identified. The Victim Identification Unit, Argos, will facilitate the upload of material to ICSE;

(iii) obtain consent to delete images from a device; and

(iv) consider a referral through Police Referrals if appropriate.

Where images have been uploaded to a website, the child should be advised of options to approach the Office of the eSafety Commissioner to request the removal of the images. Additionally, officers should consider offering the child a police referral for victim support (see s. 6.3.14: 'Police Referrals' of this Manual).

7.12 Impact statements

It is recognised that victims of crime often experience trauma as a result of offences committed upon them. The impact and extent of this trauma is considered by the sentencing judge or magistrate when determining the defendant's penalty. The impact of an offence to a person is presented in the form of a victim impact statement. Victim impact statements are not a statement about the crime itself, nor does it contain opinion statements about the defendant.

In most instances the victim impact statement is completed by the primary victim (the person whom the act of violence was committed against). However, if the victim cannot write or is unable to do so, such as in the case of being a younger child, another person may prepare the statement on their behalf (e.g. authored by the parent or carer) and the child may attach a drawing. More than one person may provide a victim impact statement, particularly where the offence has had a profound impact on the family, in these instances this situation should be discussed with the prosecutor at the earliest opportunity.

Completing a victim impact statement is a voluntary decision. Where a victim indicates to member of a willingness to complete a victim impact statement, members should offer the victim a police referral to Victims Assist Queensland who can assist in competing the statement with the victim.

To assist victims in preparing for a victim impact statement, a factsheet has been developed by the Department of Youth Justice and Victim Support.

See also s. 3.7.10: 'Victim Impact Statements' of this Manual.

OPM Issue 113 Public Edition

7.13 Preparation of child witnesses for court

Officers are to refer to s. 7.6.9: 'Child cannot be compelled to give evidence' of this chapter where proceedings are commenced for an application of an order under the *Child Protection Act*.

Use of Protect Adults and Children Today (PACT) to assist child witnesses

When children are to be witnesses in any matter before a court, the investigating officer is to prepare those witnesses for court. PACT is a community based not-for-profit organisation that assists police officers by supporting child victims, child witnesses, and witnesses of all ages to give evidence in court.

Officers are to refer all child witnesses, be they a complainant, preliminary complainant, or witness, to PACT to ensure children receive appropriate support throughout the court proceeding. The use of PACT does not excuse officers from preparing their witnesses before court. Where such organisations are used, this preparation may be done in conjunction with the organisation.

A PACT referral should be submitted for all child witnesses, not just complainants. A child witness is a witness under the age of 18 years. There is no need for child witnesses to be deemed an affected child witness (see s. 21AC: 'Definitions for div 4A' of the *Evidence Act* (EA) or special witness (see s. 21: 'Meaning of *special witness*' of the EA) before a referral is submitted.

PACT does not provide support for child offenders giving evidence unless the child is a co-offender and their matter has been finalised and they are giving evidence as a witness.

PACT may provide support for adults who have an intellectual impairment, including witnesses that have been declared a special witness. PACT will assess the ability to support adults upon the needs of the individual referral.

PACT referrals

A PACT referral should be submitted as soon as an offender is arrested or served with a notice to appear or complaint and summons. This will ensure that the child witness support volunteer has enough time to develop a rapport with the child. Where a PACT referral was not submitted when proceedings commenced, the referral is to be submitted when the matter is first listed for a committal mention or a committal hearing.

An officer submitting a PACT referral is to:

(i) check that all details within QPRIME, including the child witness' details, are correct and updated as necessary prior to submitting the PACT referral;

(ii) complete a PACT referral through the 'Occ events/reports' tab of the subject child in the relevant QPRIME occurrence. In addition to the information imported in the PACT referral, officers are to ensure the referral includes information regarding the child's:

(a) date of birth;

(b) ethnicity;

(c) witness status;

(d) address;

(e) parents' or carers' details and contact number;

(f) offender details; and

(g) court details (using the second page). Wherever possible, information about the investigation should not be included in the PACT referral, to avoid allegations of the child witness support volunteer coaching the child witness;

(iii) assign a QPRIME task to the PACT Liaison Unit Organisation Unit [3307]; and,

(iv) after obtaining the consent of the child's parent/guardian, checking the relevant box on the referral form to allow information sharing between PACT, ODPP, and the Service.

Multiple child witnesses and parents/guardians may be listed on the same form. Only one referral form is required per defendant. Where there are multiple offenders in a matter, a separate referral is to be made for each offender in the event the court separates the offender's proceedings (for example, three child witnesses and two offenders will require two referrals).

Referrals are not to be submitted directly to PACT. Where the QPRIME form is unavailable, a QP 0376: 'Protect Adults and Children Today (PACT) police referral' is to be completed and uploaded on to the QPRIME occurrence against the child witness.

An example of a completed QP 0376 PACT referral can be located on the 'PACT Program and Referrals' SharePoint page. Additional guidance on understanding PACT services can be found on the PACT website.

Where a matter is finalised or withdrawn, advice is to be provided to PACT and the families as a matter of priority to avoid any possible embarrassment should the child witness support volunteer continue to contact the family.

OPM Issue 113 Public Edition

7.14 Child Protection Offender Registry

A National child offender reporting scheme exists, supported by corresponding legislation in each state and territory. The Queensland component of the scheme was established by the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* (CP(OROPO)A). Child sex offenders, and other defined categories of serious offenders against children, are required to keep police informed of their whereabouts and other personal details for a period of time after they are released into the community. The purpose of the scheme is to:

(i) provide for the protection of the lives of children and their sexual safety;

(ii) reduce the likelihood that offenders will reoffend;

(iii) assist the investigation and prosecution of any future offences they may commit; and

(iv) protect the community by facilitating the release of information relating to particular offenders in particular circumstances to the public.

The scheme is supported on a national level by the National Child Offender System. Management of the scheme in Queensland is the responsibility of the Child Protection Offender Registry (CPOR), Child Abuse and Sexual Crime Group (CASCG), Crime Command. This is supported at district level by district CPOR investigators and at a local level by case investigators.

The role and function of CPOR and the information in relation to the National child offender reporting scheme is published on the CASCG SharePoint page.

Child Protection Register

The Child Protection Register is established under s. 68: 'Child protection register' of the CP(OROPO)A and includes information from various sources as well as personal details reported by the reportable offender (reportable offender is defined below in this section).

The CPOR is responsible for:

(i) maintaining the Child Protection Register; and

(ii) creating a QPRIME 'Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004' [3016] occurrence in relation to the reportable offender.

ORDER

Only members authorised by the Commissioner are to access information contained in the Child Protection Register (see Delegation D 51.1). Personal information is to only be disclosed in circumstances authorised by the Commissioner (see Delegation D 51.2) or as otherwise required under another Act (see s. 70: 'Confidentiality' of the CP(OROPO)A).

Information contained in the register is strictly confidential and is only to be used for child protection and law enforcement purposes (see the 'Commissioner's Guidelines' under s. 69(2): 'Access to the register restricted' of the CP(OROPO)A, published on the CASCG SharePoint page).

In accordance with s. 73: 'Reportable offender's rights in relation to register' of the CP(OROPO)A, the Commissioner must:

(i) give the reportable offender a copy of all the reportable information relating to the offender held in the register if asked to do so by the reportable offender; and

(ii) not give the offender information held in the register that may identify a child the offender had reportable contact, other than:

(a) the first initial of the child's first and last names; and

(b) the date of the reportable contact.

Requests of this type are to be directed to the Detective Senior Sergeant, CPOR, CASCG.

Reportable offender defined

A **reportable offender** is a person who is:

(i) sentenced for a reportable offence regardless of when the offence was committed or the person was convicted;

(ii) sentenced for an offence for which a court has made a declaration (if a court convicts a person of an offence other than a reportable offence, the court may also declare it is satisfied the facts and circumstances surrounding the offence constitute elements of a reportable offence);

(iii) an existing reportable offender (see s. 6: '*Existing reportable offender* defined' of the CP(OROPO)A);

(iv) a corresponding reportable offender (see s. 7: '*Corresponding reportable offender* and *corresponding reportable offence* defined' of the CP(OROPO)A);

(v) subject to an offender reporting order;

(vi) subject to an offender prohibition order;

(vii) the respondent for a registered corresponding order; or

(viii) a post-DPSOA (*Dangerous Prisoners (Sexual Offenders) Act*) reportable offender (see s. 7A: 'Post-DPSOA reportable offender defined' of the CP(OROPO)A).

OPM Issue 113 Public Edition

See s. 5: '*Reportable offender* defined' of the CP(OROPO)A.

There are legislated exceptions for when a person sentenced for a reportable offence is not a reportable offender (see s. 5(2)&(3) of the CP(OROPO)A) and when a person stops being a reportable offender (see s. 8: 'When a person stops being a reportable offender' of the CP(OROPO)A).

Police Powers and Responsibilities Act

The PPRA provides specific powers to officers enforcing the provisions of the CP(OROPO)A, namely:

(i) a general power to enter a place under s. 21(1)(e): 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA to detain a person under s. 60: 'Power of detention to enable notice to be given' of the CP(OROPO)A (see subsection 'Power of detention to give notice of reporting obligations' of s. 7.14.5: 'Giving written notice and taking the initial report' of this chapter);

(ii) a limited power to enter a premises where a reportable offender generally resides under s. 21A: 'Power to enter residence of reportable offender' of the PPRA at any time to:

(a) verify the offender's personal details reported under the CP(OROPO)A; or

(b) demand production of and carry out a device inspection under s. 21B: 'Power to demand production of and inspect digital devices in possession of reportable offender' of the PPRA (however, this section contains restrictions—see ss. 21B(1) and (3) of the PPRA).

For the purpose of this power of entry, a premises for a reportable offender, does not include a part of the premises used exclusively by a person other than the reportable offender, without the consent of that occupier. Officers do not have the power to search the reportable offender or the premises unless the circumstances justify another search provision under the PPRA; and

(iii) a power to require a person to state their name and address and provide evidence of the correctness of the information under s. 40: 'Person may be required to state name and address' of the PPRA. The CP(OROPO)A is a prescribed Act pursuant to s. 41(g): 'Prescribed circumstances for requiring name and address' of the PPRA.

Where an officer uses any of the powers provided under the PPRA, the officer is to comply with the relevant safeguards under the Act.

When an officer enters the premises where a reportable offender generally resides under s. 21A of the PPRA, the officer is to:

(i) submit a QPRIME location search report; and

(ii) forward a QPRIME 'For your information' task to State Intelligence Child Protection Offender Registry [3391].

7.14.1 Child protection

Pursuant to s. 3(1A): 'Purposes of this Act' of the CP(OROPO)A, the primary purpose of Queensland's participation in the offender registration scheme is:

(i) to provide for the protection of the lives of children and their sexual safety; and

(ii) to require particular offenders who commit sexual, or particular other serious, offences against children to keep police informed of the offender's whereabouts and other personal details for a period of time after the offender's release into the community:

(a) to reduce the likelihood that the offender will reoffend; and

(b) to facilitate the investigation and prosecution of any future offences that the offender may commit.

ORDER

Where an officer becomes aware, or has developed a reasonable belief, that a child is exposed to a risk of harm because of contact with, or, exposure to, a reportable offender, the officer is to commence an investigation in accordance with s. 7.3: 'Investigating child harm' of this chapter.

Where an officer commences an investigation in relation to a risk of harm to a child by a reportable offender, the officer is to notify the:

(i) OIC of the local CPIU;

(ii) senior district Child Protection Offender Registry (CPOR) investigator; and

(iii) Detective Senior Sergeant, CPOR.

The information is to be reviewed by the OIC of a CPIU or CPOR investigator.

When a reportable offender engages in concerning conduct that an officer reasonably believes poses an unacceptable risk to the lives or sexual safety of children, the CPOR investigator is to conduct an investigation and where appropriate make application for an offender prohibition order in accordance with s. 7.15: 'Child Protection (Offender Reporting and Offender Prohibition Order) Act' of this chapter.

OPM Issue 113 Public Edition

Child referral

Where the investigation identifies the child is at immediate risk of harm, consideration should be given for the child to be taken into custody under s. 18: 'Child at immediate risk may be taken into custody' of the *Child Protection Act* (see also s. 7.4: 'Children in need of protection' of this chapter).

Where a child is taken into custody or in circumstances where a child is at risk of harm but the risk is not immediate, the relevant information about the person's contact with the child, criminal history and offending behaviour may be released to the Chief Executive, Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS), by the:

(i) OIC of the relevant CPIU; or

(ii) senior district CPOR investigator.

Notifications are to be made to the Chief Executive, DFSDSCS in accordance with s. 7.9: 'Information exchange' of this chapter. (See Delegation D 51.2).

The Chief Executive, DFSDSCS is not to be advised of the person's status as a reportable offender unless relevant to assessing the safety concerns of a child.

7.14.2 Roles and responsibilities

Responsibilities of Child Abuse and Sexual Crime Group

The Detective Superintendent, Child Abuse and Sexual Crime Group (CASCG) is:

(i) responsible for the efficiency and effectiveness of the relevant policies, implementation delivery and strategic engagement with Government;

(ii) the owner of the relevant policies and is accountable for the administration of the register;

(iii) to monitor and support the provision of access to appropriate training in relation to the CP(OROPO)A and the Commissioner's guidelines on access to the Child Protection Register and disclosure of information held in the Child Protection Register for relevant staff; and

(iv) to assist in the development of training materials to assist members of the Service in dealing with the provisions of the CP(OROPO)A and make recommendations where appropriate.

The Detective Inspector, CPOR is responsible for:

(i) the development of policies, strategic direction and engagement with regions;

(ii) administration of the register in accordance with the CP(OROPO)A;

(iii) administration of CPOR; and

(iv) administration of CPOR capability supporting district CPOR investigators.

The Detective Senior Sergeant, State Registrar, CPOR is responsible for:

(i) the maintenance and coordination of the register of reportable offenders;

(ii) providing advice on managing interagency information sharing in compliance with legislative requirements;

(iii) administering the access and disclosure of relevant information to the National Child Offender System (NCOS) database on behalf of the Service;

(iv) ensuring only appropriate information is shared between agencies;

(v) ensuring the integrity and privacy of information is protected;

(vi) ensuring the disclosure of information is limited in accordance with the Commissioner's guidelines;

(vii) providing advice on managing interagency information sharing in compliance with legislative requirements;

(viii) encouraging the exchange of information between agencies engaged in the management of reportable offenders for law enforcement purposes, judicial process or administration of the CP(OROPO)A;

(ix) ensure that all reportable offenders as defined under the CP(OROPO)A are given a QP 0572: 'Initial Reporting Obligation Notice'; and

(x) liaise with other entities i.e. Chief Executive, Corrective Services or Chief Executive, Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS) to provide relevant information and ensure the notice is given.

The Detective Senior Sergeant, Regional Operations, CPOR is responsible for:

(i) the management of reportable offenders in accordance with compliance management guidelines;

(ii) the effective coordination and dissemination of information between the registry and district investigators;

(iii) providing support to district investigators to ensure:

(a) the management of reportable offenders occurs in accordance with compliance management guidelines;

(b) pro-active operations are conducted on reportable offenders; and

(c) an application for an offender prohibition order under s. 13C: 'Making prohibition order' of the CP(OROPO)A is made where a reportable offender engages in concerning behaviours and the reportable offender:

- poses an unacceptable risk to the lives or sexual safety of children; and
- the making of the order will reduce the risk;

(iv) ensuring offences against the CP(OROPO)A are identified and disseminated appropriately for investigation; and

(v) identifying and implementing investigative strategies to locate reportable offenders whose whereabouts are unknown.

Members of CPOR are responsible for:

(i) reviewing the relevant criminal history of offenders and applying the legislation for relevant offences committed in Queensland and offences committed in a foreign jurisdiction (i.e. jurisdictions other than Queensland, including jurisdictions outside Australia) for the purpose of identifying who is a reportable offender in Queensland;

(ii) activating a share for reportable offenders who reside and/or work in more than one district or state;

(iii) transfers of reportable offenders within Queensland and with other Australian jurisdictions;

OPM Issue 113 Public Edition

(iv) maintaining the NCOS database;

(v) providing information to Queensland Corrective Services and the DFSDSCS as directed by the Detective Senior Sergeant, State Registrar CPOR; and

(vi) receiving and processing reports from reportable offenders through a call centre and electronic reporting.

Members of the Child Protection Disclosure Unit (CPDU) are responsible for:

(i) receiving and reviewing applications for disclosures under Part 5AA: 'Daniel's Law—Publication and disclosure of information about child sex offenders' of the CP(OROPO)A and verifying applicant eligibility in accordance with legislative requirements;

(ii) escalating disclosure requests through the appropriate approval hierarchy for decision-making;

(iii) maintaining accurate records of actions, decisions and outcomes to ensure compliance and transparency;

(iv) liaising with relevant stakeholders, to facilitate the disclosure process;

(v) ensuring the publication or removal of Reportable Offender details on the Queensland Community Protection Website (QCPW) is completed in accordance with approved decisions; and

(vi) contributing to the continuous improvement of the scheme by collating data and identifying areas for operational enhancements.

Responsibilities within districts

OIC of regions are to ensure:

(i) district CPOR investigators are able to fulfil their duties under the subsection 'senior district CPOR investigators' of this section;

(ii) other officers are identified to perform the duties and responsibilities of the senior district CPOR investigator in the absence of the appointed person; and

(iii) that sufficient numbers of officers complete the approved course of training and are appointed as case investigators in order to properly support the Australian Child Protection Offender Reporting scheme.

Senior district CPOR investigators are responsible for:

(i) allocating case investigators for all reportable offenders within the local district;

(ii) ensuring offences against the CP(OROPO)A are appropriately investigated; and

(iii) being actively involved in the management of high and very high risk offenders within the district.

Case investigators are appointed at the discretion of the region in consultation with the district CPOR investigators. Case investigators are responsible for:

(i) the management of reportable offenders allocated to them;

(ii) ensuring notifications are made to DFSDSCS where it is identified a reportable offender has contact with a child and the child may be at risk; and

(iii) verifying and corroborating information provided by reportable offenders by methods including attending an address to verify if the reportable offender resides at the premises, obtaining supporting documents (e.g. copies of rental agreements, vehicle registration documents, telephone contracts), photographing tattoos or any other action required to verify reported details.

Case investigators can include any officer assigned a reportable offender to conduct an investigation in relation to compliance activity guidelines or any other investigation.

Responsibilities of intelligence officers

Local intelligence officers who receive a CPOR relevant intelligence submission in QPRIME, are to forward the intelligence submission to the 'State Intelligence Child Protection Offender Registry' [3391].

State Intelligence, CPOR are to review the information and update the NCOS database.

7.14.3 Offender reporting orders

An offender reporting order is an order that a person comply with reporting obligations imposed on the reportable offender under the CP(OROPO)A, see s. 12A: '*Offender reporting order* defined' of the CP(OROPO)A.

If the court is satisfied, on the balance of probabilities, that:

(i) a person poses a risk to the lives or sexual safety of a child, or of children generally; or

(ii) for a person convicted of a child abduction offence, the context in which the offence was committed was not familial and an order is appropriate in the circumstances.

OPM Issue 113 Public Edition

The court may make an offending reporting order:

(i) upon conviction recorded and sentence imposed, other than a prescribed offence, see s. 12B: 'Making offender reporting order—conviction for offence other than prescribed offence' of the CP(OROPO)A; or

(ii) if the court makes a forensic order in relation to the person, see s. 12C: 'Making offender reporting order—forensic order' of the CP(OROPO)A.

In making an order under ss. 12B or 12C of the CP(OROPO)A, the court must consider the matters outlined in s. 12D: 'Matters Court must consider before making offender reporting order' of the CP(OROPO)A.

The court may make an offender reporting order on its own initiative or on the application by the prosecution see s. 12E: 'Court may act on own initiative or application' of the CP(OROPO)A.

The prosecution may make an application under s. 12E(1)(b) of the CP(OROPO)A at any time within six months after the day the court:

(i) imposes the sentence for the offence; or

(ii) makes the forensic order.

Offender reporting order application on conviction

When:

(i) an officer commences a proceeding against an offender for an offence committed against a child which is not a schedule 1 offence under the CP(OROPO)A; or

(ii) a court makes a forensic order,

and the officer is of a reasonable belief that the person charged poses a risk to the lives or sexual safety of one or more children, or of children generally the officer is to:

(i) make a submission to the prosecutor to make application to the court for an offender reporting order on conviction;

(ii) complete a:

(a) Form 009: Application—'CPOR—Application for an offender reporting order'; and

(b) Form 059: Order—'Offender reporting order'; and

(c) supporting affidavit; and

(d) QP 0572: 'Initial reporting obligation notice';

(iii) where there is additional information relevant to the court making a decision in relation to the application, the officer is to provide all relevant additional information to the prosecution prior to the matter being heard at court; and

(iv) submit the application in QPRIME,

(see s. 13.30: 'Starting a civil proceeding' of this Manual).

OPM Issue 113 Public Edition

Offender reporting application following sentencing

In accordance with s. 12E: 'Court may act on own initiative or application' of the CP(OROPO)A, the prosecution may make application for an offender reporting order within six months of a person being sentenced for an offence or making of the forensic order.

An application for an offender reporting order is to be made in accordance with s. 13.30: 'Starting a civil proceeding' of this Manual, using a:

(i) Form 009: 'CPOR—'Application for an offender reporting order'; and

(ii) Form 059: 'Order—Offender reporting order'; and

(iii) supporting affidavit; and

(iv) QP 0572: 'Initial Reporting Obligation Notice'.

Court notification of reportable offender

Section 55: 'Courts to provide sentencing information to police commissioner' of the CP(OROPO)A requires a court to provide details of any order or sentence to the Detective Senior Sergeant, State Registrar CPOR, Child Abuse & Sexual Crime Group, Crime Command as soon as practicable after the court:

(i) makes any order or imposes any sentence that has the effect of making a person a reportable offender;

(ii) imposes any sentence on a person for a reportable offence; or

(iii) makes any order in relation to a reportable offender that has the effect of removing the offender from the ambit of the CP(OROPO)A.

7.14.4 Reporting obligations

In accordance with Part 4: 'Reporting obligations' of the CP(OROPO)A, a reportable offender is required to make:

(i) an initial report (see s. 7.14.5: 'Giving written notice and taking the initial report' of this chapter);

(ii) periodic reports;

(iii) a report of changes to personal details; and

(iv) a report of intended travel outside of Queensland,

(see s. 7.14.10: 'Ongoing reporting obligations' of this chapter),

to the Commissioner.

The authority to receive details required to be reported to the Commissioner has been delegated to:

(i) all police officers; and

(ii) approved persons attached to the Child Protection Offender Registry (CPOR),

(see Delegation D 51.14).

Identifying reportable offenders not in QPRIME as a reportable offender

ORDER

The identification of a reportable offender is primarily the responsibility of the CPOR. Where an officer becomes aware of a person who meets the criteria of a reportable offender, but is not identified in QPRIME as a reportable offender through a reportable offender flag, the officer is to:

(i) submit a QPRIME intelligence report outlining the relevant criminal history and any other relevant information known; and

(ii) create a 'follow up' task and assign to the CPOR organisational unit [3083].

7.14.5 Giving written notice and taking the initial report

Notice to be given to reportable offender

In accordance with s. 54: 'Initial notice to be given to reportable offender' of the CP(OROPO)A, as soon as reasonably practicable after an event outlined in s. 54(2) of the CP(OROPO)A occurs, a reportable offender must be given a written notice of their reporting obligations and the consequences if the offender fails to comply with those obligations. The reportable offender is to be given a QP 1226: 'Reporting obligation notice'.

Where a reportable offender is required to be given a QP 1226 by the Commissioner, the Detective Senior Sergeant State Registrar, CPOR is to ensure:

(i) a 'Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004' [3016] occurrence is created;

(ii) a 'document service' task is created and assigned within the relevant district; and

(iii) a 'Document Service Required' flag is added to the person entry in QPRIME.

The Commissioner has delegated the authority to give a QP 1226 to all officers (see Delegation D 51.15).

If an officer has contact with a person the officer believes is a reportable offender, who has not yet completed an initial report and is required to be given a QP 1226 and a QPRIME document service task has not been created by CPOR, the officer is to:

(i) contact CPOR and confirm that the person is a reportable offender under the CP(OROPO)A; and

(ii) request a document service task be created.

Reporting Obligations Notice

In accordance with s. 54A: 'Reporting obligations notice' of the CP(OROPO)A, as soon as practicable, after an event happens as outlined in s. 54(2) 'Initial notice to be given to reportable offender' of the CP(OROPO)A in relation to a reportable offender. The Commissioner must give the offender written notice (reporting obligation notice and also an initial reporting obligations notice) about:

(i) the offenders reporting obligations; and

(ii) the consequences that may arise if the offender fails to comply with the obligations.

An initial reporting obligations notice (QP 0572) must state:

(i) the police station or other place where the offender is required to make the offender's initial report;

OPM Issue 113 Public Edition

(ii) the ways in which the offender is required to, or may, make a periodic report; and

(iii) if the notice states that the offender must make a periodic report in person—the police station or other place where the offender is required to make the report.

The Commissioner may give a reportable offender further notice about the offenders reporting obligations at any other time as outlined in s. 54A of the CP(OROPO)A. The Commissioner may also vary the reportable offenders periodic reporting frequency as outlined in s. 7.14.10: 'Ongoing reporting obligations' of this chapter.

A reporting obligations notice applies to a reportable offender until:

(i) the offenders reporting ends; or

(ii) the Commissioner gives the offender another reporting obligations notice under s. 54A of the CP(OROPO)A.

An officer is authorised to give a reporting obligations notice on behalf of the Commissioner (see Delegation D 51.5).

Initial report

A reportable offender is required to make an initial report of their personal details to the Commissioner (see Schedule 2: 'Personal details for reportable offenders' of the CP(OROPO)A). The initial report must be made in person and can only be taken by an officer (see Delegation D 51.14).

In accordance with s. 14: 'When reportable offender must make initial report' of the CP(OROPO)A, a reportable offender is to provide an initial report in person to an officer:

(i) at the time the reportable offender is given a QP 0572: 'Initial reporting obligation notice'; or

(ii) where it is not reasonably practical for the reportable offender to make the report at the time of service, within seven days of the date of service; or

(iii) if the reportable offender has not received a QP 0572 from the Commissioner, the report must be made within the time period specified in Schedule 3: 'When reportable offender must make initial report' of the CP(OROPO)A.

Officers who are tasked to give a QP 0572 to a reportable offender are to:

(i) give the notice as soon as practicable and within seven days unless the reportable offender is unable to be located;

(ii) require the reportable offender to supply their name and address and, where practicable, evidence of the correctness of the information in accordance with s. 40: 'Person may be required to state name and address' of the PPRA;

(iii) Utilise a BWC to electronically record the delivery and explanation of the QP 0572 and any reply the reportable offender may provide. The recording is to be categorised as an 'Evidential' recording in accordance with 'BWC categorisation' and stored as per 'Handling and storage of BWC recordings' of s. 4.4: 'Body worn cameras' of the DERIE Manual;

(iv) give a copy of the QP 0572 to the reportable offender;

(v) request the reportable offender to sign the acknowledgement section on the front page and each page of the original copy of the QP 0572 given;

(vi) if the reportable offender refuses to sign the QP 0572, the officer is to endorse the acknowledgement section to that effect;

(vii) take the initial report from the reportable offender at the time of service (see s. 7.14.11: 'How reports are to be made by a reportable offender' of this chapter), unless it is not reasonably practicable for the reportable offender to make the initial report at that time;

(viii) where an initial report can't be taken immediately, arrange for the initial report to be taken within seven days of the service of the QP 0572; and

(ix) complete the QPRIME task in accordance with the instructions attached to the task.

After serving a QP 0572 on a reportable offender, the officer is to:

(i) complete the police endorsement on the original copy of the QP 0572;

(ii) scan the acknowledged, endorsed original copy of the QP 0572 into the reportable offender's 'Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004' [3016] occurrence. The original document is then to be sent to the Detective Senior Sergeant, State Registrar CPOR by despatch for filing; and

(iii) expire any QPRIME 'Document Service Required' flag after the QP 0572 is given to the person.

An officer receiving the initial report from the reportable offender is to:

(i) conduct suitable inquiries to verify the information reported (see s. 1.6.11: 'Updating operational information in QPRIME' of this Manual);

OPM Issue 113 Public Edition

(ii) complete a QP 0573: 'Initial report' web-form (available on the CPOR SharePoint page) to record the details reported by the reportable offender in the initial report; and

(iii) provide the reportable offender with a receipt acknowledging the initial report made along with a copy or the information reported (see s. 28: 'Receipt of information be acknowledged' of the CP(OROPO)A).

Power of detention to give notice of reporting obligations

Section 60: 'Power of detention to enable notice to be given' of the CP(OROPO)A provides that this section applies if there are reasonable grounds to suspect that:

(i) a person is a reportable offender; and

(ii) the person has not been given notice, or is otherwise unaware, of their reporting obligations,

the person may be:

(i) detained for as long as is reasonably necessary:

(a) to enable a decision to be made about:

- whether or not the person is a reportable offender; or
- if the person is a reportable offender, whether or not the person has been given notice, or is aware, of their reporting obligations; or

(b) to enable the person to be given notice of those obligations if the person is not aware of them; and

(ii) transported to the nearest station to give the notice of their reporting obligations.

ORDER

When detaining a reportable offender under s. 60 of the CP(OROPO)A, the detaining officer is to:

(i) tell the person why the person is being detained;

(ii) tell the person that the detention is authorised under the CP(OROPO)A;

(iii) tell the person they will be released immediately after the reasons for the detention are satisfied;

(iv) ensure the person is not detained for a period that is longer than is reasonably necessary to enable the purpose of the detention to be satisfied;

(v) ensure the person is not detained only because the person has refused to sign an acknowledgment that the person has been given notice of their reporting obligations;

(vi) release the person immediately after the purpose of the detention is satisfied; and

(vii) create a custody report in QPRIME detailing the details of detention.

OPM Issue 113 Public Edition

Power of entry to give notice

Under s. 21(1)(e): 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA, the power of entry is provided to detain a person under another Act.

If force is required to gain entry to a premises in order to give the notice to a reportable offender, officers are to comply with the provision of s. 635: 'Use of force likely to cause damage to enter places' and s. 636: 'Police officer to give notice of damage' of the PPRA (see s. 2.8: 'Entry, search and seizure' of this Manual).

Where notice of reporting obligations cannot be given

Where a QP 0572 cannot be given because the reportable offender cannot be located, the officer attempting service is to:

(i) outline the actions undertaken to effect service and the results of any inquiries conducted including any intelligence checks in the occurrence inquiry log of the reportable offender's 'Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004' [3016] occurrence; and

(ii) reassign the document service task relating to the service of the notice to the CPOR Org Unit [3083].

7.14.6 Applications for review

Section 74: 'Review about entry on register' of the CP(OROPO)A, provides that if a person has been given a QP 0572: 'Initial Reporting Obligation Notice' and the person believes:

(i) they have been placed on the register in error; or

(ii) an error has been made in the length of reporting,

the person may apply in writing to the Commissioner for a review within 28 days of receipt of the QP 0572 by submitting a QP 1064: 'Application for review about entry on register' (available on CPOR webpage on the QPS Internet).

When a reportable offender wishes to apply for a review about their entry on the register, the person should be directed to:

(i) complete an application using a QP 1064; and

(ii) submit the QP 1064 via email to CPOR@police.qld.gov.au

Upon receiving a written application for a review about entry on the register, the Detective Senior Sergeant, State Registrar CPOR is to conduct the review on behalf of the Commissioner (see Delegation D 51.10).

ORDER

Upon completing the review, the Detective Senior Sergeant, State Registrar CPOR is to ensure if the:

(i) person has been placed on the register in error, all personal details are removed from the register and all copies of documents, fingerprints, DNA and photographs are destroyed; and

(ii) length of a person's reporting period is changed, and the entry is corrected on the register.

7.14.7 Application for name change

Section 74A: 'Change of name of reportable offender' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* (CP(OROPO)A) Provides a reportable offender must receive the written permission of the Commissioner prior to changing, or applying to change, their name under the *Births, Deaths and Marriages Registration Act*, or under a law of a foreign jurisdiction.

Upon receiving a written or verbal application for change of name, members are to direct the reportable offender to:

(i) complete an application using a QP 1063: 'CPOR—Application for change of name' (available on the CPOR webpage on the QPS Internet); and

(ii) submit the QP 1063 via email to CPOR@police.qld.gov.au.

The Commissioner has delegated the authority to approve a reportable offender's name change to the Detective Superintendent, Child Abuse and Sexual Crime Group (CASCG) (see Delegation D 51.32).

The Detective Senior Sergeant, State Registrar, CPOR will review the application and forward the report to the Detective Superintendent, CASCG, to make the decision in accordance with s. 74A(3): 'Change of name of reportable offender' of the CP(OROPO)A.

7.14.8 Suspension of reporting

Reportable offenders reporting obligations may be suspended:

(i) where they are subject to the requirements of a supervision order under the *Dangerous Prisoners (Sexual Offenders) Act*;

(ii) in accordance with s. 34: 'Suspension and extension of reporting obligations' of the CP(OROPO)A, when a reportable offender:

(a) is outside of Queensland; or

(b) is in Government detention;

(iii) where the reportable offender is granted an exemption order under Part 4, Division 6: 'Supreme Court may exempt particular reportable offenders' of the CP(OROPO)A; and

(iv) where a suspension is granted under Part 4, Division 10: 'Police commissioner may suspend reporting obligations for particular reportable offenders' of the CP(OROPO)A, by the Commissioner either:

(a) upon application of the reportable offender; or

(b) on the Commissioner's own initiative,

in circumstances where;

(a) the reportable offender committed the relevant scheduled offence as a child under 18 years of age, (see Schedule 1: 'Meaning of commonly used words and expressions' of the *Acts Interpretation Act*); or

(b) the reportable offender has a significant impairment (see Schedule 5: 'Dictionary' of the CP(OROPO)A).

The Commissioner has delegated the authority to approve the suspension of reporting obligations (see Delegation D 51.5).

When a case investigator reasonably believes a reportable offender should have their reporting obligations suspended under Part 4, Division 10 of the CP(OROPO)A, the member is to:

(i) complete an application using a QP 1062: 'CPOR—Application for suspension of reporting' (available on the CPOR webpage on the QPS Corporate Internet); and

(ii) submit the QP 1062 via email to CPOR@police.qld.gov.au.

OPM Issue 113 Public Edition

Where a reportable offender, or a person acting on behalf of a reportable offender wishes to apply to have their reporting obligations suspended under Part 4, Division 10 of the CP(OROPO)A, the reportable offender should be directed to:

(i) complete an application using a QP 1062: 'CPOR—Application for suspension of reporting' (available on the CPOR webpage on the QPS Internet); and

(ii) submit the QP 1062 via email to CPOR@police.qld.gov.au.

The Detective Senior Sergeant, State Registrar CPOR, is to assess the application for suspension and may obtain any information required to make a decision about the application.

Upon making a decision the relevant officer is to:

(i) either grant or refuse the application; or

(ii) give the reportable offender written notice as soon as reasonably practicable.

Internal review

Section 67H: 'Application for internal review' of the CP(OROPO)A provides a reportable offender may apply to the Commissioner for an internal review of a decision made under Part 4A, Division 2 of the CP(OROPO)A. The application is to be made:

(i) within 28 days of the reportable offender receiving written notice of the decision; and

(ii) in writing and must state the grounds on which the review is sought.

If the application for an internal review refers to a review of a decision to place on the register information that a person is a reportable offender who has been convicted of a device inspection offence, the application may only be made on the following grounds:

(i) the device inspection offence the reportable offender has been convicted of is a relevant offence (for relevant offence definition refer s. 67H of the CP(OROPO)A and s. 21B(5): 'Power to demand production of and inspect digital devices in possession of reportable offender' of the PPRA); and

(ii) a decision that the person committed the offence using an electronic communication network or digital device has been made in error.

When a reportable offender wishes to apply for a review about the decision, the person should be directed to:

(i) complete a QP 1062: 'CPOR—Application for suspension of reporting' (available on the CPOR webpage on the QPS Internet); and

(ii) submit the QP 1062 via email to CPOR@police.qld.gov.au.

The Commissioner has delegated the authority to conduct an internal review to the Detective Inspector, CPOR (see Delegation D 51.5), who is to conduct the review in accordance with s. 67I: 'Internal review' of the CP(OROPO)A.

ORDER

Upon a decision being made by the officer conducting the internal review, the officer is to give the reportable offender written notice of the outcome within ten days in accordance with s. 67I of the CP(OROPO)A.

Revocation of suspension

Section 67F: 'Revocation of suspension' of the CP(OROPO)A provides, that at any time the Commissioner may revoke the suspension of reporting obligations made under Division 10 of the CP(OROPO)A, if the Commissioner believes on reasonable grounds:

(i) the reportable offender poses or may pose a risk to the lives or sexual safety of children; or

(ii) if a suspension is granted because a reportable offender has a cognitive or physical impairment, whereby the impairment no longer is a significant impairment.

The Commissioner has delegated the authority to revoke the suspension of reporting obligations to an officer within CPOR of the same rank as the person who made the original decision to suspend the reporting obligations (see Delegation D 51.5) who is to ensure the reportable offender is given written notice as soon as reasonably practicable, to enable the revocation to commence.

Suspension following arrest

Where:

(i) an officer commences a proceeding against a reportable offender, who is being held in custody; or

(ii) a CPOR investigator becomes aware a reportable offender is, or has been, held in government detention and the detention has not been recorded in National Child Offender System,

the officer is to send a QPRIME follow-up task to CPOR Org Unit [3083] including all relevant details.

OPM Issue 113 Public Edition

7.14.9 Extension of reporting

Reportable offenders reporting obligations may be extended:

(i) under s. 34(1)(a): 'Suspension and extension of reporting obligations' of the CP(OROPO)A, when a reportable offender is in government detention, including if the detention was in a foreign jurisdiction;

(ii) under s. 39B: 'Extended reporting period for reportable offender on parole' of the CP(OROPO)A, when a reportable offender is still on parole in relation to a reportable offence; or

When it comes to the attention of a case investigator that a reportable offender:

(i) has spent time in government detention; or

(ii) is on parole for a reportable offence,

which is not recorded on the National Child Offender System (NCOS) database, the case investigator is to:

(i) create a QPRIME intelligence submission outlining the information; and

(ii) assign the submission to the Child Protection Offender Registry (CPOR) Org unit [3083].

The CPOR is to:

(i) action the task; and

(ii) add any suspensions to the NCOS database.

Reportable offender subject to an order under the Child Protection (Offender Reporting and Offender Prohibition Order) Act

Where a person who is not reporting under the CP(OROPO)A becomes subject to an offender prohibition order, they are taken to be a reportable offender in accordance s. 39E: 'Reportable offenders subject to offender prohibition order' of the CP(OROPO)A. The offender prohibition order is taken to be an offender reporting order. The offender must continue to comply with reporting obligations until the offender prohibition order has expired.

A reportable offender who is reporting under the CP(OROPO)A remains a reportable offender until:

(i) the offender prohibition order has expired; or

(ii) the length of reporting has ended,

whichever is the later.

When an application is made for an offender prohibition order, the case investigator is to advise the CPOR of the application made and whether the order was granted or refused (see s. 7.15: 'Child Protection (Offender Reporting and Offender Prohibition Order) Act' of this chapter).

OPM Issue 113 Public Edition

7.14.10 Ongoing reporting obligations

Periodic report

In accordance with s. 19: 'When periodic reports must be made' of the CP(OROPO)A, reportable offenders are required to make periodic reports:

(i) in February, May, August and November; or

(ii) more frequently as required by the Commissioner.

Where there is a reasonable belief a reportable offender should report more frequently to protect the lives or sexual safety of children, in accordance with s. 19(2) of the CP(OROPO)A, the Commissioner may vary the reportable offender's periodic reporting frequency. The power to require a reportable offender to make more frequent periodic reports has been delegated to Detective Senior Sergeant, Child Protection Offender Registry (CPOR) (see Delegation D 51.5).

In determining the basis for increased periodic reporting, officers should consider:

(i) whether the reportable offender has a fixed place of abode;

(ii) if there is information which leads to a suspicion that the reportable offender may reoffend; and

(iii) any other information relevant to make a determination.

Where an officer managing a reportable offender is reasonably satisfied a more frequent reporting regime is required, the officer is to:

(i) complete a QP 1225: 'Application for reporting obligations notice'; and

(ii) submit the QP 1225 to the Detective Senior Sergeant, CPOR thought the relevant reportable offender's QPRIME occurrence, with a 'Follow-up' QPRIME task to the CPOR Org unit [3083].

The Detective Senior Sergeant, CPOR is to:

(i) make a determination in relation to more frequent reporting; and

(ii) ensure the reportable offender is given a reporting obligations notice stating when the offender is required to make periodic reports.

The notice remains in force until the reporting period ends or the reporting frequency is varied.

Reporting changes in personal details

In accordance with s. 19A: 'Reporting change in personal details' of the CP(OROPO)A, reportable offenders are required to notify the Commissioner within a set period, normally within seven days, of changes in their personal details.

Where reportable contact with a child occurs (see s. 9A: '*Reportable contact* defined' of the CP(OROPO)A), the offender is required to report the contact to the Commissioner within twenty-four hours of the contact occurring.

In accordance with s. 19B: 'Requirement to report each change in premises or locality at which offender stays or can be found' of the CP(OROPO)A the Commissioner may require the reportable offender to report changes in personal details outlined in s. 19B(3) of the CP(OROPO)A, if the Commissioner is reasonably satisfied that doing so is necessary to protect lives or sexual safety of children (see Delegation D 51.5).

The Commissioner imposes this requirement by giving the reportable offender a QP 0572: 'Initial Reporting Obligation Notice'. The reportable offender is to then report each change in the premises where the offender stays, or locality where the offender can generally be found during each period of three or more consecutive days in which:

(i) the offender does not stay at the premises where the offender generally resides; or

(ii) the offender does not generally reside at any premises and within twenty-four hours after the change happens.

Travel advice

A reportable offender must report prescribed details as outlined in:

(i) s. 20 'Intended absence from Queensland to be reported' of the CP(OROPO)A;

(ii) s. 21 'Change of travel plans while out of Queensland to be given' of the CP(OROPO)A;

(iii) s. 22 'Reportable offender to report return to Queensland or decision not to leave' of the CP(OROPO)A; and

(iv) s. 23 'Report of recurring absences from Queensland' of the CP(OROPO)A.

Where a reportable offender is intending to travel internationally, the Commissioner, as soon as reasonably practicable after receiving a report under ss. 20, 21 or 22 of the CP(OROPO)A, of the reportable offenders intentions, must ensure that a copy of the report is given to the:

(i) Commissioner of the Australian Border Force;

(ii) Secretary of the Department of Home Affairs; and

(iii) Commissioner of the Australian Federal Police.

In accordance with s. 24: 'Information about international travel to be given to Commonwealth agencies' of the CP(OROPO)A (see Delegation D 51.9).

OPM Issue 113 Public Edition

7.14.11 How reports are to be made by a reportable offender

A reportable offender is required to comply with reporting obligations outlined in the CP(OROPO)A. In accordance with s. 25: 'Initial report must be made in person', s. 26: 'How other reports must be made' and if applicable, s. 26A: 'Reportable Offender with disability may be assisted to make report' of the CP(OROPO)A.

Pursuant to s. 25(1) of the CP(OROPO)A, a reportable offender must make their initial report in person and at a police station or other place stated for making the report (see s. 7.14.5: 'Giving written notice and taking the initial report' of this chapter).

A reportable offender is to make all other reports as directed by written notice or as otherwise allowed under a regulation (see s. 26 of the CP(OROPO)A and Delegation D 51.15).

The Commissioner will give the reportable offender written notice of any change to where a report is made (see Delegation D 51.15)

Where a reportable offender attends a station or establishment to make a report, other than an initial report (e.g. a periodic report or a change to their personal details), the person should be directed to make the report by:

(i) submitting the report through the 'On-line Registered Persons Report' on the QPS Internet; or

(ii) telephoning the Child Protection Offender Registry (CPOR) call-centre.

Where a reportable offender attends a station to make an initial report or another report they have been directed to make in person under Part 4: 'Reporting Obligations' of the CP(OROPO)A, a CPOR case investigator should take the report wherever practicable (see s. 7.14.5 of this chapter).

Where a case investigator is unable to take the report from the reportable offender, members are to ensure that another officer (see Delegation D 51.14) takes the report.

When taking a report from a reportable offender, officers should:

(i) ascertain whether the station is a place that the reportable offender may report by asking the reportable offender to present their copy of any authorisation or by contacting the case investigator for the reportable offender, the local CPOR investigator or CPOR;

(ii) only take the report between 8am to 4pm on a business day, or another time approved by the Commissioner given to the offender by written notice (see s. 9: 'When reports must be made' of the Child Protection (Offender Reporting and Offender Prohibition Order) Regulation);

(iii) use a BWC to electronically record the report in accordance with s. 4.4: 'Body worn cameras' of the DERIE;

(iv) ensure that the reportable offender or, another person authorised to report on behalf of the reportable offender, can make the report out of the hearing of other members of the public;

(v) ensure that a support person of the reportable offender's choosing is permitted to accompany the reportable offender while completing the report if requested by the reportable offender;

(vi) where practicable, arrange for an adult support person to be present when an officer or other person receiving the report is aware the reportable offender has a vulnerability, disability or cultural need due to:

(a) their age, gender or cultural background; and

(b) any disability the person has;

(vii) if it is not practicable for the reporting offender with a vulnerability, disability or cultural need to be accompanied by an adult support person of the person's own choice, the officer or person receiving the report is to arrange, if practicable, for an adult support person to be present when the person is making the report;

(viii) in cases where the officer reasonably suspects the reportable offender is unable, because of inadequate knowledge of the English language or a physical disability, to speak with reasonable fluency in English, arrange for the services of an interpreter in accordance with s. 6.3.7: 'Interpreters' of this Manual and delay the completing of the report until the interpreter can interpret the report;

(ix) in cases where the services of an interpreter or support person are required, ensure that the interpreter or support person signs a QP 0576: 'CPOR—Undertaking by an interpreter or support person not to disclose information'. Where telephone interpreter services are used, the form is to be sent electronically to the interpreter. If the interpreter or support person is not willing to sign the form, or is unable to return the signed form electronically, arrange for the services of another interpreter or support person (see s. 27(5): 'Right to privacy and support when reporting' of the CP(OROPO)A);

(x) require the reportable offender to produce their driver licence (if any) for inspection or another form of identification or other document specified under s. 11: 'Form of identification to be presented with report made in person—Act, s 29(1)(a)(i) and (b)' of the Child Protection (Offender Reporting and Offender Prohibition Order) Regulation (CP(OROP)R) for the purpose of establishing the person's identity;

(xi) if an authorised person makes a report on behalf of a reportable offender under s. 29: 'Additional matters to be given' of the CP(OROPO)A, require the person to produce their driver licence (if any) for inspection or another form of identification or other document specified by s. 11 of the CP(OROPO)R for the purpose of establishing the person's identity;

(xii) scan the identification documents of the reportable offender;

(xiii) photograph the reportable offender against a plain background where possible, ensuring the reportable offender maintains a neutral facial expression, and ensuring face, scars, tattoos and other distinguishing features are photographed without requiring the reportable offender to expose the reportable offender's genitals, or the anal area of the offender's buttocks (see s. 31: 'Power to take photographs' of the CP(OROPO)A);

(xiv) if the officer requires the reportable offender to expose their breasts to enable that part of the body to be photographed, officers are to comply with s. 31A: 'Safeguards for certain photographs' of the CP(OROPO)A.

The officer:

(a) must not require the offender to remove more clothing than necessary to take the photograph;

(b) if reasonably practicable is:

- not to take the photograph in the presence, or be seen by, someone who is not required; and
- to be of the same gender as the offender; and

(c) prior to taking the photograph, is to explain the photographing process, and give reasonable opportunity for the offender to express their preference about the gender of the person taking the photograph.

The reportable offender's gender preference request must be accommodated, unless:

Public Edition

- on reasonable grounds the officer believes it's for an improper purpose; or
- it is not reasonably practicable to accommodate the preference,

see s. 16.10.1: 'General requirements concerning searches of persons' of this Manual for clarification on improper purpose and not reasonably practicable.

Section 31(2): 'Power to take photographs' of the CP(OROPO)A does not provide power for an officer to require the offender to expose their genitals, anal area or buttocks.

(xv) complete an 'Initial report' onto the National Child Offender System (NCOS) or a QP 0573: 'Initial report' web-form (available on the CPOR SharePoint page) to take the initial report of the reportable offender;

(xvi) when taking an initial report, check the QPRIME person record of the reportable offender and determine whether a DNA sample is required to be obtained in accordance with s. 40A: 'Allowing DNA sample to be taken' of the CP(OROPO)A (see s. 7.14.15: 'DNA sample' of this chapter);

(xvii) advise the Detective Senior Sergeant, CPOR when a DNA sample has been taken in accordance with s. 40A of the CP(OROPO)A and update the National Child Offender System (NCOS);

(xviii) update NCOS or complete an 'online report' (available on the CPOR webpage on the QPS Internet) for any other reports that the reportable offender is directed to make in person;

(xix) if requested, print the QP 0577: 'Acknowledgement of the making of a report and record of agreement', sign it and give it to the reportable offender acknowledging the information reported under s. 28: 'Receipt of information to be acknowledged' of the CP(OROPO)A, available on QPS Forms Select; and

(xx) forward any hardcopy of documentation, and any photographs of the reportable offender to the Child Protection Offender Registry in accordance with the Information Management Manual.

Reporting by remote reportable offenders

Section 33: 'Reporting by remote offenders' of the CP(OROPO)A provides that a reportable offender who resides more than 100 kilometres from the nearest police station, or the place stated in a reporting obligations notice given to the offender may be exempted from the time limits for making an initial or any other reports the remote reportable offender is directed to make in person if authorised by the Commissioner (see Delegation D 51.4) prior to the expiry of the relevant time limit.

Where approval is granted to make the report at a later time:

(i) the delegated officer must provide the reportable offender with a:

(a) unique reference number relating to the report;

(b) QP 0578: 'Reporting by remote offenders—Record of Agreement'; and

(c) negotiated appointment time for the reportable offender to attend a police station to provide an initial report or any other reports the remote reportable offender is directed to make in person in compliance with the CP(OROPO)A;

(ii) the reportable offender must provide all the information, by telephone or other means, which would be required at an:

(a) initial report; or

(b) any other reports the remote reportable offender is directed to make in person (see s. 7.14.10: 'Ongoing reporting obligations' of this chapter),

at the time of contacting, or being contacted by, the delegated officer to make a suitable appointment time to make a report at a police station or establishment.

ORDER

When the remote reportable offender attends a station to make their initial report or any other reports the remote reportable offender is directed to make in person at the agreed appointment time, the delegated officer is to take the report in compliance with (i) to (xix) of this section.

7.14.12 When a reportable offender is a protected witness

The OIC, Witness Protection Unit of the Crime and Corruption Commission and the Detective Senior Sergeant, State Registrar CPOR, Crime Command are to ensure that station or establishment instructions are developed and maintained to ensure the proper transfer of documentation and management of reportable offenders on a Witness Protection Program in accordance with Part 4: 'Reporting obligations', Division 9: 'Modified reporting procedures for protected witnesses' of the CP(OPOPO)A.

OPM Issue 113 Public Edition

7.14.13 Police officer not reasonably satisfied of reportable offender's identity

Where a reportable offender makes a report in person to an officer under Part 4: 'Reporting Obligations' of the CP(OROPO)A, the officer may take, or cause a person authorised by the officer to take, the person's fingerprints under s. 30: 'Power to take fingerprints' of the CP(OROPO)A.

However, if an officer is not satisfied about the person's identity, before taking the person's fingerprints, the officer is to check QPRIME including any photograph(s) in QPRIME.

If it is necessary to take the person's fingerprints, the officer is to:

(i) take the report as outlined in s. 7.14.11: 'How reports are to be made by a reportable offender' of this chapter as if the person is the reportable offender;

(ii) obtain a fingerprint form (either wet print or LiveScan method) with the reportable offender's details from QPRIME (see s. 2.26.5: 'Fingerprinting' of this Manual);

(iii) take the person's fingerprints only (not palm prints or handwriting);

(iv) create a QPRIME occurrence for the suspected offence against s. 67FD: 'False or misleading information' of the CP(OROPO)A;

(v) enter the QPRIME occurrence number in the relevant field of the fingerprint form; and

(vi) submit the fingerprint form as outlined in s. 2.26.5 of this Manual with a covering report indicating that the fingerprints were taken under s. 30 of the CP(OROPO)A.

Where the fingerprints of a person have been taken under these circumstances, the OIC, Fingerprint Bureau is to ensure the:

(i) officer's report of the QPRIME occurrence is modified to indicate the result of the fingerprint comparison; and

(ii) fingerprints are kept in accordance with s. 32: 'Retention of material for law enforcement, crime prevention or child protection' of the CP(OROPO)A.

If the fingerprint comparison showed that the person was the reportable offender, the investigating officer is to update the QPRIME occurrence in accordance with 'No offence committed' in s. 1.11.6: 'Follow up investigations' of this Manual.

If the fingerprint comparison showed that the person was not the reportable offender, the investigating officer is to ensure that an investigation for:

(i) an offence under s. 67FD of the CP(OROPO)A in relation to the person who represented himself or herself as being the reportable offender is continued; and

(ii) an offence of s. 50: 'Failure to comply with reporting obligations' of the CP(OROPO)A in relation to the reportable offender is commenced.

If the person refuses to supply their fingerprints, the officer is to consider whether the authority under s. 615: 'Power to use force against individuals—police officers' of the PPRA to take the fingerprints should be exercised. Where the officer believes it would be inappropriate or unsafe to attempt to use force to take the fingerprints, the officer is to inform the person that the report will not be taken and consequently the reportable offender's reporting obligations will not be fulfilled.

If a case investigator takes the fingerprints, the officer is to update the reportable offender's Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004 occurrence [3016].

Officers are to note that the power to fingerprint under s. 30 of the CP(OROPO)A only relates to a person who represents himself or herself as being the reportable offender and does not extend to those instances where a person is authorised to report on behalf of a reportable offender pursuant to s. 26: 'How other reports must be made' of the CP(OROPO)A.

7.14.14 Investigation of offences against the Child Protection (Offender Reporting and Offender Prohibition) Act

Five offences can be committed by a reportable offender under the CP(OROPO)A:

(i) s. 50: 'Failure to comply with reporting obligation' provides a reportable offender must comply with the offender's reporting obligations, unless the offender has a reasonable excuse;

(ii) s. 67FA: 'Failing to comply with offender prohibition order' provides an offender prohibition order must not contravene the offender prohibition order, unless the respondent has a reasonable excuse;

(iii) s. 67FC: 'Access information for digital devices' provides if an authorised officer suspects, on reasonable grounds, that a reportable offender has committed an indictable offence against the CP(OROPO)A, the reportable offender must comply with an authorised police officers requirement, unless the reportable offender has a reasonable excuse;

(iv) s. 67FD: 'False or misleading information' provides a person must not give information under the CP(OROPO)A that the person knows is false or misleading in any material particular; and

OPM Issue 113 Public Edition

(v) s. 74A(2): 'Change of name of reportable offender' provides a reportable offender must not change their name, or apply to change their name, without the written approval of the Commissioner.

Three offences can be committed against reportable offenders under the CP(OROPO)A, introduced as part of Daniel's Law:

(i) s. 74AJ(1): 'Intimidation or harassment of identified offenders' provides a person must not engage in conduct by a public act which the person intends to, or which intends to incite other persons to engage in conduct that intimidates or harasses another person they believe or suspect is an identified offender;

(ii) s. 74AJ(3): 'Intimidation or harassment of identified offenders' provides a person must not engage in conduct by a public act which is likely to, or which is likely to incite other persons to intimidate or harass another person they believe or suspect is an identified offender;

(iii) s. 74AK(1): 'Display, distribution or publication of identifying information' provides a person must not display, distribute or publish any identifying information without the written approval of the Commissioner.

Offences under ss. 50, 67FA, 67FC and s. 67FD of the CP(OROPO)A are crimes and an offence under s. 74AJ(1) is a misdemeanour. Interviews for these offences are to be conducted in compliance with the requirements for indictable offences (see the DERIE Manual).

Prior to gaining access to the Queensland Community Protection Website (QCPW) Missing Reportable Offender webpage and on receiving information via a disclosure application, individuals must agree to the conditions of access and/or acknowledge the related offences for misuse of information received through the scheme (see ss. 74AJ and 74AK of the CP(OROPO)A.

Prosecution

In accordance with s. 67FF: 'No time limit for prosecutions' of the CP(OROPO)A, there is no time limit for commencing a proceeding under the Act.

Section 77: 'Evidentiary provisions' of the CP(OROPO)A provides a statement by the prosecution about information in the Child Protection Register or where a defendant failed to provide information is evidence of the stated matters.

Where a proceeding was commenced prior to 22 September 2014, in accordance with s. 87: 'Evidence certificates for existing proceedings' of the CP(OROPO)A will require an evidence certificate, which will be issued by the Child Protection Offender Registry (CPOR).

When an evidence certificate is required, the officer requiring the certificate is to send a QPRIME task to the CPOR Org Unit [3083].

The Detective Senior Sergeant, CPOR is to ensure an evidence certificate is issued (see Delegation D 51.12).

OPM Issue 113 Public Edition

7.14.15 DNA sample

A reportable offender is to comply with a QP 0991: 'CPOR—DNA sample notice' given to the reportable offender see s. 40A: 'Allowing DNA sample to be taken' of the CP(OROPO)A to:

(i) attend a stated police station at a stated time; and

(ii) allow a DNA sampler to take a DNA sample for analysis,

if a DNA sample or the results of a DNA analysis is not currently kept under the PPRA.

The authority to give a QP 0991 on behalf of the Commissioner has been delegated to any police officer (see Delegation D 51.8).

The reportable offender does not have to provide the DNA sample in accordance with s. 40A of the CP(OROPO)A if a DNA sample or the results of a DNA sample from the offender are currently kept under the PPRA.

When a DNA sample or the results of a DNA analysis is not currently kept under the PPRA in relation to a reportable offender, DNA is to be obtained as soon as practicable from the reportable offender by issuing a QP 0991.

Where a reportable offender fails to provide a DNA sample in accordance with s. 40A of the CP(OROPO)A, the investigating officer is to:

(i) investigate the matter and where appropriate commence a proceeding for an offence against s. 50: 'Failure to comply with reporting obligations' of the CP(OROPO)A; and

(ii) where a proceeding has been commenced in accordance with s. 50 of the CP(OROPO)A, obtain a DNA sample under s. 481: 'Taking DNA sample if proceeding started or continued against an adult by arrest, notice to appear or complaint and summons etc.' of the PPRA.

See also ss. 2.25.3: 'Obtaining DNA from reportable offenders', 2.5: 'Investigation' and 3.5: 'Commencing proceedings' of this Manual.

7.14.16 Finalisation of reporting

Upon finalisation of the reporting period under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* (CP(OROPO)A), the:

(i) senior district Child Protection Offender Registry investigator is to:

(a) advise the reportable offender of the cessation of their reporting requirements; and

(b) finalise the reportable offender's QPRIME 'Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004' occurrence [3016]; and

(ii) Child Protection Offender Registry is to:

(a) remove the 'Reportable Offender' and 'Miscellaneous id' flags from the person's QPRIME record; and

(b) finalise the reportable offender's record on the National Child Offender System (NCOS).

7.14.17 Digital devices and device inspections

Digital devices

Section 21A: 'Power to enter residence of reportable offender' of the PPRA provides the power for an officer, at any time, to enter the premises where the reportable generally resides:

(i) to verify the offender's personal details reported by the offender under the CP(OROPO)A; or

(ii) to carry out an inspection under s. 21B: 'Power to demand production of and inspect digital devices in possession of reportable offender' of the PPRA.

Premises, for a reportable offender, does not include a part of the premises used exclusively by a person other than the offender.

Section 21B of the PPRA provides the power to inspect a digital device in the possession of a reportable offender if:

(i) in the last three months the reportable offender has been:

(a) released from government detention; or

(b) sentenced to a supervision order; or

(ii) the reportable offender has been convicted of a device inspection offence; or

(iii) a device inspection order is made for the reportable offender under s. 21C: 'Magistrate may make device inspection order for reportable offender' of the PPRA.

Officers are reminded there is no general authority under this provision to search premises or a person, or to seize evidence.

For the purposes of subsection (i) only one device inspection should be conducted within the three-month period unless information or intelligence is obtained which warrants a further inspection to be conducted. Where a reportable offender is under a supervision order, officers should first consult with the supervising authority.

For the purposes of subsection (ii) an inspection may not be carried out in relation to a reportable offender unless the offender has been given a written notice that they have been convicted of a device inspection offence under s. 68(4): 'Child Protection register' of the CP(OROPO)A, or if at least four inspections have been carried out in the previous 12 months in relation to the offender. Therefore, there is a limit of four device inspections for a reportable offender within any 12 month period. Subsequent to the initial device inspection, and prior to a further inspection, consider:

(i) the reason for conducting a further inspection within a 12 month period; and

(ii) the time and result of any previous device inspection.

For the purposes of subsection (iii) an application to a magistrate for a device inspection order for a reportable offender can be made if circumstances mentioned in s. 21B(1)(a) and (b) of the PPRA do not apply.

The magistrate may make the device inspection order if satisfied there is an elevated risk that the reportable offender will engage in conduct that may constitute a reportable offence against, or in relation to, a child or children (see s. 21C(3) of the PPRA).

Prior to conducting a device inspection officers (other than a district CPOR investigator) should consult with:

(i) the Child Protection Offender Registry (CPOR); or

(ii) a district CPOR investigator.

Device inspections

ORDER

If a device inspection is conducted or an application for a device inspection order is made, the inspecting officer is to:

OPM Issue 113 Public Edition

(i) create a 'Device Inspection' occurrence in QPRIME;

(ii) link the device inspection occurrence to the reportable offender's [3016] occurrence; and

(iii) ensure the use of Service approved forensic software.

Device inspection orders

For device inspection orders see s. 21C of the PPRA.

Applying for a device inspection order

Applications for device inspection orders are to be made before a magistrate by completing QP 1060: 'Application for device inspection' and QP 1061: 'Device inspection order' forms.

Conducting a device inspection

Officers intending to conduct a device inspection are to:

(i) as far as reasonably possible familiarise themselves with the place where the device inspection will be conducted;

(ii) conduct a briefing of all officers and persons who are to assist in the device inspection. This briefing should outline:

(a) all non-confidential information as far as is known in relation to the place;

(b) any specific powers or conditions applicable to the device inspection;

(c) the purpose of the device inspection;

(d) the person or persons thought to be resident or otherwise in the place;

(e) the possibility of a dangerous situation arising; and

(f) anything else relevant to the purpose of the device inspection, reportable offender management or the safety of the officer and persons assisting in the device inspection; and

(iii) advise the officers' immediate supervisors prior to executing the device inspection.

In conducting the device inspection officers are to:

(i) explain the purpose of the inspection to the reportable offender;

(a) outlining that police have the power to enter the residence of a reportable offender under s. 21A of the PPRA; and

(b) the power to demand production of and inspection of all digital devices under s. 21B of the PPRA; and

(c) if the inspection is conducted under s. 21C of the PPRA provide a copy of the device inspection order QP 1060 to the reportable offender;

(ii) warn the offender that it is an offence to contravene requirement to produce a digital device under s. 21D: 'Offence to contravene requirement to produce digital device' of the PPRA;

(iii) if concerning behaviours place the reportable offender at risk of re-entering an offending cycle are identified, refer the offender to an appropriate support service (if available);

(iv) where concerning conduct is identified as a result of the device inspection consider an application for an Offender Prohibition Order under s. 13A: 'Application' of the CP(OROPO)A.

ORDER

Upon completing device inspection, the inspecting officer is to:

(i) not seize a digital device or any other property unless the provisions of ss. 160: 'Search to prevent loss of evidence', 161: 'Post-search approval', and 196: 'Power to seize evidence generally' of the PPRA apply;

(ii) if evidence of an indictable offence is located, advise the suspect of the evidence located and either:

(a) secure the scene and apply for a search warrant under s. 150: 'Search warrant application' of the PPRA; or

(b) conduct an immediate search to prevent loss of evidence under s. 160 of the PPRA.

Access information for digital devices

The CP(OROPO)A provides authority for an authorised police officer to require a reportable offender to provide access information for digital devices when it is suspected the offender has committed an indictable offence against the reporting CP(OROPO)A.

OPM Issue 113 Public Edition

ORDER

When a requirement is made under s. 67FC: 'Access information for digital devices' of the CP(OROPO)A, an application for a post search approval order is to be made (see s. 2.8.7: 'Emergent searches of places to prevent loss of evidence' of this Manual).

Section 67FC of the CP(OROPO)A is only applicable when it is suspected a reportable offender has committed one of the following offences under the CP(OROPO)A:

(i) s. 50: 'Failure to comply with reporting obligations';

(ii) s. 67FD: 'False or misleading information'; or

(iii) s. 67FA: 'Failing to comply with offender prohibition order'.

A reportable offender does not commit an offence unless a magistrate makes a post search approval order under the PPRA.

7.15 Child Protection (Offender Reporting and Offender Prohibition Order) Act

Section 13A: 'Application' of the CP(OROPO)A aims to provide protection to children by allowing Magistrate Courts to make a Child Protection Offender Prohibition Order.

A child protection offender prohibition order can be made against relevant sexual offenders to prohibit them from engaging in specified lawful conduct. The court must be satisfied the relevant sexual offender has recently engaged in concerning conduct which poses an unacceptable risk to the lives or sexual safety of children in the community and making the order will reduce this risk. The concerning conduct need not amount to a criminal offence.

On the making of a prohibition order, the respondent:

(i) must comply with the conditions of the prohibition order; and

(ii) becomes a reportable offender under the CP(OROPO)A (see s. 7.14: 'Child Protection Offender Registry' of this chapter) for the life of the child protection offender prohibition order (i.e. 5 years for an adult respondent or 2 years for a child respondent).

OPM Issue 113 Public Edition

Definitions

Definitions of terms referred to in this section are contained within s. 13A and Schedule 5: 'Dictionary' of the CP(OROPO)A, and s. 36: 'Meaning of commonly used words and expressions' of the *Acts Interpretation Act*.

Concerning conduct

means an act or omission, or a course of conduct, the nature or pattern of which poses a risk to the safety or wellbeing of one or more children, or of children generally, and may include the following:

(a) conduct that constitutes an offence;

(b) conduct that is a single act or omission.

Examples:

(i) loitering at or near a park fitted with playground equipment regularly used by children;

(ii) seeking employment or volunteer work that will involve the employee coming into contact with children, including, for example, door to door sales or collecting;

(iii) living near a school;

(iv) living in a household with children under 16 years.

Relevant sexual offender

means a following person who is not subject to a supervision order or interim supervision order under the *Dangerous Prisoners (Sexual Offenders) Act* or a forensic order:

(i) a person who is a reportable offender;

(ii) a person who would be a reportable offender if the person's sentence for a reportable offence had not ended before the commencement of the CP(OROPO)A (see s. 5: '*Reportable offender* defined' of the CP(OROPO)A); or

(iii) a person who would be a reportable offender if all of the reporting periods for the person had not ended, as mentioned in s. 8(d): 'When a person stops being a reportable offender' of the CP(OROPO)A.

Delegation

The CP(OROPO)A provides the Commissioner with specific powers and functions. The Commissioner has delegated these powers and functions to any officer who may exercise the powers and functions pursuant to Service policy and procedures relating to the CP(OROPO)A (see Delegation D 113.1).

7.15.1 Initial action after concerning conduct of relevant sexual offender is identified

Where a relevant sexual offender who has recently engaged in concerning conduct is identified by police, the officer to whom the concerning conduct is reported is to:

(i) check QPRIME with a view of determining whether a temporary prohibition order, a prohibition order or registered corresponding prohibition order is currently in effect against the relevant sexual offender;

(ii) ascertain whether the concerning conduct amounts to:

(a) a criminal offence; or

(b) the first concerning act for an offence of stalking;

(iii) where the concerning conduct amounts to a criminal offence or would go towards proving an offence of stalking (i.e. first not protracted concerning act):

(a) ensure a Policelink entered occurrence is recorded in QPRIME in accordance with s. 1.11.1: 'Policelink entered occurrences' of this Manual; and

(b) if appropriate, commence proceedings in accordance with s. 3.4.2: 'The decision to institute proceedings' and s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual;

(iv) if a temporary prohibition order, prohibition order or registered corresponding prohibition order is not currently in effect, consider whether an application for a temporary prohibition order is necessary (if s. 13I: 'Applying for temporary order' of the CP(OROPO)A applies, see s. 7.15.2: 'Temporary prohibition order' of this chapter and, where appropriate, s. 7.4: 'Children in need of protection' of this chapter);

(v) if a temporary prohibition order is in effect but its conditions do not prohibit the recent concerning conduct and s. 13I(1) of the CP(OROPO)A applies, consider whether an application to vary the temporary prohibition order is necessary (see s. 7.15.17: 'Applying for variation or revocation of an offender prohibition order' of this chapter); and

(vi) ensure an 'Offender Prohibition Application—Offences against Children' [0532] occurrence is recorded on QPRIME.

The 'Offender Prohibition Application—Offences against Children' [0532] occurrence will be tasked to the relevant district crime manager by Policelink for review. If appropriate, the district CPOR investigator will assign the occurrence to a case officer for investigation and to make an application, if suitable (see s. 7.15.5: 'Responsibilities of district National Child Offender System investigator' of this chapter).

(Note—In many cases, the respondent will already be a reportable offender under the CP(OROPO)A before the temporary offender prohibition order was made. As such, the respondent will already have a case officer responsible for managing their reporting conditions. This same case officer is to be assigned the task of investigating, preparing and progressing the application for the offender prohibition order where possible.)

However, where a 'Temporary Offender Prohibition Application—Offences against Children' [0533] occurrence is created in accordance with 'Applying for a temporary prohibition order' in s. 7.15.2: 'Temporary prohibition order' of this chapter, the occurrence will be assigned to the relevant district crime manager by Policelink for review.

7.15.2 Temporary prohibition order

An application for a temporary prohibition order may be made against a person if the applicant officer believes on reasonable grounds:

(i) that the person:

(a) is a relevant sexual offender; and

(b) recently engaged in concerning conduct after the commencement of the CP(OROPO)A; and

(ii) the making of a temporary order for the person is necessary to prevent the immediate risk of the respondent engaging in conduct posing a risk to the lives or sexual safety of children; and

(iii) the making of the order will reduce the risk.

(Example—it is brought to the attention of police that a relevant sexual offender is living in a house next to a school and a police officer reasonably believes a temporary order is required to ensure the relevant sexual offender moves away from that residence in order to protect the lives or sexual safety of children at that school.)

See s. 13I: 'Applying for temporary order' of the CP(OROPO)A.

OPM Issue 113 Public Edition

Where the provisions of s. 13I(1) of the CP(OROPO)A apply, the officer to whom the concerning conduct is reported is, in addition to the requirements of s. 7.15.1: 'Initial action after concerning conduct of relevant sexual offender is identified' of this chapter, to:

(i) make an application for a temporary prohibition order in accordance with this section; and

(ii) if the relevant sexual offender is a prisoner under the *Corrective Services Act*, see s. 7.15.8: 'Action where relevant sexual offender is a prisoner' of this chapter.

Applying for a temporary prohibition order

Where s. 13I(1) of the CP(OROPO)A applies, the applicant officer is to:

(i) create a 'Temporary Offender Prohibition Application—Offences against Children' [0533] occurrence on QPRIME (This occurrence is to be linked to the relevant 'Offender Prohibition Application—Offences against Children' [0532] occurrence);

(ii) complete a:

(a) Form 002: 'CPOR—Appearance Notice';

(b) Form 004: 'Application for a Temporary (offender prohibition) order';

(c) Form 005: 'Notice to Respondent Application for a Temporary (Offender Prohibition) Order'; and

(d) QP 0041A: 'Notice of intention to allege previous convictions',

within the QPRIME occurrence;

(iii) attach a copy of the respondent's criminal history to the application documentation (Note—for the purpose of an application for a temporary protection order, the respondent's criminal history of convictions obtained from QPRIME will be sufficient to show the person is a reportable offender. However, for subsequent applications for prohibition orders, see the definition of 'criminal history' in Schedule 5: 'Dictionary' of the CP(OROPO)A;

(iv) prepare an applicant officer's statement and any other relevant witness statements within the QPRIME occurrence and attach it/them to the application documentation (Note—the applicant officer's statement is to include the reasons why the things mentioned in s. 13I(1) of the CP(OROPO)A are reasonably believed and, if the respondent has not been given notice of the application, the reasons why it is necessary to make the order without notice being given to the respondent in the particular circumstances of the case);

(v) liaise, where possible, with the OIC of the relevant CPIU with a view to determining the wording of conditions that should be sought to be imposed in the temporary prohibition order(see also s. 13L: 'Conduct that may be prohibited' of the CP(OROPO)A);

(vi) prepare Form 059: 'Order—Temporary [Child Protection (OPO) Act 2008]' for issuance by the court and attach it to the application documentation;

(vii) if practicable, serve copies of each of the completed forms mentioned in paragraph (ii) on the respondent (where the respondent is a child, see also the subsection 'Service of documents on a child respondent' in s. 7.15.13: 'Starting proceeding for a prohibition order' and s. 7.15.14: 'Notice to Chief Executive' of this chapter);

(viii) where the above mentioned documents have been served, complete endorsement of service on copies of the served documents and attach the endorsed copies to the application documentation;

(ix) where possible, liaise with the relevant police prosecution corps with a view of obtaining representation in the making of the application to a magistrate;

(x) file the application and a copy of the appearance notice with the registrar of the relevant court; or

(xi) where the local magistrates court is not being convened, make an application to a magistrate. (Note—s. 13I(4) of the CP(OROPO)A provides that ss. 800, 801 and 802 of the PPRA apply to the application for the temporary prohibition order. Where an application is to be made by telephone or similar facility, refer to the subsection titled: 'Use of Police Powers and Responsibilities Act to obtain warrants, orders etc., by telephone or similar facility' of s. 2.1.1: 'Use of Police Powers and Responsibilities Act' of this Manual); and

(xii) if an application will be made in a magistrates court against a child respondent (i.e. a person under 18 years), forward a copy of the application documents (i.e. the Form 002: 'Appearance Notice' and Form 004: 'Application for a Temporary (offender prohibition) order') to the relevant youth justice service centre for that court district.

7.15.3 Action upon the issuance of a temporary prohibition order

Upon the issuance of a temporary prohibition order, the officer who made or presented the application (i.e. the applicant officer, or where the matter was presented by a prosecutor, the prosecutor) is to ensure the order is attached to the relevant 'Temporary Offender Prohibition Application—Offences against Children' [0533] QPRIME occurrence.

The applicant officer is to ensure:

OPM Issue 113 Public Edition

(i) a copy of the temporary prohibition order and the associated documentation is served on the respondent as soon as practicable in accordance with the subsection titled: 'Service of a temporary prohibition order and associated documentation' of this section;

(ii) an 'Offender Prohibition Application—Offences against Children' [0532] QPRIME occurrence is created;

(iii) a 'Case officer' work request task is assigned to the OIC of the relevant CPIU for reassigning to a case officer to ensure an application for a prohibition order is made. (The due date for this task is to be set fourteen days before the return date as fixed by the magistrate under s. 13J(5): 'Temporary order made by magistrate' of CP(OROPO)A); and

(iv) where the order is made against a child respondent, forward a copy of the order to the relevant youth justice service centre for that court district to ensure that any program requirements imposed by the Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS) are not at odds with the order.

If the magistrate or court decides not to make a temporary order, see s. 7.15.22: 'Disqualification order' of this chapter.

Service of a temporary prohibition order and associated documentation

The officer responsible for serving the temporary prohibition order is to:

(i) complete a QP 0572: 'Initial Reporting Obligation Notice' in accordance with the procedures contained within 'Notice to be given to reportable offender' of s. 7.14.5: 'Giving written notice and taking the initial report' of this chapter;

(ii) where the temporary prohibition order has been issued in the respondent's absence, complete a QP 0800: 'Notice to Respondent (Corresponding Provisions)'; and

(iii) personally serve:

(a) a copy of the temporary offender prohibition order;

(b) the QP 0572; and

(c) if the order was made in the respondent's absence, a QP 0800,

on the respondent as soon as is practicable.

The officer who personally serves the documents on the respondent is to:

(i) explain the conditions of the order to the respondent;

(ii) endorse the temporary prohibition order as to service;

(iii) comply with the 'Instructions for Service of Initial Reporting Obligation Notice;

(iv) ensure an image of the endorsed copies of the documents served are scanned into the relevant QPRIME occurrence; and

(v) ensure the original endorsed copies of the remaining documents are forwarded to the Detective Senior Sergeant, State Registrar CPOR for recording on the National Child Offender System.

OPM Issue 113 Public Edition

If the respondent is unable to be personally served with the documents, because, for example, the respondent cannot be located, the officer responsible for serving the documents is to ensure a BOLO flag is created in QPRIME for the respondent and a notification task is assigned to the case officer responsible for investigating, preparing and progressing the prohibition order application.

Where a respondent is later located, officers are to refer to subsection 'Power of detention to give Initial Reporting Obligation Notice' of s. 7.14.5 of this chapter. This opportunity is also to be used to serve the temporary offender prohibition order.

Upon being assigned a 'Case officer' work request task for a 'Offender Prohibition Application—Offences against Children' [0532] occurrence, the assigned case officer is to investigate the concerning conduct and prepare, and seek approval to make an application for a prohibition order in accordance with ss. 7.15.10: 'Preparation of application for prohibition order' and 7.15.11: 'Approval to start proceedings for a prohibition order' of this chapter.

7.15.4 Application for extension of a temporary prohibition order

The court may, on application or on its own initiative, extend the temporary order for not more than 28 days, or a longer period to which the respondent consents if:

(i) a temporary order is in force for the respondent to an application for a prohibition order;

(ii) the court adjourns the application; and

(iii) the temporary order will end before the application is decided.

The temporary order may be extended in the respondent's absence if the court is satisfied application documents for the final order were served on the respondent under s. 13B(3): 'How proceeding for prohibition order is started' of the CP(OROPO)A.

Applications to extend a temporary prohibition order are to be made by the process described in s. 13.30: 'Starting a civil proceeding' of this Manual.

If the application documents have been served, copies of the application documents, endorsed as to service, should be filed with the registrar of the relevant magistrates court prior to an application to extend the temporary prohibition order.

Action upon the extension of a temporary prohibition order

Upon the extension of a temporary prohibition order, the officer who made or presented the application (i.e. the applicant officer, or where the matter was presented by a prosecutor, the prosecutor) is to ensure the order is attached to the relevant 'Temporary Offender Prohibition Application—Offences against Children' [0533] occurrence on QPRIME.

The applicant officer is responsible for ensuring the extended temporary prohibition order is personally served on the respondent.

Service of an extended temporary prohibition order

If the respondent has not previously been served with a copy of the original temporary prohibition order, the officer who personally serves an extended temporary prohibition order is to comply with this subsection and 'Service of a temporary prohibition order and associated documentation' in s. 7.15.3: 'Action upon issuance of a temporary prohibition order' of this chapter.

The officer who personally serves an extended temporary prohibition order on the respondent is to:

(i) ensure a copy of the extended temporary prohibition order is personally served on the respondent as soon as practicable;

(ii) endorse the extended prohibition order as to service;

(iii) forward the original extended temporary prohibition order, endorsed as to service, to the Detective Senior Sergeant, State Registrar CPOR for filing; and

(iv) where the order is made against a child respondent, as soon as practicable after starting the proceedings, give a copy of the application documents to the chief executive (child safety), if the prohibition order is likely to result in the child respondent needing to change their place of residence, and to a parent of the child respondent, if a parent is able to be found after taking reasonable steps (see s. 13B: 'How proceedings for prohibition order is started' of the CP(OROPO)A).

OPM Issue 113 Public Edition

7.15.5 Responsibilities of district National Child Offender System investigator

The district CPOR investigator is to review 'Offender Prohibition Application—Offences against Children' [0532] occurrences in accordance with s. 7.15.1: 'Initial action after concerning conduct of relevant sexual offender is identified' of this chapter, and:

(i) if the relevant sexual offender is:

(a) a reportable offender, assign a work request task to the relevant CPOR case officer requiring an investigation into whether an application for a prohibition order can be supported; or

(b) not a reportable offender, identify an appropriate relevant CPOR case officer and assign a work request task requiring an investigation into whether an application for a prohibition order can be supported; and

(ii) in either case, assign a notification task to the initiating officer and OIC of the relevant CPIU advising action taken.

The district CPOR investigator is to pass any advice received from the OIC of the relevant CPIU about information holdings at the Child Protection Offender Registry onto the relevant case officer.

7.15.6 Responsibilities of Detective Senior Sergeant, State Registrar CPOR upon creation of an offender prohibition order occurrence

The Detective Senior Sergeant, State Registrar CPOR is automatically notified of the creation of all 'Offender Prohibition Application—Offences against Children' [0532] occurrences and 'Temporary Offender Prohibition Application—Offences against Children' [0533] occurrences.

After the creation of an 'Offender Prohibition Application—Offences against Children' [0532] occurrence or a 'Temporary Offender Prohibition Application—Offences against Children' [0533] occurrence, the Detective Senior Sergeant, State Registrar CPOR is to:

(i) check holdings of the Child Protection Offender Registry for information that:

(a) may assist in the application for the relevant order; and/or

(b) if an application for a temporary order has not been started, indicate an application for a temporary prohibition order should be made as a matter of urgency; and

(ii) notify the relevant district CPOR investigator accordingly.

7.15.7 Investigation to determine whether application for prohibition order can be supported

An officer who is assigned a 'case officer' work request task for 'Offender Prohibition Application—Offences against Children' [0532] QPRIME occurrence is to:

(i) fully investigate the relevant sexual offender's alleged concerning conduct;

(ii) identify witnesses to the alleged concerning conduct and ensure statements are recorded in the QPRIME occurrence;

(iii) if necessary, interview child witnesses under the provisions of s. 93A: 'Statement made before proceeding by child or intellectually impaired person' of the *Evidence Act* (see s. 7.6: 'Interview with a child' of this chapter);

(iv) seek corroborating evidence to support or negate witness versions, e.g. CCTV footage, fingerprints, DNA, etc., as appropriate;

(v) consider whether a request for surveillance may help prove the relevant sexual offender's course of conduct;

(vi) interview the relevant sexual offender about the alleged concerning conduct (Note—while the provisions of Chapter 15, Part 3: 'Safeguards ensuring rights of and fairness to persons questioned for indictable offences' of the PPRA may not apply to the interview, officers are to apply these safeguards and responsibilities and make associated enforcement act register entries in QPRIME to ensure procedural fairness as far as possible);

(vii) check with the Corrective Service Investigation Unit, Crime Command to establish whether the relevant sexual offender is a prisoner under the definition of the *Corrective Services Act*. If the relevant sexual offender is a prisoner, see s. 7.15.8: 'Action where relevant sexual offender is a prisoner' of this chapter;

(viii) consider whether a direction to another government entity may be required under s. 74D: 'Giving information to police commissioner' of the CP(OROPO)A (see Delegation D 51.18) (if a direction under s. 67FA: 'Failing to comply with offender prohibition order' of CP(OROPO)A is required, see s. 7.15.9: 'Section 74D (Giving information to police commissioner)' of this chapter); and

(ix) prepare an application for an offender prohibition order in accordance with s. 7.15.10: 'Preparation of application for prohibition order' of this chapter.

7.15.8 Action where relevant sexual offender is a prisoner

If the relevant sexual offender is a prisoner under the *Corrective Services Act*, inquiries are to be conducted with the Assistant Commissioner, Community Corrections, Queensland Corrective Service (QCS) (see SMCD) with a view of determining whether alternative measures can be taken by QCS in the management of the prisoner to reduce the risk posed by the relevant sexual offender to the lives and sexual safety of children (e.g. taken back into custody for parole breach, additional conditions imposed on the prisoner's parole, etc.).

Such action by QCS alone does not dispense with the need for an application for an offender prohibition order. For example, a prisoner on parole may be taken back into custody to serve the remainder of their period of imprisonment, however, it is likely the prisoner will be released again under a range of rehabilitation programs before a prohibition order would expire (i.e. 5 years for an adult respondent, 2 years for a child respondent). Officers are to be mindful of this point when instructing the court as to how the making of a prohibition order will reduce the risk posed by the relevant sexual offender to the lives and sexual safety of children.

See also s. 3.4.30: 'Supply of information to the Parole Board Queensland' of this Manual.

7.15.9 Section 74D (Giving information to police commissioner)

Some government entities may hold information which may assist an application for a prohibition order. For example, if the concerning conduct is that the relevant sexual offender resides next door to a primary school, the Residential Tenancies Authority may be able to provide proof, in the form of a copy of a rental bond agreement, that the relevant sexual offender resides at the address in question.

Section 74D: 'Giving information to police commissioner' of the CP(OROPO)A and Delegation D 113.1 provide an authority for an officer to direct a government entity to give an investigator certain information, (also see Delegation D 51.18).

Officers are to first conduct inquiries with relevant government entities with a view of determining whether a direction under s. 74D of the CP(OROPO)A is necessary and whether such a direction will yield information of assistance from the government entity before arranging for a direction to be made. This may not be possible with some government entities, who may require a search warrant, subpoena or other compelling document before providing any information. For more information regarding different government entities' requirements, see Chapter 7: 'Obtaining information from external bodies' of the MSM.

OPM Issue 113 Public Edition

Where it is believed a direction under s. 74D of the CP(OROPO)A will help decide whether an application for a prohibition order is to be made, the relevant case officer is to:

(i) prepare a letter to the chief executive of the relevant government entity containing a direction to give the case officer any information:

(a) held by the government entity; and

(b) relevant to an assessment of whether the respondent for the proposed prohibition order poses an unacceptable risk of committing a reportable offence against a child; and

(ii) attach the letter to the 'Offender Prohibition Application—Offences against Children' [0532] occurrence in QPRIME before sending or serving the letter.

When preparing the letter, officers are to be mindful that the relevant government entity is unlikely to be aware of the nature of the investigation and may not know what type of information will be relevant to an assessment of whether the relevant sexual offender poses an unacceptable risk of committing a reportable offence against the child. Explanation of the nature of the information sought from government entity should help achieve better results.

7.15.10 Preparation of application for prohibition order

In preparing an application, applicant officers are to ensure all information which is admissible and relevant to the issue is included with the application to be presented as well as evidence which might be considered advantageous to the defence case.

Applications for Prohibition Orders are managed within the courts and in accordance with the Uniform Civil Procedure Rules (UCPR).

The application is to consist of:

(i) a completed Form 001: 'Application for an Offender Prohibition Order' in the 'Offender Prohibition Application—Offences against Children' [0532] occurrence (for prohibition order conditions, see 'Prohibition order conditions' in this section);

(ii) a copy of the respondent's criminal history (Note—for the purposes of the CP(OROPO)A, the respondent's criminal history includes the things described in s. 13D(1): 'Matters court must consider before making prohibition order' of the CP(OROPO)A);

(iii) for each reportable offence the respondent has been convicted of, a copy of the verdict and judgements record or sentencing remarks for the purpose of establishing the conviction or the reportable offence and the offence particulars;

(iv) an applicant officer's affidavit, which is to include the grounds that caused the reasonable belief that the respondent is a relevant sexual offender who has engaged in concerning conduct. Also, if the respondent has not been given notice of the application, the affidavit is to include the reasons why it is necessary to make the order without notice being given to the respondent in the particular circumstances of the case;

(v) a completed Form 47: 'Certificate of exhibit' outlining all exhibits to be referred to in the proceeding including documents proving the respondent is a relevant sexual offender (see s. 13.30: 'Starting a civil proceeding' of this Manual regarding exhibits, see also s. 435: 'Exhibits' of the UCPR);

(vi) all affidavits taken from every witness, including affidavits of a tied or negative nature;

(vii) where required, the written report of an appropriately qualified expert to confirm that a child witness under the age of eight years of age is competent to give evidence (see Guideline 7: 'Competency of a child witness' of the Director of Public Prosecutions (State) Guidelines);

(viii) a completed QP 0323: 'List/availability of witnesses (including police officers)' (available in QPRIME);

(ix) if a prohibition order or temporary prohibition order has previously been made against the respondent, a copy of such order made against the respondent and a copy of the application for that order; and

(x) a draft Form 059: 'Order—Offender Prohibition' document prepared for the issuance of the magistrate.

Prohibition order conditions

Section 13F: 'Conduct that may be prohibited' of the CP(OROPO)A provides that an order may prohibit particular conduct by the respondent. Section 13F of the CP(OROPO)A provides examples of conditions that may be made in the order.

Section 13FA: 'Conduct that may be required' of the CP(OROPO)A provides that a prohibition order may require a respondent to do a certain thing. This section also provides examples of conditions that may be required by the order.

The conditions sought in an application for a prohibition order or temporary prohibition order will be different for each application as each respondent will pose different risks to the safety or wellbeing of 1 or more children, or of children generally.

OPM Issue 113 Public Edition

The case officer is to:

(i) ensure that there is a nexus between the concerning behaviour and the condition that is sought;

(ii) liaise with the OIC of the relevant CPIU to ensure the conditions sought will effectively reduce the risk the respondent's conduct poses to the safety or wellbeing of one or more children, or of children generally; and

(iii) consider whether non-compliance with the conditions can be proven at a later time. For example, a condition which prescribes the distance a respondent must not approach a specified place or type of place are to be preferred to a condition that prohibits a respondent from being 'in the vicinity' of a stated place or type of place.

Applications involving several respondents

Where multiple respondents have been involved in the same or substantially the same concerning conduct, the applications are to be collated and presented to the court for hearing together.

The OIC of the relevant CPIU is to coordinate this where applicant case officers are located in different regions.

The additional costs of presenting multiple applications in one location are to be borne by Crime Command.

7.15.11 Approval to start proceeding for a prohibition order

Officers intending to start a proceeding for a prohibition order are to first obtain approval from the OIC of the relevant CPIU.

The following procedure is to be followed to obtain this approval.

The applicant officer is to submit the completed application to a brief checker in QPRIME.

Upon being satisfied no further re-work on the application is required, the brief checker is to then submit the application in QPRIME to the applicant officer.

The OIC of the relevant CPIU will then examine the application and either:

(i) return the application for re-work with recommendations on how the application may be improved; or

(ii) approve the start of proceedings for a prohibition order.

Upon approving the application, the OIC of the relevant CPIU will, ordinarily, submit the application to the relevant prosecution corps for attention. Alternatively, for more complex or significant applications, a legal officer from Legal Division may be required to advocate the application in court (see s. 7.15.12: 'Legal officer representation' of this chapter).

In either case, the OIC of the relevant CPIU will also assign a notification task to the applicant officer and the district CPOR investigator advising the approval has been granted and which prosecuting authority has been detailed the responsibility of advocating the application.

OPM Issue 113 Public Edition

7.15.12 Legal officer representation

For more complex or significant applications, the OIC of the relevant CPIU unit may request that a legal officer appear before the magistrates court to make the application.

Such requests are to be made in accordance with the following procedure:

(i) the OIC of the relevant CPIU should submit a hard copy of the application and its supporting annexure and covering report requesting approval of the request to the Deputy Commissioner, Specialist Operations for referral to Legal Division;

(ii) the relevant legal officer is to ensure any decisions, orders or modifications made by the court are communicated and provided to the OIC of the relevant CPIU where any of the following has resulted:

(a) a prohibition order, temporary prohibition order, registration of a corresponding prohibition order;

(b) a variation or revocation of a prohibition order; or

(c) the withdrawal or dismissal of a prohibition order, temporary prohibition order or corresponding prohibition order or an application for such an order; and

(iii) upon notification and receipt of such advice and/or documentation, the OIC of the relevant CPIU is to ensure QPRIME is updated accordingly.

7.15.13 Starting proceeding for a prohibition order

After the OIC of the relevant CPIU has approved the application, the applicant officer may start a proceeding against a respondent under s. 13A(1): 'Application' of the CP(OROPO)A by issuing a Form 2: 'Appearance Notice' (see s. 13B(1): 'How a proceeding for an order is started' of the CP(OROPO)A).

The completed Form 2 is to be saved in the relevant 'Offender Prohibition Application—Offences against Children' [0532] occurrence.

Officers applying for a prohibition order are to:

(i) select an appropriate court having jurisdiction over the matter and ascertain a mention date suitable to the court. Wherever practicable, the date stated in an appearance notice for the respondent to appear before the court should not exceed twenty-one days after the notice is served;

(ii) confer, if time permits with the relevant prosecution corps or legal officer, as appropriate, who is to present the matter and confirm that the mention date is suitable;

(iii) fully and accurately complete the details required to be inserted in the appearance notice Form 2; and

(iv) if the application will be made against a child respondent, as soon as practicable after starting the proceedings, give a copy of the application documents to the Chief Executive (Child Safety) if the prohibitions order is likely to result in the child respondent needing to change their place of residence, and to a parent of the child respondent if a parent is able to be found after taking reasonable steps (see s. 13B: 'How proceedings for a prohibition order is started' of the CP(OROPO)A.

Service of documents on the respondent

The applicant officer is to ensure the following documents are served personally on the respondent:

(i) a copy of the application documents (i.e. the Form 1 (see s. 7.15.10: 'Preparation of application for prohibition order' of this chapter), Form 2 and all affidavits relied upon); and

(ii) a completed QP 0041A: 'Notice of intention to allege previous convictions' (available in QPRIME).

When serving the application documents personally on the respondent, the serving officer is to explain the contents of the Form 2 to the respondent in language likely to be understood by the respondent, having regard, for example to the respondent's age and cultural, educational and social background.

If the documents cannot be served personally on the respondent despite reasonable attempts being made, see s. 7.15.16: 'Applying to the court for authorisation of substituted service' of this chapter.

The QP 0041A is to detail every conviction made against the respondent, not just those convictions that will be relied upon to prove the respondent is a relevant sexual offender (see s. 13D(f): 'Matters court must consider before making prohibition order' of the CP(OROPO)A and s. 47: 'What is sufficient description of offence' of the *Justices Act*).

The officer serving the application documents and QP 0041A is to endorse a copy of each document served and ensure the endorsed copies are given to the applicant officer who will file the endorsed copies with the registrar of the court.

Service of documents on a child respondent

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The officer serving the application documents and QP 0041A personally on a child respondent under the CP(OROPO)A is to:

(i) serve the documents as discreetly as possible; and

(ii) not serve the documents on the child respondent at or in the vicinity of their place of employment or school, unless there is no other place where the document may reasonably be served on the child respondent.

Where a proceeding against a child respondent has been started for a temporary offender prohibition order or an offender prohibition order, the applicant officer is to ensure that a copy of the application and a copy of the appearance notice (the application documents) are served on a parent of the child respondent, if the serving officer is able to find a parent of the child respondent after making reasonable attempts (see s. 13B(4)(b): 'How proceeding for prohibition order is started' of the CP(OROPO)A).

A copy of the application documents served on a parent of a child respondent should be endorsed as to service. An example of a completed 'Affidavit of Service' is shown in Appendix 13.12: 'Example of completed affidavit of service' of this Manual. The endorsed copy is to be retained with the application file and the document attached to the relevant QPRIME occurrence.

7.15.14 Notice to Chief Executive

Where a proceeding against a child respondent has been started for a temporary offender prohibition order or an offender prohibition order and the order sought is likely to result in the child respondent needing to change his or her place of residence (i.e. because the conditions that will be sought in the order will not allow the child respondent to continue living in their current residence), the applicant officer is to:

(i) prepare a letter under the hand of the relevant assistant commissioner to the Chief Executive advising that:

(a) a proceeding for an offender prohibition order has been commenced against the child respondent and the order sought is likely to result in the child respondent needing to change his or her place of residence; and

(b) a copy of the application documents is enclosed;

OPM Issue 113 Public Edition

(ii) attach a copy of the application documents (i.e. the appearance notice and the application) and the draft letter to a covering report submitted for the attention and issuance of the relevant assistant commissioner through the normal chain of command; and

(iii) update the relevant QPRIME occurrence.

(See s. 13B(4)(a): 'How proceeding for prohibition order is started' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act*.)

7.15.15 Lodging application documents with the court

As soon as practicable after starting the proceeding, and before the time the respondent is required to appear at a place before a court under the appearance notice, the applicant officer is to ensure copies of the:

(i) Form 1: 'Application for an Offender Prohibition Order';

(ii) Form 2: 'Appearance Notice'; and

(iii) QP 0041A: 'Notice of intention to allege previous convictions',

with completed endorsements showing copies have been served on the respondent and, in the case of a child respondent:

(i) a parent of the child, if a parent was able to be located after making reasonable attempts; and

(ii) the Chief Executive, if the order sought is likely to result in the child respondent need to change his or her place of residence,

are filed with the registrar of the relevant court.

(See s. 13B(2): 'How proceeding for prohibition order is started' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act*.)

7.15.16 Applying to the court for authorisation of substituted service

A record is to be made of every attempt to serve the application documents and notice of intention to allege previous convictions document personally on the respondent in the QPRIME occurrence.

However if, despite reasonable attempts being made, the documents are unable to be served personally on the respondent, in accordance with s. 13ZL(5): 'Service of documents' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* the applicant officer may apply to the court for authorisation of substituted service.

Such applications are to be made by the process described in s. 13.30: 'Starting a civil proceeding' of this Manual.

7.15.17 Applying for variation or revocation of an offender prohibition order

Section 13Q: 'Varying or revoking offender prohibition order' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* allows officers to make applications to the court for the variation or revocation of an offender prohibition order.

Such applications are to be made by the process described in s. 13.30: 'Starting a civil proceeding' of this Manual.

7.15.18 Action on the issuance or variation of a prohibition order or registration of a corresponding prohibition order

Where any of the following has resulted:

(i) the issuance of a prohibition order;

(ii) registration of a corresponding prohibition order (see also s. 7.15.21: 'Registration of a corresponding prohibition order' of this chapter); or

(iii) a variation or revocation of a prohibition order,

the officer who made or presented the application (i.e. the applicant officer, or where the matter was presented by a prosecutor, the prosecutor) is to ensure the order is attached to the relevant QPRIME occurrence.

The applicant officer is to ensure:

(i) a copy of the relevant order and associated documentation is personally served on the respondent in accordance with s. 7.15.19: 'Service of prohibition order' of this chapter; and

(ii) if the matter relates to the registration of a corresponding prohibition order against a child respondent, as soon as practicable after receiving a copy of the registered corresponding order, a copy of the order to is given to:

(a) the Chief Executive, if the order is likely to result in the respondent needing to change their place of residence;

OPM Issue 113 Public Edition

(b) a parent of the child respondent, if a parent of the child respondent is able to be found after making reasonable attempts; and

(c) the relevant youth justice service for that court district.

The original order is to be forwarded to the Detective Senior Sergeant, State Registrar CPOR for filing.

7.15.19 Service of prohibition order

The officer responsible for serving the prohibition order and associated documentation is to:

(i) where the respondent is not a current reportable offender, complete a QP 0572: 'Initial reporting obligation notice' in accordance with the procedures contained within 'Notice to be given to reportable offender' of s. 7.14.5: 'Giving written notice and taking the initial report' of this chapter;

(ii) where the prohibition order has been issued in the respondent's absence, complete a QP 0800: 'Notice to Respondent (Corresponding Provisions)'; and

(iii) personally serve:

(a) a copy of the offender prohibition order;

(b) the QP 0572, if applicable; and

(c) if the order was made in the respondent's absence, a QP 0800,

on the respondent as soon as is practicable.

The officer who personally serves the above documents on the respondent is to:

(i) explain the conditions of the order to the respondent;

(ii) endorse the service of the order by completing an affidavit of service (Form 46) and lodge at the issuing court;

(iii) comply with the 'Instructions for Service of 'Initial reporting obligations notice';

(iv) ensure a copy of the documents served is attached to the relevant QPRIME occurrence; and

(v) ensure the original endorsed copies of the remaining documents are forwarded to the Detective Senior Sergeant, State Registrar CPOR for recording on the National Child Offender System.

If the respondent is unable to be personally served with the documents, because, for example, the respondent cannot be located, the officer responsible for serving the documents is to ensure:

(i) a BOLO flag is created in QPRIME for the respondent; and

(ii) a notification task is assigned to the case officer.

Where a respondent is later located, officers locating the respondent are to:

(i) detain the respondent (see 'Power of detention to give notice of reporting obligations' in s. 7.14.5 of this chapter); and

(ii) personally serve the respondent with the documents outlined in this section; and

(iii) expire the relevant BOLO flag in QPRIME; and

(iv) send a notification task to the case officer advising of service.

7.15.20 Breach of order or conditions

Officers are to approach a breach of a prohibition order in the same manner as investigating any other criminal offence in accordance with this chapter.

Officers should take action for an offence against s. 67FA: 'Failing to comply with an offender prohibition order' of the CP(OROPO)A in accordance with ss. 3.4.2: 'The decision to institute proceedings' and 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual.

See ss. 67FB: 'Reasonable excuse defence for contravening offender prohibition order' and 77D: 'Proof of knowledge of order conditions' of the CP(OROPO)A for an explanation of whether the respondent had 'knowledge' of the prohibition order or registered corresponding prohibition order.

7.15.21 Registration of a corresponding prohibition order

Under s. 13Y: 'Application for registration of a corresponding order in Queensland' of the CP(OROPO)A an officer may apply to the registrar of a magistrates court for the registration of an order made under a law of a another jurisdiction, including a jurisdiction outside of Australia, that closely corresponds to an offender prohibition order (a **corresponding prohibition order**).

OPM Issue 113 Public Edition

The Detective Senior Sergeant, State Registrar CPOR is to develop station or establishment instructions to identify reportable offenders who:

(i) are a respondent for a corresponding prohibition order; and

(ii) move into Queensland.

Where a reportable offender who is a respondent for a corresponding prohibition order is identified, the Detective Senior Sergeant, State Registrar CPOR is to consider whether an application for the registration of a corresponding prohibition order to the registrar of a magistrates court is required. In some cases, the reportable offender may already be the subject of an offender prohibition order and registration of the corresponding order would serve no purpose.

Where it is determined that an application for the registration of a corresponding order is to be made, the Detective Senior Sergeant, State Registrar CPOR is to:

(i) ensure an 'Offender Prohibition Application—Offences against Children' [0532] occurrence is recorded in QPRIME; and

(ii) assign a 'case officer' work request task to the relevant district CPOR investigator for reassigning to a case officer.

The officer who is assigned this work request task becomes the case officer and is responsible for ensuring an application to register the corresponding order in Queensland is made to the registrar of the relevant magistrates court.

Where it is believed registration of the corresponding order would be effective in Queensland without adaptation or modification, the case officer is to:

(i) obtain a certified copy of the corresponding order from the originating jurisdiction;

(ii) complete a Form 6: 'Application for the Registration of a Corresponding Order'; and

(iii) make application directly to the registrar of the relevant magistrates court.

Ordinarily, the registrar will register the corresponding order. Where the registrar registers the corresponding prohibition order, see s. 7.15.18: 'Action on the issuance or variation of a prohibition order or registration of a corresponding prohibition order' of this chapter.

However, the registrar must refer the corresponding order to the court if:

(i) the case officer asks the registrar to refer the corresponding order to the court because it is believed that the order would not be effective in Queensland without adaptation or modification; or

(ii) the registrar believes it is necessary to refer the corresponding order to the court for adaptation or modification for its effective operation in Queensland.

Variation of corresponding prohibition order

Where the registrar refers the corresponding order to court, the case officer is to:

(i) complete a Form 3: 'Appearance Notice (Corresponding Order)';

(ii) ensure the respondent is served with a copy of the Form 3 and Form 6 (the application documents);

(iii) endorse a copy of the application documents as to service and:

(a) attach the endorsed copies to the relevant QPRIME occurrence;

(b) retain the original endorsed copies with the application file; and

(c) file the endorsed copies with the registrar of the relevant magistrates court;

(iv) in the case of a child respondent, send a copy of the application documents to the relevant youth justice service centre for that court district;

(v) attach a copy of the respondent's criminal history (Note—for the purposes of the CP(OROPO)A, the respondent's criminal history includes the things described in s. 13D: 'Matters court must consider before making prohibition order' of the CP(OROPO)A) to the application;

(vi) attach a copy of the Court Brief (QP9) to the application (or, for matters determined in another jurisdiction, its equivalent in the other jurisdiction) for each reportable offence the respondent has been convicted of, or charged with, and if one exists, a copy of a full brief of evidence prepared for the purpose of proving the respondent committed a reportable offence;

(vii) prepare an applicant officer's statement outlining the grounds on which it is believed that court should make the corresponding order effective in Queensland, and if appropriate, the grounds on which it is believed that the order needs to be adapted or modified for it to be effective in Queensland;

(viii) if practicable, liaise with the relevant prosecution corps; and

(ix) make the application to the court.

OPM Issue 113 Public Edition

Where the court varies the order, see s. 7.15.18 of this chapter.

See also Part 3A, Division 2: 'Corresponding orders' of the CP(OROPO)A.

7.15.22 Disqualification order

If:

(i) a magistrate hearing an application for a temporary order (the relevant application) for a person decides not to make the temporary order; or

(ii) a court hearing an application for an offender prohibition order (also the relevant application) for a person:

(a) has not made a final order for the person; and

(b) decides not to make a temporary order for the person under s. 13K: 'Temporary order made by court' of the CP(OROPO)A,

the magistrate or court must consider whether to make an order (**disqualification order**) in relation to the person stating that the person may not hold a positive notice, or apply for a prescribed notice, under the *Working with Children Check Act* (see s. 13T: 'Making disqualification order instead of temporary order' of the CP(OROPO)A).

Where a magistrate or court has issued a disqualification order, the officer presenting the relevant application (i.e. the applicant officer, or if the matter was presented by a prosecutor, the prosecutor) is to attach the disqualification order to the relevant QPRIME occurrence.

The applicant officer is to:

(i) if the disqualification order was made in the respondent's absence, ensure a 'Document service' work request task is assigned to the station or establishment of the applicant officer to ensure a copy of the disqualification order is served on the respondent;

(ii) send the original disqualification order to the Detective Senior Sergeant, State Registrar CPOR; and

(iii) if the respondent was present in court when the order was made, send a copy of the disqualification order to the Chief Executive (Employment Screening), Blue Card Services, Department of Justice (DJ) (see SMCD).

The officer who served the disqualification order on the respondent is to:

(i) endorse the document as to service;

(ii) attach the endorsed copy of the disqualification order as to service to the relevant QPRIME occurrence, if the disqualification order was issued when an:

(a) application for a temporary order was being made, the order is to be attached to the 'Temporary Offender Prohibition Application—Offences against Children' [0533] occurrence; or

(b) offender prohibition order was being applied for, the order is to be attached to the 'Offender Prohibition Application—Offences against Children' [0532] occurrence);

(iii) forward the original endorsed copy to the Child Protection Offender Registry; and

(iv) send a copy of the disqualification order to the Chief Executive (Employment Screening), Blue Card Services, DJ.

See also s. 39: 'Service of documents' of the *Acts Interpretation Act*.

7.15.23 Disclosure of information

Disclosing information to prescribed entities under s. 74E of the Child Protection (Offender Reporting and Offender Prohibition Order) Act

Officers identifying a need to disclose a respondent's name and date of birth, the term of the order and conduct of a respondent that is prohibited by an order to government and other entities are to advise the Detective Senior Sergeant, State Registrar CPOR, outlining the reasons why it may be necessary to provide this information to one or more of these departments.

If it is deemed necessary the Detective Senior Sergeant, State Registrar CPOR may release the information to the relevant chief executive(s).

In providing this information, the Detective Senior Sergeant, State Registrar CPOR may provide anything else that is considered to be reasonably necessary to allow the departments to identify the respondent to ensure the safety of a child or children in that department's care or the safety of the respondent (e.g. a photograph of the respondent, intelligence).

The Detective Senior Sergeant, State Registrar CPOR is to ensure, where information has been provided to one of these departments about an order and the order is later varied or revoked, notice (orally or in writing) of the variation or revocation of the order is given to the relevant chief executive(s).

OPM Issue 113 Public Edition

See s. 74E: 'Police commissioner may give information to government and other entities' of the CP(OROPO)A.

Request from the Department of Families, Seniors, Disability Services and Child Safety under s. 74G of the CP(OROPO)A

Officers receiving requests from the Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS) under s. 74G: 'Chief executive (communities) to be given information about child respondent' of the CP(OROPO)A are to submit a report recommending the request be referred to the Detective Senior Sergeant, State Registrar CPOR.

Disclosing information to parent of child respondent or child protected by order under s. 74I of the CP(OROPO)A

Officers identifying a need to disclose information under s. 74I: 'Police commissioner may give information about order to other particular persons' of the CP(OROPO)A are to submit a report outlining the reasons the information should be disclosed to their district CPOR investigator.

If the district CPOR investigator reasonably considers the disclosure is necessary and appropriate to reduce a risk to the lives or sexual safety of one or more children, or of children generally, he or she may authorise another officer to give information about an offender prohibition order or registered corresponding order to any of the following:

(i) if the respondent is a child respondent—a parent of the child respondent; and/or

(ii) a parent or guardian of any child protected by the order.

7.15.24 Daniel's Law—Publication and disclosure of information about child sex offenders

The purpose of Part 5AA: 'Daniel's Law—Publication and disclosure of information about child sex offenders' of the CP(OROPO)A, publicly known as Daniel's Law, is to protect the Queensland community by facilitating the release of information relating to reportable offenders, in particular circumstances, to members of the public. The child protection disclosure scheme allows for the disclosure, provision or publication of information relating to particular reportable offenders in certain circumstances through the operation of a public child sex offender register. The child protection disclosure scheme is managed by the Child Protection Disclosure Unit (CPDU). For more information on the CPDU and Daniel's Law, visit the CPDU SharePoint page.

Definitions

For the purposes of this section:

Locality

means the general locality where the person resides in the State.

Personal details of a reportable offender

means identifying information, including current and former names (including aliases), year of birth, QPRIME number and also includes a photograph of the offender.

Provide

means make the photograph available for inspection by the person in a secure way designed to be accessible only by the person (a photograph includes a digital image).

Publish

means make available for inspection by members of the public on a website maintained by the Commissioner as per s. 74AF: 'Police commissioner may publish personal details of particular reportable offenders' of the CP(OROPO)A.

Reportable offence

means an offence mentioned in s. 9: 'Reportable offence and existing reportable offence defined' of the CP(OROPO)A.

Serious risk offender

means a reportable offender, considered by the Commissioner, to pose a serious risk to the lives or sexual safety of one or more children or children generally.

Specified person

means a person named in an application under s. 74AI: 'Police commissioner may disclose whether specified person is a reportable offender' of the CP(OROPO)A.

Unsupervised contact

means in relation to a person and a child, including:

(i) any physical contact the person has had, or will have, with the child without another adult present;

OPM Issue 113 Public Edition

(ii) any time the person and child have been together, or will be together, in close proximity without another adult present; and

(iii) any form of communication, whether in person or by electronic means, the person has had, or will have, with the child without another adult present.

Authority to publish, remove, or provide personal details of a reportable offender

This authority is defined in s. 7.14: 'Child Protection Offender Registry' of this Manual). See also s. 5: '*Reportable offender* defined' of the CP(OROPO)A.

The Commissioner has the authority to:

(i) publish personal details of reportable offenders;

(ii) remove published details of reportable offenders;

(iii) provide photographs of particular reportable offenders;

(iv) provide notification to the Chief Executive of Corrective Services; and

(iv) disclose whether a specified person is a reportable offender,

this authority has been delegated to the approved delegate, Crime Command (see Delegation D 51.33).

Authority to receive requests from Queensland resident to obtain photographs of a reportable offender or if a specified person is a reportable offender

The Commissioner has authority to:

(i) receive a request to obtain particular reportable offenders photographs; and

(ii) receive a request of whether a specified person is a reportable offender,

this authority has been delegated to any officer, members of the Child Protection Disclosure Unit (CPDU) and station client service officers (see Delegation D 51.33).

Queensland Community Protection Website

The Queensland Community Protection Website (QCPW), established by the Service, is administered under Part 5AA, Division 2: 'Police commissioner may disclose, provide or publish information relating to reportable offenders' of the CP(OROPO)A.

The QCPW (see danielslaw.qld.gov.au) provides community members with access to public information and the ability to submit information requests through three established application processes:

(i) **missing reportable offender webpage** (Tier 1)—this website displays facial images and particular personal details of reportable offenders who have breached their reporting obligations and whose whereabouts are unknown to police;

(ii) **locality search** (Tier 2)—a local area search, allowing Queensland residents to make an application to view facial images of particular reportable offenders (including serious risk offenders) residing in their general locality; and

(iii) **parent/guardian disclosure scheme** (Tier 3)—an application-based scheme that permits parents or individuals with ongoing parental responsibility for a child or children to request information of whether a specified person who has had, or is expected to have, unsupervised contact with their child or children is a reportable offender. Responses are provided as a definitive 'yes' or 'no' outcome, unless the information supplied by the applicant is insufficient to make a determination.

Child Protection Disclosure Unit (CPDU)

The CPDU is responsible for the day-to-day management of the public facing disclosure scheme introduced by Part 5AA of the CP(OROPO)A. The unit will action requests on behalf of the approved delegate, Crime Command, to release information to the public. Members of CPDU, irrespective of role, are to:

(i) adhere to relevant legislation and privacy principles;

(ii) document all actions in the relevant case management system; and

(iii) report any issues or breaches of disclosed information through their chain of command.

Restriction on information about particular reportable offenders

Members are not to disclose, provide or publish information about a reportable offender who:

(i) is a child;

(ii) committed a reportable offence as a child but as an adult has not:

(a) committed a reportable offence;

OPM Issue 113 Public Edition

(b) been subject to an offender reporting order for an offence committed as an adult; or

(c) been subject to an offender prohibition order for concerning conduct engaged in as an adult; or

(d) been subject to a Division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act* (DP(SO)A).

(iii) is a protected witness pursuant to Part 4, Division 9: 'Modified reporting procedures for protected witnesses' of the CP(OROPO)A;

(iv) is subject to a court order that prohibits:

(a) the identification of the reportable offender; or

(b) the disclosure or publication of the reportable offender's whereabouts or other personal details.

See s. 74AE: 'Restriction on information about particular reportable offenders' of the CP(OROPO)A.

Particular matters to be taken into consideration

When considering whether to publish or remove the personal details of a reportable offender on the QCPW pursuant to:

(i) s. 74AF: 'Police commissioner may publish personal details of particular reportable offenders'; or

(ii) s. 74AG: 'Police commissioner may provide photographs of particular reportable offenders',

of the CP(OROPO)A, the approved delegate, Crime Command, must have regard to the following:

(i) the effect it might have on a victim of an offence committed by the offender;

(ii) whether it is likely to prejudice:

(a) a criminal proceeding involving the offender; or

(b) an investigation by the Service or another law enforcement agency of a state or the Commonwealth concerning a contravention or possible contravention of a law by the offender; and

(iii) whether it is in the public interest and consistent with the purposes of the CP(OROPO)A.

Decision to disclose serious risk offenders' personal details

ORDER

When a reportable offender is identified as potentially posing a serious risk to the lives or sexual safety of one or more children or of children generally (serious risk offender), the CPDU, in conjunction with CPOR specialist units and the Forensic Behavioural Services Unit (FBSU), will prepare a submission for the Commissioner for consideration and action (see s. 74AG(7) of the CP(OROPO)A). The Commissioner's decision cannot be delegated.

A reportable offender deemed to be a serious risk offender by the Commissioner is a serious risk offender until the earlier of:

(i) the Commissioner determines the offender is not a serious risk offender; or

(ii) the offender stops being a reportable offender under the CP(OROPO)A (see s. 74AG(6) of the Act).

The outcome of the Commissioner's decision to disclose personal details of the offender is to be recorded in the relevant case management system. Where the offender is subject to a current supervision order under the DP(SO)A, the CPDU must notify Queensland Corrective Services (QCS) as per the appropriate workflow.

Actioning missing reportable offender publications

Under s. 74AF of the CP(OROPO)A, the approved delegate, Crime Command, may publish any or all personal details of a reportable offender on the QCPW if they are satisfied the reportable offender (see Delegation D 51.33):

(i) has failed to comply with any of the offender's reporting obligations; or

(ii) is subject to a relevant supervision order (refer DP(SO)A) and has failed to comply with a requirement of the order; and

(iii) the reportable offender's whereabouts are not known to police.

ORDER

Prior to publishing a reportable offender's personal details on the QCPW, the CPDU member is to follow the appropriate CPDU workflow.

Removal of reportable offender's details when located or deemed compliant

ORDER

Published personal details of a reportable offender whose whereabouts become known to police must be removed from the QCPW as soon as is practicable.

OPM Issue 113 Public Edition

Authority to remove the reportable offender's published personal details from the QCPW is to be obtained from the approved delegate, Crime Command (see Delegation D 51.33) who can approve a reportable offender's personal details to be removed from the website at any time.

When CPDU becomes aware that a 'missing' reportable offender is 'located' they are to follow the appropriate CPDU workflow.

Actioning locality search applications (Tier 2)

Any Queensland resident (who is not a reportable offender) is eligible to request access to photographs of relevant reportable offenders residing in the same locality. The definition of locality is broad to allow flexibility to determine individual decisions to best deliver the purpose and intent of the QCPW.

Reportable offender pre-approval for inclusion in locality search applications

Reportable offenders are eligible to have their photograph released under s. 74AG: 'Police commissioner may provide photographs of particular reportable offenders' of the CP(OROPO)A if:

(i) the offender is required to comply with reporting obligations for a period under CP(OROPO)A sections:

(a) 37(2): 'Length of reporting period—existing reportable offence';

(b) 38(3): 'Length of reporting period—reportable offence other than existing reportable offence';

(c) 39(1): 'Life-long reporting for particular repeat offenders'; or

(ii) the offender is required to comply with reporting obligations imposed on the offender under Part 4: 'Reporting obligations' of the CP(OROPO)A for the remainder of the offender's life;

(iii) the offender is subject to a supervision order under the DP(SO)A;

(iv) the offender is deemed to be a serious risk offender and approved for disclosure (see 'Decision to disclose serious risk offenders' personal details' of this chapter); or

(v) the reportable offender does not have personal details excluded from release due to a restriction on information listed in s. 74AE of the CP(OROPO)A (see 'Restriction on information about particular reportable offenders' of this chapter).

It is QCS' responsibility to advise the CPDU of any offenders who are subject to a supervision order under the DP(SO)A and eligible for release under s. 74AG of the CP(OROPO)A. Once an offender is pre-approved for release, the CPDU will advise the QCS following the appropriate workflow.

The approved delegate, Crime Command must approve the inclusion of any reportable offenders for a locality search release as they become eligible. The CPDU is responsible for ensuring ongoing maintenance of reportable offenders eligible for a locality search release.

Locality search applications

Applicants can apply online via the QCPW or using a pdf version of the form.

To be eligible to make a Tier 2 locality request, the applicant must:

(i) be a Queensland resident and provide proof of address using a valid Queensland identification document; and

(ii) complete all mandatory fields on the application form (online or in person) and attach any required documentation to the application.

For more information on the types of documentation accepted for applications under Part 5AA, refer to the CDPU SharePoint page.

PDF locality search applications

PDF versions of the form (Form 1245B) are available on the QCPW or from Forms Select if a person attends a police station or establishment in person. Members of the public can email Form 1245B to danielslaw@police.qld.gov.au. Service members can email the CPDU directly (CPDU@police.qld.gov.au).

When a person attends a station or establishment to make a locality request, a member is to assist an applicant in completing the request by:

(i) either:

(a) providing direction to the applicant to submit an online application via the QCPW (danielslaw.qld.gov.au); or

(b) where the person has no access to the online application, providing the person with Form 1245B: 'Daniel's Law—Locality Search';

(ii) ensuring the applicant's identification (e.g. Queensland driver licence) and confirmation of residential address is certified (for the purposes of Daniel's Law, this can be done by any QPS officer); and

OPM Issue 113 Public Edition

(iii) submitting the completed application form and a copy of the certified documents to the CPDU (CPDU@police.qld.gov.au).

Members are to ensure the applicant has completed the form correctly, including all mandatory fields, before emailing it to CPDU (CPDU@police.qld.gov.au).

Further assistance can be located on the CPDU SharePoint page.

Online Tier 2 locality search applications

Locality search applications submitted online will be automatically verified and actioned by the case management system. The Business Manager CPDU is responsible for reporting on locality search applications to relevant internal and external stakeholders.

Actioning Tier 3 parent/guardian disclosure applications

A person who is a parent of a child, or someone else having or exercising parental responsibility, other than on a temporary basis, for the child may apply for disclosure about whether the nominated person listed in the application (specified person) is a reportable offender.

Parent/guardian disclosure applications will be prioritised over manually submitted locality search applications given contact with a child or children is occurring or is imminent. Applications will be triaged by CPDU based on the information provided on the form giving consideration to whether contact is currently occurring and any concerns an applicant may have raised regarding the specified person's behaviour.

In-person parent/guardian disclosure applications received at a station or establishment

When a person attends a police station or establishment to make a parent/guardian disclosure request, a member is to assist an applicant in completing the request by:

(i) either:

(a) providing direction and guidance to the applicant to submit an online application via the QCPW (danielslaw.qld.gov.au); or

(b) where the person has no access to the online application, providing the person with Form 1245A: 'Daniel's Law—Parents and Guardians Disclosure Application' and email completed form to: danielslaw@police.qld.gov.au (CPDU); and

(ii) validating the applicant's identity and sight supporting documentation establishing parental or guardianship responsibility. Copies of these documents are to be notarised and submitted with the application.

The applicant is required to provide contact details to enable the outcome to be provided back to them (e.g. current email address).

On receiving any emailed applications, CPDU members are to follow the appropriate CPDU Workflow to assess and complete parent/guardian disclosure applications.

Information about whether the specified person is a reportable offender may be disclosed to the applicant by the approved delegate, if the approved delegate is satisfied that the specified person/application meets the criteria for disclosure (see Delegation D 51.33).

On assessment and approval, the applicant will receive an outcome email advising the result of the inquiry, i.e. whether or not the specified person is a reportable offender.

Online parent/guardian disclosure applications

Parent/guardian disclosure applications can be completed via the QCPW (danielslaw.qld.gov.au).

CPDU members are to follow the appropriate CDPU Workflow to assess and complete parent/guardian disclosure applications.

Protection from liability for giving or not giving information

A person involved in the administration of Daniel's Law is not liable, civilly, criminally or under an administrative process for an act or where an omission is made honestly by the person (see s. 74AL: 'Protection from liability under part' of the CP(OROPO)A).

7.16 Blue card management

A valid blue card is required by a person who operates a business or is employed (paid, volunteer or student) in providing services or activities which are regulated by the *Working with Children Check Act* (WCCA). As part of the 'No Card, No Start' law, a person must have a valid blue card prior to commencing this work. Blue Card Services (BCS), Department of Justice (DJ) is responsible for determining a person's eligibility to be issued a blue card.

OPM Issue 113 Public Edition

The Service is responsible for the investigation and prosecution of offences under the WCCA, which may either be identified by police or referred for investigation by BCS, DJ.

The Blue Card Liaison Officer (BCLO) (see SMCD), Child Abuse and Sexual Crime Group, Crime Command is the contact person for officers conducting operational inquiries in relation to blue card matters.

Officers investigating offences involving child victims should conduct relevant inquiries to determine whether the suspect/offender is a holder of a valid blue card.

Officers wishing to obtain information relating to a person's blue card status are to contact the BCLO. Officers who have access to a person's blue card number and expiry date, can check if a blue card is valid by using the online validation tool located on the Queensland Government website.

When investigating blue card offences, the powers of entry, search and seizure of the PPRA are to be utilised.

ORDER

Members are not to provide advice concerning a person's eligibility to make an application for a blue card or provide advice on whether an activity is child regulated employment or not. All inquiries are to be referred to BCS, DJ.

7.16.1 Information sharing with Blue Card Services

Information concerning blue card holders and applicants is provided by Blue Card Services (BCS), Department of Justice to the Service for criminal history screening and monitoring changes. The Commissioner must supply relevant information concerning a blue card applicant to BCS (see Chapter 8, Part 6, Division 2: 'Obtaining information from the police commissioner' of the WCCA. The Manager, Police Information Centre is the delegated authority to provide criminal history information only (see Delegation D 6.1).

The Blue Card Liaison Officer (BCLO) also monitors QPRIME for any changes concerning alleged serious and disqualifying offences for applicants and holders of blue cards on a daily basis, and when a blue card applicant or holder is nominated as a suspect in such offences, advises the investigating unit by entering a task on the relevant QPRIME occurrence (see Schedules 2: 'Current serious offences', 4: 'Current disqualifying offences', 6: 'Offences that may form basis of investigative information' and 6A: 'Repealed or expired offences that may form basis of investigative information' of the WCCA).

In accordance with s. 305: 'Police commissioner may decide that information about a person is investigative information' of the WCCA, the BCLO will conduct an assessment of all offences which are listed in Schedule 6: 'Offences that may form basis of investigative information' of the WCCA to determine if the investigation falls within the definition of investigative information. Where the BCLO determines it is:

(i) not investigative information, a task will be entered into the QPRIME occurrence;

(ii) possible investigative information, consultation will be conducted with the investigator or senior investigator in that district to establish whether the elements of s. 305 of the WCCA can be satisfied; or

(iii) investigative information, a detailed report from the investigator including all available evidence will be obtained and approval sought for the release of the investigative information to BCS.

The release of information, other than police information as defined under the WCCA, is to be considered in accordance with s. 10.2: 'Authorisation of disclosure' of the PSAA and s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM.

7.16.2 Blue Card offence investigations

Referrals from Blue Card Services

Blue Card Services (BCS) will refer matters for investigation and prosecution of offences under the WCCA only when BCS have not been able to obtain compliance.

BCS will provide referrals through Policelink and recorded into QPRIME for detailing to relevant district for investigation.

The BCLO will:

(i) monitor the progress of the investigation;

(ii) provide advice and guidance;

(iii) arrange for statements and evidence from BCS to be provided for court purposes; and

(iv) report back to BCS on the result of the investigation.

Referrals to Blue Card Services

Where an officer identifies a breach of the WCCA, they are to:

(i) contact the BCLO who will:

(a) liaise with BCS; and

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(b) provide guidance and advice if required; and

(ii) create a 'Blue Card offences' [1642] QPRIME occurrence.

7.16.3 Power to demand production of blue card

Section 789A: 'Power to demand production of working with children card' of the PPRA authorises an officer who reasonably suspects a person is the holder of an employment-screening document (blue card) issued by Department of Justice (DJ) and:

(i) the person has been charged with a serious offence or disqualifying offence; or

(ii) is a relevant disqualified person,

to require the person to immediately surrender the blue card to the officer. The person must comply with the requirement unless the person has a reasonable excuse.

Requirement to give blue card by arresting officer

An officer who knows or reasonably suspects a person is a person to which s. 789A(1) of the PPRA applies, is to give the person a requirement to immediately give the blue card to the officer.

The officer exercising this power may enter and stay on a place in accordance with s. 19: 'General power to enter to make inquiries, investigations or serve documents' of the PPRA.

The requirement may be given orally or in writing, depending on the circumstances. If orally, the officer if practicable, is to warn the person that failure to comply with the requirement is an offence unless the person has a reasonable excuse and they may be arrested for the offence (see s. 633: 'Safeguards for oral directions or requirements' of the PPRA).

An officer who is given a person's blue card after a requirement under s. 789A(2) of the PPRA is made, is to:

(i) issue a QPB 32A: 'Field Property Receipt' or if practicable, a QP 0760: 'QPRIME Property Receipt' from the relevant QPRIME occurrence for the seizure of the item;

(ii) create a 'Seized property [1645]' occurrence in QPRIME;

(iii) record the following information in the occurrence summary field of the QPRIME occurrence:

(a) that a requirement for blue card was made under s. 789A of the PPRA;

(b) date on which the requirement was made;

(c) the date on which the officer was given the blue card;

(d) if applicable, the QPB 32A number and date of issue; and

(e) the date the blue card was forwarded to the Blue Card Liaison Officer (BCLO), Crime Command and the means by which it was forwarded; and

(iv) ensure the blue card is forwarded with a brief covering report stating why the document was taken and the QPRIME occurrence number to the (BCLO), Child Abuse and Sexual Crime Group, Crime Command.

The member assigned duties as the BCLO is to give the blue card to the Chief Executive (Employment Screening), DJ and is to arrange for an appropriate receipt to be issued and forwarded to the officer who seized the document.

Officers receiving the receipt from the Blue Card Services, DJ are to save the receipt in the relevant QPRIME occurrence as an external document. The hardcopy receipt should be retained at the officer's station or establishment.

When is a person charged with a serious or disqualifying offence

For the purposes of this section, a person is charged with a serious or disqualifying offence when a charge for a serious or disqualifying offence is preferred by way of charge on arrest, notice to appear served under the PPRA, complaint and summons served under the *Justices Act*, charge by a court under s. 42(1A): 'Commencement of proceedings' of the *Justices Act*, or another provision of an Act, or an indictment.

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Appendix 7.1 Schedule of relevant offences

(s. 7.3.5)

Please Note: This schedule is provided for reference only.

This is not an exhaustive list and is merely a sample of possible offences for consideration.

Category of abuse	Name of offence and Criminal Code section number	Relevant definitions and comments
Physical	Common assault, s. 335	See s. 245: 'Definition of assault' of the CC.
Physical	Assaults occasioning bodily harm, s. 339	'Bodily harm' means any bodily injury which interferes with health or comfort, see s. 1: 'Definitions' of the CC.
Physical	Grievous bodily harm, s. 320	See s. 1: 'Definitions' of the CC.
Physical	Poisoning and wounding, ss. 322, 323	This offence is committed if a person— (a) unlawfully wounds another; or (b) unlawfully, and with intent to injure or annoy any person, causes any poison or other noxious thing to be administered to, or taken by, any person. The word 'wound' is not defined in the Criminal Code, but it is accepted that it bears its ordinary or common law meaning, which requires that the 'true' skin must be penetrated or broken.
Physical	Female genital mutilation, s. 323A	See definition in s. 323A: 'Female genital mutilation' of the CC.
Physical	Kidnapping, s. 354	See s. 354(2): 'Kidnapping' of the CC.
Physical	Deprivation of liberty, s. 355	See s. 355: 'Deprivation of liberty' of the CC.
Physical	Torture, s. 320A	See definition in s. 320A: 'Torture' of the CC.
Physical	Murder, s. 302	See s. 302: 'Definition of murder' of the CC.
Physical	Manslaughter, s. 303	This offence is committed if a person unlawfully kills another person under such circumstances as not to constitute murder.
Physical	Killing unborn child, s. 313	See s. 313: 'Killing unborn child' of the CC. For the meaning of 'grievous bodily harm', see s. 1: 'Definitions' of the CC.
Physical	Concealing the birth of children, s. 314	See s. 314: 'Concealing the birth of children' of the CC.
Neglect	Failure to supply necessaries, s. 324	See s. 324: 'Failing to supply necessaries' of the CC.
Neglect	Endangering life of children by exposure, s. 326	See s. 326: 'Endangering children by exposure' of the CC.
Neglect	Cruelty to children under 16, s. 364	See definition in s. 364: 'Cruelty to children under 16' of the CC.
Neglect	Leaving a child under 12 unattended, s. 364A	See s. 364A: 'Leaving a child under 12 unattended' of the CC. Regional Crime Coordinator approval is no longer required before charging under s. 364A of the CC.
Neglect	Negligent acts causing harm, s. 328	See s. 1 'Definitions' of the CC for the definition of 'Bodily harm'.
Sexual	Engaging in penile intercourse with child under 16, s. 215	See s. 215: 'Engaging in penile intercourse with child under 16' of the CC. For meaning see s. 6: 'Meaning of engage in penile intercourse' of the CC

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Category of abuse	Name of offence and Criminal Code section number	Relevant definitions and comments
Sexual	Repeated sexual conduct with a child, s. 229B	See s. 229B: 'Repeated sexual conduct with a child' of the CC.
Sexual	Rape, s. 349	See ss. 6: 'Meaning of engage in penile intercourse' and 349: 'Rape' of the CC. Note that, for the purposes of this offence, a child under the age of 12 years is incapable of giving consent.
Sexual	Sexual assaults, s. 352	See s. 352: 'Sexual assaults' of the CC. Note that the CC does not define the word 'indecent'. Current case law says: • the word should be construed according to its ordinary and popular meaning • indecency must always be judged in the light of time, place and circumstance; • indecency is that which offends against currently accepted standards of decency; and • it is necessary that the assault have a sexual connotation either from the part of the body assaulted or the part of the body used by the offender. Intentional touching of a female's breast would amount to indecent assault (see R v BAS [2005] QCA 097).
Sexual	Indecent treatment of children under 16, s. 210	See s. 210: 'Indecent treatment of children under 16' of the CC.
Sexual	Procuring prostitution, s. 229G	See ss. 229E: 'Meaning of prostitution' and 229G: 'Procuring engagement in prostitution' of the CC.
Sexual	Permitting young person to be at place used for prostitution, s. 229L	See s. 229L: 'Permitting young person etc. to be at place used for prostitution' of the CC.
Sexual	Incest, s. 222	See s. 222: 'Incest' of the CC. Note it is immaterial that the act or attempted act of penile intercourse happened with the consent of either person (s. 222(3)).
Sexual	Involving child in making child exploitation material, s. 228A	See ss. 207A: 'Definitions for this chapter', 228A: 'Involving child in making child exploitation material' and 229B: Making child exploitation material' of the CC.

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Appendix 7.2 Sample wording for QPRIME occurrence

(s. 7.3.9)

Where a prosecution is not commenced the following wording on the QPRIME occurrence may be appropriate:

> On the (*date*) a complaint was received from the child (*name of the child*) that (*physical, sexual, emotional harm/interference*) had taken place. The basis of the complaint is that (*outline the circumstances*). The offence has been occurring for a period of (*mention any time frames*). The child has been formally interviewed and details obtained. The child was/was not medically examined at (*name location and medical practitioner of the child*).
>
> The injuries included (*specify injuries*). (*Specify if sexual harm, penetration was/was not consistent with the alleged manner of assault*). The injuries were/were not photographed at (*location*) by (*identity of photographer*).
>
> On (*date*) the suspect was interviewed at (*location*) and the allegations were/were not denied. Investigations did not reveal prima facie evidence against the suspect. On (*date*) the matter was discussed at (*name of SCAN team*) and due to lack of evidence a decision was made not to commence any prosecution. All relevant persons have been advised of the outcome of the investigation.

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Appendix 7.3 Sample wording for report concerning Government employee

(s. 7.8.1)

TO: [rank], [district name] District

FROM: [rank] [name], [unit] Child Protection and Investigation Unit

SUBJECT: COMPLAINT AGAINST GOVERNMENT EMPLOYEE

On [date] the following complaint was received regarding a Government employee in relation to alleged [type of harm] harm.

[Name of alleged offender]

[Address of alleged offender]

[Date and place of birth of alleged offender]

[Complainant's name]

[Complainant's address]

[Date and place of birth]

[Nature of allegation]

On [date] Mr/s [name] of the Crime and Corruption Commission was advised of the existence of this complaint. This matter is to be investigated by the Police Service by [rank][name] of [unit].

The Queensland Department of Education Crime and Corruption Commission liaison officer Mr/s [name] has been advised on [date] (*use only if the complaint relates to an employee from the Department of Education*).

A copy of this document has been forwarded to the Crime and Corruption Commission.

[name]

[rank]

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Appendix 7.4 Guidelines for conducting child exploitation material investigations

Introduction

Officers conducting investigations involving child exploitation material (CEM) may be exposed to a variety of risks including exposure to traumatic material, high exposure rates, emotional connection to victims, and psychological injury. Exposure to CEM is recognised as a workplace health risk and every measure is to be taken to ensure the health and wellbeing of officers is maintained.

Adoption of safe work practices in compliance with the *Work Health and Safety Act* (WHSA) will assist to alleviate and minimise these risks. It is important to note that the WHSA also places an obligation on employees to act in a manner that reduces the risk of harm to themselves and others in the workplace.

Whenever it is necessary to view CEM, the following guidelines and procedures should be adopted in addition to any station/establishment instructions relating to viewing CEM. Wherever practical, variance from the instructions and reasons for variance should be recorded by the responsible officer in an appropriate place such as daily activity logs, official police diary or QPRIME.

General health and wellbeing considerations

The WHSA contains general health and wellbeing advice and should be read in conjunction with this section.

Self-care within the workplace is supported and the Service has developed considerable resources to assist all officers to address any health and wellbeing issues.

During an investigation involving the viewing of CEM, individuals may be exposed to material causing them to experience strong emotional and physical reactions which have the potential to interfere with their health and wellbeing. Under such circumstances the affected officer is to take appropriate action to ensure their health and wellbeing and is to notify their supervisor and/or a senior psychologist. Upon receiving a notification, the supervisor or senior psychologist is to ensure appropriate intervention and assistance is provided to the affected officer.

All investigators who receive an investigation involving CEM should have previously participated in psychological testing and be approved to conduct CEM investigations. If an officer has not completed psychological assessment or approved to conduct CEM investigations, a supervisor should reassign the investigation to an officer who has fulfilled those requirements.

CEM viewing

Section 2.3.6: 'Inspection of official police diaries and notebooks' of the MSM outlines the requirements of officers issued with an official police diary or notebook to record details of their duties and places visited in the course of their duties. All officers exposed to CEM are to record in their official diaries specific information pertaining to any viewing of this material.

An entry of this nature should include:

(i) date and time of viewing;

(ii) time spent viewing;

(iii) QPRIME or investigative reference number;

(iv) any issues encountered while viewing material; and

(v) reason for the viewing.

Recording of the above details should occur in the first instance in an investigations management and control (IMAC) Daily Performance Log where the specific activity of 'CEM categorisation' has been created. An entry should also be made in an official police diary or notebook, with brief particulars only (for example: CEM categorisation. QP2100123456, refer Cairns CPIU log / IMAC entry).

In addition to the requirements under s. 2.3.6 of the MSM, supervisors are to inspect IMAC Daily Performance Logs, diaries and notebooks monthly and review information recorded regarding the viewing of CEM.

Viewing CEM should be conducted in an appropriate and secure environment to reduce the inadvertent exposure to third parties. For example, viewing of CEM should be conducted in a CPIU office using a computer which is not easily viewed by third parties entering the office.

Investigators should only view CEM in the course of their duties and, unless required otherwise, not anywhere outside of a police station or establishment. Circumstances may exist where an officer may need to review CEM material to assist in matters proceeding through the court process, such as a prosecution or defence review. This can only occur at the ODPP, Commonwealth Department of Public Prosecutions, local courthouse, local prosecutions office, or police station. If viewing CEM at an external location, the investigator responsible must:

(i) retain possession of the CEM at all times;

(ii) remain present while the CEM is being viewed;

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(iii) record the viewing details in an official police diary or notebook including date, time, material viewed, and persons viewing; and

(iv) ensure that no copies of the material are made including by taking photos or making digital copies.

Child exploitation material investigation package

The CEM Investigation package was implemented following recommendations from the Queensland Sentencing Advisory Council (QSAC) report into the classification of child exploitation material for sentencing purposes. The investigation package has been designed to deliver a consistent evidence package for CEM investigations.

The new investigation package focuses on the role of the offender in relation to the CEM and the risk posed to the community. It outlines factors such as:

(i) the offender's interest in CEM, highlighted by the time period over which the offender has collected the material;

(ii) number of hours a day spent viewing CEM;

(iii) evidence of distribution or networking;

(iv) use of encryption or anonymizing software; and

(v) the offender's connection with the children in the images.

The package also addresses ongoing concerns around the timely provision of evidence to the courts by providing a prima facie case at an early stage through a field triage report, potentially averting the need for a comprehensive forensic examination and allowing for early pleas of guilty.

Officers conducting CEM investigations are to refer to the CEM Investigation package available on the Argos SharePoint page.

Law Enforcement Against Child Exploitation (LACE) and categorisation

Members conducting CEM investigations are to send a QPRIME request to the Electronic Evidence Unit (EEU) in accordance with s. 2.6.10: 'Electronic Evidence Examination' of this Manual, by completing a QP 0127B: 'Request to examine computer evidence' (available in QPRIME) and sending a QPRIME task to request the seized electronic media be uploaded to LACE for categorisation. Investigators can use LACE to categorise seized material if they have been trained or are supervised by a trained officer. If training in LACE is specifically sought, requesting officers are to contact the Operations Leader, Argos, Child Abuse and Sexual Crime Group.

The Service has adopted the Interpol Baseline 4 category system in keeping with international standards of categorisation which outlines:

	Category	LACE Category	Guide
Illegal	1	CEM—Interpol Baseline	Must depict pre-pubescent child under 13 years of age, and Must be a real child and must show: • sexual activity involving a child; or • clear focus on either genitals or anus; or
	2	CEM—Any other CEM	Any other CEM that meets the Queensland and Commonwealth legislative description and is not Category 1. Includes: • Animated and written CEM; • Can include Commonwealth Child Abuse Material (CAM) (under age of 18).
Legal	3	Related investigative interest—Non-illegal but connected	Non-illegal related child material. • Believed to form part of a series containing CEM; • Of investigative interest.
	4	Ignorable	Anything else: • Adult pornography; • Windows artefacts; • Etc.

See the Argos SharePoint page for Interpol Baseline instructions.

OPM Issue 113 Public Edition

Threshold and onus on victim identification

As outlined in the QSAC guidelines, a categorisation threshold has been introduced to minimise the exposure to investigators of viewing CEM.

In addition to the pre-categorised material generated through the categorisation software LACE, investigators are to categorise:

(i) an additional 1000 CEM images at least one megabyte in size and spending no more than 2 4-hour sessions unless exceptional circumstances exist; and

(ii) 50 CEM video files filtered to at least 30 seconds in duration and spending no more than one 4-hour session unless exceptional circumstances exist.

This does not apply to high risk investigations where an offender is suspected of being a contact offender. In this case, investigators are expected to exceed the categorisation threshold limits to ensure all victim related material is identified. As outlined in s. 7.11.4: 'Child exploitation victim identification' of this chapter, it is imperative that victims of child exploitation are recognised throughout investigations and all possible attempts are made to identify them. In the event that an offender is producing material the Victim Identification Unit, Argos is to be notified and provided the relevant QPRIME reference.

Release of victim images to media

Public assistance or media releases to identify victim children should not include re-victimisation of the child unless an urgent need exists. Section 189: 'Prohibition of publication of information leading to the identity of children' of the *Child Protection Act* states information that identifies a child should not be published without the Chief Executive's written approval. Consideration should also be given to Part 6C: 'Limits on publishing information in relation to sexual offences' of the *Evidence Act*.

If it is decided as a last resort that a child's image is to be released to the media for public assistance in identifying a victim of child exploitation, the OIC, Argos or the operations leaders, Argos should be consulted for advice prior to any release to ensure any request for public assistance is in accordance with national protocols.

Account takeovers

Account takeovers can be conducted by any officer within the Service with the consent of a victim or offender and using the approved form available by contacting Argos, Child Abuse and Sexual Crime Group. Assuming the identify of a victim or offender can only be conducted by a member of Argos who is an approved law enforcement participant (LEP) and conducting investigations under an approved controlled operation. See also s. 2.6.8: 'Specialist cybercrime investigations' and s. 2.10.6: 'Online intelligence' of this Manual.

OPM Issue 113 Public Edition

Chapter 8—Coronial Matters

8.1 Introduction 738

8.1.1 Responsibilities of CSU 738
8.1.2 Responsibilities of the CSU when notified of inquests 739
8.1.3 Family liaison officer (FLO) 739

8.2 First Nations and multicultural considerations 740

8.2.1 First Nations 740
8.2.2 Location of possible First Nations burial remains 740
8.2.3 Multicultural considerations 741

8.3 Death investigations 741

8.3.1 First response actions (deaths) 741
8.3.2 Responsibility for investigating and reporting on deaths 744
8.3.3 Additional responsibilities of investigating officers 745
8.3.4 Person of interest check 746
8.3.5 Advising next of kin 747
8.3.6 Completion of Form 1 748
8.3.7 Interstate coronial inquiries involving victims of crimes 748

8.4 Death of Australian Defence Force personnel 748

8.4.1 Military aircraft 749

8.5 Deaths of children 749

8.5.1 First response actions for deaths of children 749
8.5.2 Contacting Child Safety After Hours Service Centre 750
8.5.3 Investigations of child reportable deaths 750
8.5.4 Suspected Child Abuse and Neglect (SCAN) Team representative 751
8.5.5 Criminal investigations—child deaths 752
8.5.6 Sudden unexpected death in infancy 752

8.6 Death of a member of the Service 754

8.7 Deaths in care 755

8.8 Deaths in custody 755

8.9 Domestic and family violence related deaths 756

8.10 Health care related deaths 757

8.10.1 Deaths occurring as a result of a reportable event 758

8.11 Voluntary assisted dying 758

8.11.1 Protection from liability and privacy considerations 758
8.11.2 Voluntary assisted dying information portal and handbook 759
8.11.3 Referrals from the Voluntary Assisted Dying Review Board 759
8.11.4 Role of Assistant Commissioner, Crime Command 759
8.11.5 Indictable offences 759
8.11.6 Non-indictable offences 760
8.11.7 First response procedures 760

8.12 Suicide 760

8.12.1 Investigation of suicide 760
8.12.2 Suicide prevention research and support 761

8.13 Other death investigations 761

OPM Issue 113 Public Edition

8.13.1 Diving deaths and incidents 761
8.13.2 Fatal mining incidents 762
8.13.3 Fatal workplace or electrical incidents 763
8.13.4 Deaths on board vessels 764
8.13.5 Drowning 764
8.13.6 Aircraft incidents resulting in death 765
8.13.7 Fatal traffic crashes 766
8.13.8 Suspected drug overdoses 767
8.13.9 Deaths resulting from fires 768
8.13.10 Unidentified human remains 769
8.13.11 Fatalities on Queensland Rail, Citytrain network 769
8.13.12 Missing person reasonably suspected of being deceased 769

8.14 Mortuary 770

8.14.1 Removal of bodies from scene 770
8.14.2 Life extinct form 771
8.14.3 Identification of deceased 772
8.14.4 Coronial counselling services 773
8.14.5 Attendance at the autopsy 774
8.14.6 Removal of body parts 775
8.14.7 Requests for autopsy by relatives or interested party 777
8.14.8 Obtaining autopsy related documents 777

8.15 Finalising the investigation 777

8.15.1 Covering report 778
8.15.2 Forms and statements 778
8.15.3 QPRIME 779
8.15.4 Responsibilities of officers in charge 780

8.16 Coroner's court 780

8.16.1 Coroner's investigation Coroner's search warrants 780
8.16.2 Inquest or pre-inquest conference 780
8.16.3 Giving evidence in coronial inquests 780
8.16.4 Coroner's findings and recommendations 781
8.16.5 Persons committed for trial or sentence as a result of an inquest 781

8.17 Miscellaneous coronial matters 781

8.17.1 Funeral directors 781
8.17.2 Organ and tissue donation 781
8.17.3 Exhumation 782
8.17.4 Burials Assistance Act 1965 783
8.17.5 Costs in obtaining expert medico/legal opinions and reports 784

OPM Issue 113 Public Edition

8.1 Introduction

This chapter deals with the requirements of first response and investigating officers to whom a reportable death is reported.

Once a death is determined reportable in accordance with s. 8: '*Reportable death* defined' of the *Coroners Act*, it is the duty of an officer to help a coroner in the performance of a function or exercise of a power. Officers are to comply with every reasonable and lawful request or direction of a coroner (see Part 5: 'Powers for assisting coroners' and s. 794: 'Helping coroner investigate a death' of the PPRA).

Officers to whom a death is reported and the death appears to be a reportable death, must report the death to a coroner in writing pursuant to s. 7: 'Duty to report deaths' of the *Coroners Act*.

The type of deaths that may be investigated are outlined in s. 11: 'Deaths to be investigated' of the *Coroners Act* along with the type of coroner who conducts the investigations.

The process for conducting investigations is outlined in Chapter 2: 'Investigative process' of this Manual which should be read in conjunction with this chapter. When attending the scene of a death, first response officers are to assume control of the scene until control is relinquished as outlined in s. 2.4.1: 'First response procedures at an incident scene' of this Manual.

The *Coroners Act* does not limit or otherwise affect the functions or powers of police to investigate a death under another Act or to do something other than an investigation under the *Coroners Act*.

Definitions

For the purposes of this chapter:

CSU

means Coronial Support Unit, Queensland Police Service.

Death in care

means a death in care as defined in s. 9: '*Death in care* defined' of the *Coroners Act*.

Death in custody

means a death in custody as defined in s. 10: '*Death in custody* defined' of the *Coroners Act*.

Family liaison officer (FLO)

means an officer assigned to provide support to the next of kin or other appointed family member of the deceased, to answer their questions and convey investigative information to the investigator. The FLO provides psychosocial safety to the investigator. The FLO should not be part of the investigation.

Form 1

means a Form 1: 'Police Report of Death to a Coroner'

Health care related death

means a health care related death as defined in s. 10AA: '*Health care related death* defined' of the *Coroners Act*.

Next of kin

means for coronial purposes (and in terms consistent with the definition of family member in Schedule 2 of the *Coroners Act*), the next of kin is, in the following order of priority: spouse, adult child/children, parent(s), adult sibling(s), adult with sufficient interest (e.g. community leader, elder, person listed as power of attorney or alternate decision maker in health records).

Reportable death

means a reportable death as defined in s. 8: '*Reportable death* defined' of the *Coroners Act*.

Other definitions can be found in the SMD.

8.1.1 Responsibilities of CSU

The Coronial Support Unit assists coroners as the liaison between the Service and coroners. CSU is the liaison point between coronial registrars, Coroners Court of Queensland and Coronial Public Health Sciences (CPHS) to ensure the following can be completed in an efficient and expedited manner:

(i) registering reportable deaths;

(ii) autopsies;

(iii) coronial investigations; and

OPM Issue 113 Public Edition

(iv) coronial inquests.

CSU liaises with other external agencies as agreed to by the State Coroner and coroners.

8.1.2 Responsibilities of the CSU when notified of inquests

The CSU upon notification from the Coroners Court Queensland of the intention of an inquest to be held, are to notify the relevant district officer with the details of the members required for the inquest.

CSU will liaise with the Coroners Court Queensland and the QPS Media and Public Affairs about:

(i) the nature of the incident;

(ii) details about the inquest; and

(iii) release of information to the media.

The CSU is to notify the relevant district officer of inquests that could be sensitive or attract public objection through a protest.

8.1.3 Family liaison officer (FLO)

Deaths entering the coronial system are unexpected and at times violent. Not only are the family of the deceased coming to terms with the loss of their loved one, but they are also entering the coronial system which commences when police report the death to the coroner. Police have a vital role, as the coronial system's first contact point with the family of the deceased, in providing the family of the deceased with confidence in a thorough, transparent coronial investigation.

The *Coroners Act* emphasises the right of family members to be involved in coronial investigations and includes an obligation on coroners to consult with and inform family members on key decisions (see State Coroner's Guidelines). The Service is obligated to conduct coronial investigations on behalf of coroners. In protracted coronial investigations, the appointment of a FLO is critical in meeting these responsibilities by ensuring the family members' concerns are raised and conveyed to the coroner, on a QP 0528: 'Supplementary Form 1 – Police Report of Death to a Coroner'.

It is essential for the coroner to be aware of the family's wishes and determine who the family of the deceased has nominated as the point of contact. Families may request more than one key contact, and this should be conveyed to the coroner for a determination on how to proceed using a QP 0528 (see s. 8.2.3: 'Multicultural considerations' of this chapter).

A FLO is to be considered in coronial investigations that are protracted or sensitive in nature (see s. 8.2: 'First Nations and cultural considerations' of this chapter).

The senior investigating officer is to nominate the FLO for coronial investigations, taking into consideration, if the officer:

(i) has not been involved with delivering the death message to the family;

(ii) has not had any previous contact or personal relationship with the family; and

(iii) has the ability and experience to perform the role for a protracted period (years).

Additional considerations are the psychosocial hazards impacting the officer when performing the role in highly emotional matters.

The role of the FLO for coronial investigations is to:

(i) identify the family's next of kin or nominated point of contact;

(ii) act as the single point of contact within the Service for family to:

(a) relay any questions, concerns or issues; and

(b) providing a conduit between:

- the coroner (through CSU);
- the investigating officer; and
- the family or nominated point of contact; and

(iii) assist the investigating officers in relation to coordinating contact by the family to the Coroners Court of Queensland.

ORDER

The FLO is not to provide counselling or legal advice.

Once appointed the FLO is to:

(i) familiarise themselves with:

(a) information about the Coroners Court; and

OPM Issue 113 Public Edition

(b) the content of the publication 'Coronial Investigations – information for family and friends';

(ii) maintain contact with the appropriate CSU officer;

(iii) contact the coronial counsellor assigned to this matter (see s. 8.14.4: 'Coronial counselling services' of this chapter) and share information to assist the counsellor with their contact with the family, as they will only have the details on the Form 1; and

(iv) meet with the family or nominated point of contact for the family.

The role of the FLO ceases once the police report has been completed or at the discretion of the district officer. The FLO is to liaise with the Coroners Court Queensland through the CSU to advise of the cessation of their involvement and transfer responsibility to either:

(i) the Coroners Court of Queensland; or

(ii) the assigned lawyer representing the family at court.

Additional information about the role and appointment of a family liaison officer when there is a death of a member see s. 8.5: 'Death of member of the Service' of this chapter.

8.2 First Nations and multicultural considerations

8.2.1 First Nations

In the initial stages of the investigation into deaths of First Nations people, where practical, officers are to consult with one or more of the following:

(i) the First Nations Division;

(ii) a police liaison officer (PLO) (First Nations); or

(iii) First Nations elder (in the local community),

to understand the cultural sensitivities and funeral protocols when liaising with the family of the deceased.

For further information refer to 'Sad News Sorry Business: Guidelines for caring for Aboriginal and Torres Strait Islander people through death and dying'.

8.2.2 Location of possible First Nations burial remains

ORDER

Officers are to treat the location of skeletal remains as a crime scene and comply with the relevant provisions of this chapter and Chapter 2: 'Investigative Process' of this Manual. This continues until police and the coroner are satisfied the remains are of First Nations origin (formerly called 'traditional or pre-contact remains') and are historical in nature and not related to a criminal matter.

At all stages, minimal disturbance to the remains should be a priority, respectfully dealing with the matter in a sensitive and caring manner. Once the remains are determined to be a First Nations historical burial, no further disturbance or removal of remains is permitted. Should any skeletal remains be removed from the ground, they are to be lodged at the nearest government mortuary for safe keeping until they can be repatriated to an alternate location (i.e. return to ancestors). A Form 1 is to accompany the lodgement of the remains.

Officers are to record the details of the properly identified location in QPRIME as a First Nations historical burial site. The location can be added in QPRIME as a new address, allowing the entry of latitude and longitude details. In remote areas without mobile device connectivity, latitude and longitude can be obtained from a breathalyser device.

If a determination is made that the remains could constitute First Nations historical burial remains, investigating officers deal with the site and remains by:

(i) contacting Department of Women, Aboriginal and Torres Strait Islander Partnerships and Multiculturalism (DWATSIPM) for specialist advice and guidance, including identifying the First Nations elder in the relevant community (if correspondence is via email, officers are to include First Nations Division);

(ii) ensuring the regional forensic coordinator is contacted to organise any forensic response as needed;

(iii) ensuring that appropriate consideration is given to involving a police liaison officer (PLO), if available, and local Aboriginal and Torres Strait Islander community groups; and

(iv) providing advice on this matter to the First Nations Division by emailing the details to Strategy of Performance FNDiv.

Where practicable, a forensic or scientific officer should attend the scene, along with members of DWATSIPM, to assist investigating officers in determining the ethnicity and antiquity of the remains.

OPM Issue 113 Public Edition

In all matters, investigators are to seek specialist advice (i.e. archaeologist or pathologist) to assess the skeletal remains whilst they are in-situ to determine ancestry and antiquity of the remains. This process will assist decision making for any subsequent recovery or examinations.

Factors which may indicate such a site, particularly when associated within the proximity of:

(i) scarred or carved trees;

(ii) stone arrangements; or

(iii) stone artefacts,

include the location of skeletal remains:

(i) in hollowed out logs or trees;

(ii) wrapped in bark cylinders;

(iii) placed in rock shelters or rocky overhangs;

(iv) buried with artefacts;

(v) sand hills close to a water source; or

(vi) stone arrangements which may have cremated remains.

If properly identified as First Nations historical burial remains, the coroner will issue a Form 12: 'Order for release of traditional remains' (see s. 26(2)(a): 'Control of body' of the *Coroners Act*) transferring the responsibility for the management of the remains to officers of DWATSIPM who will take responsibility for liaison and reburial with the appropriate Aboriginal and Torres Strait community.

Refer to Chapter 13: 'Miscellaneous' of this Manual for duties regarding the *Aboriginal Cultural Heritage Act* and assistance to the Department of Environment, Tourism, Science and Innovation.

Further guidance and advice for the handling of Aboriginal and Torres Strait Islander peoples human remains refer to Human remains on the Aboriginal and Torres Strait Islander peoples, Queensland Government web page.

8.2.3 Multicultural considerations

There may be specific religious beliefs, customs, practices and protocols regarding death which the family wish to be respected in the passing of the deceased.

Officers completing a Form 1 (available in QPRIME) are to consult with the deceased's family to include information about the deceased's ethnicity, faith and autopsy preference and include this on the Form 1. This provides the coroner sufficient information for the coronial investigation.

Officers should interact with the deceased's family members as per the Australian and New Zealand Policing Advisory Agency (ANZPAA): Religious and Spiritual Diversity Guide for Operational Police.

FLOs should be appointed in major investigations as the primary point of contact for the family to address their questions and concerns while safeguarding the appointed investigators from unnecessary vicarious trauma.

ORDER

Police liaison officers (PLOs) are not to be used as FLOs under any circumstances to minimise their exposure to psychosocial hazards. The role and function of a PLO is outlined in s. 1.4.10: 'Role and function of police liaison officers' of this Manual and provides cultural advice and awareness to members.

8.3 Death investigations

Officers are to assist coroners in the performance of a function, or exercise of a power, under the *Coroners Act* and are to comply with every reasonable and lawful request or direction of a coroner (see s. 7: 'Duty to report deaths' of the *Coroners Act*). The powers and duty of an officer to help a coroner is stated in Part 5: 'Powers for assisting coroners' and s. 794: 'Helping coroner investigate a death' of the PPRA.

8.3.1 First response actions (deaths)

For advice with respect to safe procedures for handling and searching bodies officers should refer to s. 2.8.2: 'Search of a place' of this Manual in conjunction with Work Health and Safety protocols located on the Work Health and Safety Management System SharePoint page.

The first response actions required at the scene of a death will vary from case to case. Priority should always be given to the prevention of further loss of life. Officers are to take any action necessary to ensure that in the circumstances no further danger to life exist (refer to the CSU First Responder Guide on Power Apps).

OPM Issue 113 Public Edition

ORDER

On arrival at the scene of a death, the first response officer is to:

(i) assume life unless there are definitive signs of death (i.e. rigor mortis, decomposition, decapitation etc.). Where any doubt exists, administer first aid and seek medical assistance immediately;

(ii) take all action necessary to secure the scene in terms of first response procedures contained in Chapter 2: 'Investigative process' of this Manual; and

(iii) if the body is in view of the public, attempt to cover it in some way if this is possible, without interfering with crime scene integrity.

Officers are to treat all deaths as major investigations until such time as inquiries indicate strongly that no suspicious circumstances exist surrounding the death. Officers may then treat the matter as a routine investigation (see Chapter 2 of this Manual).

In cases of child deaths (see s. 8.5: 'Deaths of children' of this chapter) the OIC of the local CPIU or in the instance where no local CPIU is available, CIB, is to be consulted prior to treating any such death as a routine investigation.

Where the death of a person occurs whilst that person is in custody, officers are to comply with the provisions of s. 8.8: 'Deaths in custody' of this chapter.

Where the death of a person occurs in the course of, or as a result of police operations, the death is to be investigated in accordance with ss. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (police related incidents)' and 16.23: 'Deaths in police custody' of this Manual.

For deaths resulting from acts of domestic and family violence, refer to s. 8.9: 'Domestic and family violence related deaths' of this chapter. For homicides generally, refer to ss. 2.6.2: 'Homicide' and 2.7.6: 'Homicide Group' of this Manual.

Where an adult person's death is a death in care (see 'Definitions' at the beginning of this chapter) officers are to comply with s. 8.7: 'Deaths in care' of this chapter.

Where the deceased is a foreign national, officers should refer to the 'Detention or death of a foreign national in Australia' webpage, published on the Department of Foreign Affairs and Trade website for specific notification requirements.

Where the deceased is located with the assistance of a volunteer or volunteer organisation, officers should refer to s. 17.5.3: 'Search and rescue operation' of this Manual.

Apparent natural cause of deaths

Officers may be required to attend deaths which appear to be from natural causes, with investigations indicating that there are no suspicious circumstances and the family having no concerns about the nature of the death.

Many of these deaths can be finalised by seeking a cause of death certificate from the local or treating doctor, eliminating the need to report the death to the coroner.

Where an apparent death from natural causes is reported to the police, the officer is not required to transport the deceased to a government mortuary and is to advise the family to transport the deceased to the family nominated funeral home pending the issue of a cause of death certificate.

Officers are not to complete a Form 1 until satisfied a cause of death certificate will not be issued (see s. 7: 'Duty to report deaths' of the *Coroners Act*).

An apparent death from natural causes should only be reported to the coronial registrar if one or both below circumstances exist:

(i) the identity of the deceased is unknown; or

(ii) a cause of death certificate has not or is not likely to be issued.

Where a local or treating doctor has confirmed within 2 business days that a cause of death certificate has been issued or will be issued involvement of the Service for these types of deaths is limited to:

(i) obtaining scene photographs of the deceased, and any medications or prescriptions located at the scene (ensuring that medication labels and number of tablets located are clearly photographed to assist with follow up inquiries with the issuing doctor or pharmacy);

(ii) providing reasonable assistance to the next of kin;

(iii) notifying the family they can make arrangements for a funeral director to collect the deceased;

(iv) recording the sudden death – natural causes occurrence in QPRIME; and

(v) ensuring a Life Extinct Form and cause of death certificate is scanned into the occurrence, and the issuing doctor is linked into the occurrence or make a record of the intention of the issuing doctor in providing a cause of death certificate.

OPM Issue 113 Public Edition

ORDER

Officers are not to call the government undertaker to transport the body of the deceased unless exceptional circumstances exist, such as there is no suitable adult family member available.

There is no requirement for officers to remain at the scene where:

(i) a cause of death certificate has or is likely to be issued;

(ii) the family of the deceased have been notified; and

(iii) the family are able to make the necessary arrangements for a funeral director to collect the deceased.

Cause of death certificate

Where a person's death is from apparent natural causes, officers are to make inquiries including:

(i) establishing the medical history of the deceased, any recent contact with a doctor, and the identity of the doctor; and

(ii) if QAS are in attendance, whether they have attempted to obtain a cause of death certificate; and

(iii) where a treating doctor is identified, contact the doctor during business hours and determine their preparedness to issue a cause of death certificate.

The results of these preliminary inquiries should be recorded in the homicide/sudden death report section in QPRIME under Sudden Death – Natural Causes occurrence. This should include any reasons provided as to why a cause of death certificate has not been obtained.

If no prior contact has been made with a doctor to obtain a cause of death certificate officers should attempt to contact the treating doctor while at the scene if it is during normal business hours. If outside of business hours, officers are to ensure the treating doctor is contacted during business hours and record in QPRIME whether the treating doctor is prepared to issue a cause of death certificate.

When contacting a doctor, officers should advise them the death is not suspicious, and inquiries indicate they are the treating doctor for the deceased. Officers should provide all relevant information about the circumstances of the death to assist the doctor in diagnosing a probable cause of death. Officers should explain that an on-call forensic physician is available to assist the doctor if required (see Clinical Forensic Medicine Unit, Queensland Health—SMCD).

Officers are **not** to contact a GP outside of normal business hours.

In circumstances where a known medical history has been established, yet it is unclear whether a cause of death certificate is likely, the deceased can be released to a funeral director pending an assessment by a forensic physician. This inquiry will be conducted by CSU during business hours.

While a Form 1 will not be required to be completed for the majority of these cases, sufficient details to complete a Form 1 should be obtained whilst at the scene, in the event that a cause of death certificate is not issued. Officers are to ensure that autopsy concerns have been canvassed with the family and recorded on the homicide/sudden death report narrative; to prevent any delays should a certificate not be obtained.

While a Form 1 may not be required, a Sudden Death – Natural Causes occurrence should be created for every apparent death from natural causes officers attend. Every such occurrence is to include a homicide/sudden death report.

The Coroners Court of Queensland has prepared a fact sheet, titled 'Issuing cause of death certificates for apparent natural causes deaths' to assist doctors when considering whether to issue a cause of death certificate. Whenever practicable, officers should provide a copy of the fact sheet to the doctor to assist them in their decision with regard to the issuing of a cause of death certificate.

The coroner may accept a cause of death certificate issued outside Queensland, providing the medical practitioner issuing the certificate:

(i) has treated the deceased for a length of time;

(ii) is willing to issue such certificate;

(iii) a Life Extinct Form has been issued; and

(iv) there are no suspicious circumstances.

A cause of death certificate will not be issued if the death appears to the doctor to be a reportable death unless a coroner advises otherwise or authorises the issue of a certificate (see s. 12: 'Not investigating or stopping investigation of particular deaths' of the *Coroners Act*).

Where such a certificate is forthcoming, it is not necessary to report to the coroner on the matter, and involvement of the Service is limited to:

(i) providing reasonable assistance to the next of kin;

(ii) recording the sudden death occurrence in QPRIME; and

OPM Issue 113 Public Edition

(iii) ensuring the cause of death certificate is scanned and the issuing doctor is linked into the relevant occurrence.

Officers are to ensure that the certificate is completed by the doctor as stated in s. 94: 'Cause of death certificate' of the *Births, Deaths and Marriages Registration Act*.

Where a cause of death certificate is forthcoming, the family of the deceased have been notified and are able to make arrangements for a funeral director to collect the deceased, officers are not to call the government contracted undertaker to transport the body of the deceased.

Where available, a QP 0416: 'Coronial Investigations and the Police Response' should be supplied to the family and friends of deceased persons.

Natural causes deaths waiting cause of death certificate

If the government undertakers have transported the deceased to a government mortuary or funeral home awaiting cause of death enquiries, investigating officers are to regularly update the local CSU of the status of the issuing of the cause of death certificate.

If a cause of death certificate is issued, notification is to be sent to the relevant CSU advising that:

(i) a QP 0001: 'Life Extinct Form' has been completed;

(ii) a cause of death certificate has been issued and scanned to the relevant QPRIME Occurrence; and

(iii) the next of kin has been advised that a cause of death certificate has been issued.

If a doctor declines to issue a cause of death certificate, the investigating officer is to provide written advice to the relevant CSU that:

(i) the Form 1 has been completed;

(ii) the doctor's details—along with provided medical history of deceased and reasons for not issuing cause of death certificate;

(iii) the next of kin have been advised that the treating doctor has declined to issue a cause of death certificate; and

(iv) if the deceased has been transported to a funeral home, the deceased will need to be transported to a government mortuary.

OPM Issue 113 Public Edition

8.3.2 Responsibility for investigating and reporting on deaths

Officers are to assist coroners in the performance of a function, or exercise of a power, under the *Coroners Act* and are to comply with every reasonable and lawful request, or direction of a coroner.

Officers are to be conversant with Chapter 19, Part 5: 'Powers for assisting coroners' of the PPRA which provides additional powers when investigating deaths, as well as s. 8.3.3: 'Additional responsibilities of investigating officers' of this chapter.

Where a reportable death occurs and a doctor issues a Form 1A: 'Medical practitioner report of a death to a coroner', the reporting officer is to complete:

(i) a Form 1; or

(ii) a QP 0528: 'Supplementary Form 1 – Police Report of Death to a Coroner',

as directed by the coroner who has reviewed the Form 1A.

Responsibility for investigating and reporting deaths that come within the scope of Part 3 of the *Coroners Act* rests with the following officers:

(i) in the case of suspicious deaths of adults, the officer assigned the investigation;

(ii) in the case of a child reportable death, an officer of at least the rank of detective sergeant or where a detective sergeant is not available, a senior or experienced officer with sufficient criminal investigation experience to carry out investigations (see s. 8.5: 'Deaths of children' of this Manual);

(iii) in the case of a child reportable death occurring as a result of a fatal traffic crash, a qualified forensic crash unit trained officer in consultation with a detective sergeant or a senior or experienced officer with sufficient criminal investigation experience to carry out investigations;

(iv) in the case of a death occurring from a traffic crash, industrial or aircraft incident, the matter is to be investigated by a qualified forensic crash unit officer or a suitably experienced investigator as determined by the RCC;

(v) where an adult person's death is found or suspected to be a death in care, the matter is to be investigated by a senior or experienced officer with sufficient criminal investigation experience to carry out investigations (see s. 8.7: 'Deaths in care' of this Manual);

(vi) where the death of a person occurs while that person is in custody, see s. 8.8: 'Deaths in custody' of this chapter;

(vii) where a person's death occurs in the course of, or as a result of police operations, the death is to be investigated in accordance with ss. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (police related incidents)' and 16.23: 'Deaths in police custody' of this Manual;

(viii) in the case of deaths en route to or in a hospital, an officer stationed in the division in which the incident leading to the death occurred;

(ix) where the deceased was the subject of a search and rescue operation, the investigation should be conducted by a suitably experienced officer who was not involved in the search and rescue operation. If necessary, where the investigating officer is not search and rescue (SAR) qualified, advice should be sought from a suitably qualified SAR officer not involved in the search and rescue operation;

(x) where a person is missing in circumstances that it is reasonably suspected the missing person may be deceased, the officer responsible for the investigation is to refer to s. 8.13.12: 'Missing person reasonably suspected of being deceased' of this chapter; and

(xi) in other instances, the first response officer.

Where an officer is completing a coronial report where:

(i) any internal review was conducted in relation to the adequacy of the investigations into a death (including isolated aspects of an investigation such as, an overview of a missing person search by the SAR State Coordinator), they are to ensure a copy of the findings of any such review is provided to the coroner as a matter of course and without delay; and

(ii) additional information or statements are required from persons residing in another division, the investigating officer is to assign a QPRIME task to the relevant division's OIC, who is responsible for arranging the collection of the information or the taking of statements when requested by the investigating officer.

Where a death relates to a public health service, it should be noted that s. 142: 'Confidential information must not be disclosed by designated persons' of the *Hospital and Health Boards Act* (HHBA) does not apply to the giving of information to a person who requires the information to perform a function under the *Coroners Act* (see s. 157: 'Disclosure to person performing function under Coroners Act 2003' of the HHBA). In circumstances where a public health service does not cooperate or refuses to hand over records or information relevant to the investigation of a reportable death, officers are to advise the OIC, CSU, who will refer the matter to the State Coroner. This information is to be provided in the initial Form 1, or through a subsequent QP 0528: 'Supplementary Form 1 – Police Report of Death to a Coroner'.

8.3.3 Additional responsibilities of investigating officers

Where initial inquiries indicate a death is one that falls within the scope of Part 3: 'Coroner's investigation, including by inquest, of deaths' of the *Coroners Act*, the Service is obliged to investigate and report on the cause of the death. In all cases specific tasks and reports are to be completed.

In the case of any death which falls within the circumstances outlined in Part 3 of the *Coroners Act*, the investigating officer is responsible for:

(i) obtaining a QP 0001: 'Life Extinct Form';

(ii) arranging for the delivery of the body to the mortuary as per s. 8.14.2: 'Life extinct form' of this chapter;

(iii) maintaining continuity of identification utilising the sealed body bag system;

(iv) taking all action necessary to positively identify the deceased;

(v) advising next of kin, and canvassing whether there are any concerns regarding an autopsy;

(vi) recording the Sudden Death Occurrence in QPRIME;

(vii) completing a Form 1 in QPRIME;

(viii) issuing a QPB 32A: 'Field Property Receipt' for property located on or in the possession of the deceased;

(ix) any other information requested by the coroner;

(x) assigning a task to their supervisor to have the Form 1 checked;

(xi) creating a QPRIME workflow notification to the relevant Coronial Support Unit office:

(a) Coronial Support Unit South East Queensland [3213];

(b) Coronial Support Unit Regional Queensland [5464];

(c) Coronial Support Unit CPHS Mortuary Coopers Plains [3215]; or

(d) Coronial Support Unit Apparent Natural Causes [2068].

OPM Issue 113 Public Edition

(xii) completing, where applicable, a QP 0528: 'Supplementary Form 1 – Police Report of Death to a Coroner' in QPRIME, which provides additional information to a coroner or State Coroner and if appropriate the relevant pathologist (this should also be forwarded whenever any 'proceeding' is commenced in relation to a reportable death);

(xiii) assigning a task to their supervisor to have the QP 0528 checked;

(xiv) creating a workflow notification for the QP 0528 in QPRIME to the local CSU, Coroners Court of Queensland [3213] or local CSU (see (xi) above);

(xv) attending and witnessing the autopsy, where applicable, or arranging for the attendance of another officer according to local arrangements;

(xvi) finalising inquiries and submitting all reports necessary to finalise the matter to the coroner as soon as possible;

(xvii) in cases involving the death of foreign nationals, inform the appropriate consular officer or other national representative of the death and other relevant details;

(xviii) in cases involving the death of a child, a QPS Child Death Information Request form is to be actioned as in paragraph (xi) above available (CSU Operational Resources SharePoint page);

(xix) making inquiries in the vicinity of the scene to determine if there are any visual recordings or images of the deceased from security or surveillance cameras. In such cases officers should also consider s. 2.8: 'Entry, search and seizure' and Chapter 4: 'Property' of this Manual; and

(xx) in cases involving a death as a result of a traffic crash, after the initial traffic crash has been entered into QPRIME, officers are to add the Sudden Death Occurrence to the initial traffic crash report.

ORDER

In cases involving overseas or interstate witnesses, investigating officers are to:

(i) interview and obtain statements from witnesses prior to their departure from the jurisdiction of the relevant coroner; and

(ii) inform the relevant coroner as soon as practicable of the likely departure of any overseas or interstate witnesses to consider an early inquest opening to obtain the witnesses evidence prior to departure from the jurisdiction of that coroner.

Where additional or relevant information that may assist in determining a cause of death prior to an autopsy being conducted becomes available, investigating officers should contact the local CSU urgently and provide that information. A QP 0528 should be completed with the new information so the relevant CSU can advise the relevant coroner and forensic pathologist.

Procedures for an inquest

Where an inquest is to be held, officers are to assist the coroner with any reasonable requests, by referring to and complying with Chapter 19, Part 5: 'Powers for assisting coroners' and s. 794: 'Helping coroner investigate a death' of the PPRA.

OPM Issue 113 Public Edition

8.3.4 Person of interest check

Officers attending a reported death are to:

(i) conduct a person of interest check, for Queensland and interstate, on the deceased person as soon as practicable after the death by checking QPRIME and the NCIS database;

(ii) where the deceased is recorded in QPRIME, ensure a QP 0528: 'Supplementary Form 1 – Police Report of Death to a Coroner' is completed in QPRIME and, where multiple records exist, merge the records (see QPRIME User Guide);

(iii) if the deceased is a person of interest:

(a) in relation to a matter, forward a QPRIME task to the Manager, Police Information Centre (PIC), with the deceased's full name, date of birth, date of death, and other relevant information;

(b) on a warrant, cause the warrant to be reassigned through a QPRIME task to PIC with appropriate notations (see 'Incorrect or incomplete details on warrants' of s. 13.18.8: 'Management of warrants' of this Manual); and

(c) interstate, advise the Manager, PIC, who is to ensure that appropriate action is taken, including notifying interstate authorities of the death of a person of interest in that state or territory;

(iv) where:

(a) the deceased's offender history report (Not for production – outstanding charges section) indicates there are unfinalised related court matters; or

(b) the attending officer is aware that the deceased has been served with a summons or notice to appear, but the death has occurred prior to the court date,

the attending officer is to forward a report to the relevant prosecutor including the Director of Public Prosecutions (State or Commonwealth) if applicable, with the deceased's full name, date of birth, date of death, and other relevant information; and

(v) where the attending officer is aware that a summons exists for service on the deceased, cause a direction to be sought from an officer authorised to withdraw a charge, so that the summons can be withdrawn (see ss. 3.4.4: 'Withdrawal of charges' and 3.5.7: 'Unserved summons' of this Manual).

8.3.5 Advising next of kin

Where a death has occurred, regardless of whether it occurs within the circumstances outlined in Part 3: 'Coroner's investigation, including by inquest, of deaths' of the *Coroners Act*, the Service will provide reasonable assistance to advise a deceased's next of kin. This assistance will extend to, but is not limited to:

(i) advising the nearest family member;

(ii) complying with any reasonable request of the nearest family member to locate and advise other relatives. Where practicable, assistance for this purpose should be offered; and

(iii) assisting officers of the Department of Foreign Affairs and Trade to locate a family member and notify them of the death of Australian citizens overseas.

An adult who, immediately before the deceased person's death, had a relationship with the deceased person that the coroner investigating the death considers is sufficient for being a family member of the deceased.

When a conflict arises among family members regarding the identity of the next of kin, it should be clearly communicated to the coroner via a QP 0528: 'Supplementary Form 1 – Police Report of a Death to a Coroner'.

Officers who advise a relative or friend of a death should provide the person with a copy of the QP 0416: 'Coronial Investigations and the Police Response'.

Autopsies consist of a variety of examinations (external, external and partial internal, and external and full internal) of the deceased.

A coroner may order a doctor to perform an autopsy pursuant to s. 19: 'Order for autopsy' of the *Coroners Act*. However before ordering an examination of the body, the coroner must, whenever practicable, consider the provisions contained in s. 19(4) of the *Coroners Act*. To facilitate the coroner's considerations officers are to inform an appropriate family member an autopsy may be performed and note any concerns raised on the Form 1. There is no requirement to obtain consent from family members before an order for an order for an autopsy is made.

The family member should be advised a coronial counsellor may provide information and support to relatives and close friends of people whose deaths are being investigated.

Where a parent, as the nearest family member of a deceased person, is notified of the death, the notifying member should ascertain the status of the other parent. In cases where the parents are divorced or estranged, officers should ensure, wherever practicable, that the other parent of the deceased is notified of the death.

Where immediate notification has not occurred, the investigating officer is to advise the relevant coroner directly why this notification has not been made. The officer should consult with the relevant coroner on possible lines of inquiry to complete the notification. The outcome of any additional attempts to deliver the notification to the deceased's family requested by the coroner is to be provided on a QP 0528: 'Supplementary Form 1 – Police Report of Death to a Coroner'.

Interstate notifications

In the case of relatives who are interstate, assistance in advising those relatives should be sought from the relevant police agency. In this case, complete a QP 1213: 'Interstate Next of Kin Message and Welfare' form and email to vedette@police.qld.gov.au for progression by Police Communications Centre (PCC), Brisbane.

When the State Duty Officer receives a QP 1213: 'Interstate Next of Kin Message and Welfare' form that officer is to ensure a message is directed as requested, if appropriate.

Foreign nationals notifications

In the case of deceased foreign nationals, assistance in notifying relatives overseas should be sought from the consular mission of the deceased's country of citizenship. Where the person is an international homestay school student, see s. 5.12.4: 'International homestay school students' of this Manual.

If the nearest relatives of a deceased Australian national live overseas, assistance in advising such relatives should be sought from Interpol. In this case, complete a QP 1213: 'Interstate Next of Kin Message and Welfare' form and email to vedette@police.qld.gov.au for progression by PCC, Brisbane.

When the State Duty Officer receives a QP 1213: 'Interstate Next of Kin Message and Welfare' form that officer is to ensure a message is directed as requested, if appropriate.

OPM Issue 113 Public Edition

8.3.6 Completion of Form 1

The Form 1: 'Police Report of a Death to a Coroner' is to assist the coroner in deciding whether to order an autopsy, and to assist the pathologist performing the autopsy to establish the cause of death. Therefore, the investigating officer is to complete the relevant parts of the form prior to the end of their shift. In some cases, the form and autopsy procedures may be completed before the deceased is positively identified.

The information contained in the Form 1 assists in determining the need for an inquest and the extent of examination in an autopsy.

Generally, the Form 1 will be reported to the coroner by CSU the same day as the death, or the next business day. The autopsy cannot be scheduled until such time as the Form 1 has been reported and an order for autopsy issued by the coroner. Timeframes for when autopsy will be conducted will vary according to location and current forensic pathology requirements.

Where an officer has additional information that could not be included on the Form 1 at the time of submission, the information should be provided on a QP 0528: 'Supplementary Form 1 – Police Report of Death to a Coroner'.

The completed Form 1 is to be checked by a shift supervisor, district duty officer or OIC to ensure accuracy.

When specialist investigative officers attend a reportable death and determine no further involvement from them is necessary, as soon as practicable, they are required to:

(i) complete a QP 0528 summarising the investigation, including witness versions;

(ii) outline the reasons why specialist investigative involvement is no longer required; and

(iii) send a QPRIME notification task to the local CSU office to advise the QP 0528 is available for submission to the coroner and pathologist.

ORDER

Officers are to ensure accuracy of all information including the full name and date of birth of the deceased before submitting the Form 1. Officers are to ensure accuracy of all information in QPRIME.

The deceased's details on the Form 1 are forwarded to the Registry of Births, Deaths and Marriages. Incorrect data including names and dates of birth cause significant delays.

8.3.7 Interstate coronial inquiries involving victims of crimes

ORDER

In instances when a death of a person occurs in Queensland and that death is linked to an incident in another state or territory, the officer investigating the death in Queensland is to notify the relevant OIC of the police investigation in the state or territory where the incident occurred. When requested, provide to the OIC of that jurisdiction the relevant particulars about the death.

In instances when a death of a person occurs in another state or territory and the death is linked to an incident in Queensland, the interstate investigators should advise the OIC of the police responsible for the investigation in Queensland where the incident occurred. When requested, provide to the OIC the relevant particulars surrounding the death.

Contacting other state or territory police jurisdictions should be conducted through Police Communications Centre, Brisbane.

8.4 Death of Australian Defence Force personnel

For the purpose of this section, an Australian Defence Force (ADF) death is the death of a person whilst serving as a member of the ADF for a period of at least one day. This includes part time reserve members, ADF personnel who normally reside outside Queensland, but die in Queensland, and ADF personnel who die whilst undertaking an overseas deployment and their remains are repatriated to Queensland.

In some instances, an ADF death may include discharged or retired members where their military service may have contributed to their death, e.g. suicides where post-traumatic stress disorder may be a factor, or where previous injuries may have contributed to the death.

CSU will liaise with the ADF to coordinate the appropriate response from the Service. In the case of criminal or negligence related deaths, the CSU will provide assistance to regional investigators, including liaison with the ADF Investigative Service (ADFIS) on behalf of the Service, e.g. – exhibit management and retention of ADF property.

A reportable ADF death occurring as a result of a fatal vehicle, vessel, industrial or aircraft incident, an investigation should be conducted by qualified forensic crash trained officer or a suitably experienced investigator as determined by the RCC (see s. 5.9: 'Investigation of major incidents by Forensic Crash Unit' of the TM).

OPM Issue 113 Public Edition

Investigators attached to ADFIS are experienced in the investigation of incidents linked to military operations, as well as ADF deaths suspected of being suicide. The ADFIS may be in a better position to investigate the incident than first responding police officers. Accordingly, protocols have been developed between the CSU and ADFIS to ensure appropriate information exchange, investigative response and access to sensitive documents or material.

Investigating police upon being notified of an ADF death or when initial inquiries reveal that the deceased is a previous ADF member are to immediately contact the relevant CSU officer. Upon determining that the death is a reportable ADF death, the CSU will liaise with the ADF and Service investigators.

Specific coronial protocols exist for military aircraft crashes, see s. 8.4.1: 'Military aircraft' of this chapter.

ORDER

An officer investigating a death, who determines that the deceased is an ADF member or previous ADF member, is to ensure:

(i) the relevant CSU officer is notified immediately;

(ii) a Form 1 is completed in accordance with s. 8.3.6: 'Completion of Form 1' of this chapter; and

(iii) the deceased ADF member's 'PM Keys' (ADF registration number) is obtained and included in the Form 1.

8.4.1 Military aircraft

The procedures relating to the death of persons in military aircraft are the same as for civilian aircraft except in relation to the location of the autopsy (see ss. 8.13.6: 'Aircraft incidents resulting in death', 8.4: 'Death of Australian Defence Force personnel' and 17.3.3: 'Aircraft incidents' of this Manual).

All military personnel killed in Department of Defence vehicle, vessel, industrial or aircraft incidents will be transported to the Coronial and Public Health Sciences (CPHS) complex, Coopers Plains, Brisbane, for an autopsy.

The Service, in accordance with the MOU between the Queensland Police Service and Department of Justice is the lead agency for all reportable deaths (see s. 8: 'Reportable deaths' of the *Coroners Act*) and will be the lead agency for all other serious workplace or electrical incidents until the investigating officer determines there is no issue relating to the incident that needs to progress further.

OPM Issue 113 Public Edition

8.5 Deaths of children

Definitions

For the purposes of this section:

Child

means an individual under 18 years (see s. 8: 'Who is a *child*' of the *Children Protection Act*).

Stillbirth

means the birth of a stillborn child.

Stillborn child

means a stillborn child:

(i) who has shown no sign of respiration or heartbeat, or other sign of life, after completely leaving the mother's body; and

(ii) who:

(a) has been gestated for 20 weeks or more; or

(b) weighs 400g or more.

8.5.1 First response actions for deaths of children

First response officers attending a scene of any child death are to make inquiries to establish whether the death is a 'death in care' under s. 9: '*Death in care* defined' of the *Coroners Act* and whether the child was known to Child Safety Services, Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS).

The Chief Executive, Child Safety Services, DFSDSCS may give to an officer investigating, or helping a coroner to investigate, the death of a child, information about the matters stated in s. 159P: 'Release of information for reporting or investigating a death under the Coroners Act' of the *Child Protection Act* (CPA).

Stillborn child

Under the *Coroners Act* coroners cannot investigate the death of a stillborn child (see s. 8: '*Reportable death* defined' of the *Coroners Act*. The coroner may order an autopsy to determine if the child was stillborn but must stop investigating the death once this has been established.

A possible stillbirth is reportable if the body is that of an abandoned newborn whose birth was unwitnessed by clinicians, there is clinical disagreement or doubt about whether the child was born alive. The coroner can only order an autopsy to determine whether a baby was born alive as outlined in s. 19(2): 'Order for autopsy' of the *Coroners Act*.

For further information see s. 96: 'Application of Act to stillborn child' of the *Coroners Act*.

ORDER

Officers to whom information is given under s. 159P of the CPA are to comply with s. 159P(3) with respect to the use or disclosure of the information provided.

In addition to contacting Child Safety Services, DFSDSCS, further inquiries may be required in appropriate cases to establish whether the death of the child was a 'death in care' and therefore a reportable death (see s. 8 of the *Coroners Act*).

8.5.2 Contacting Child Safety After Hours Service Centre

The Child Safety After Hours Service Centre (CSAHSC) is to be contacted as soon as practicable following arrival at the scene and after obtaining the required particulars. Initially the CSAHSC may be contacted by using:

(i) a mobile telephone;

(ii) a land line telephone; or

(iii) if neither a mobile telephone or land line telephone is available, an appropriate police communications centre or station.

When CSAHSC is contacted following the death of a child, the contacting member is to provide CSAHSC as soon as practicable with the e-mail address of:

(i) the first response officer; and

(ii) that first response officer's OIC.

Where the CSAHSC is to be contacted by a member, the first response officer is to ensure:

(i) the completion of a QPS Child Death Information Request form (located on the CSU Operational Resources SharePoint page); and

(ii) an email is sent to the CSAHSC with the above form attached. Title the subject line: 'QPS Child Death Information Request' (see SMCD).

Additional e-mail addresses may be provided.

See s. 7.3.6: 'Checks of Unify' of this Manual.

Child Safety After Hours Service Centre

CSAHSC has undertaken to:

(i) complete Part 1 of the QPS Child Death Information Request form from the information provided by the first response officer;

(ii) immediately check the Child Safety database to verify whether the deceased child was known to Child Safety Services, DFSDSCS;

(iii) advise the first response officer the result of the checks and if the child was known to Child Safety Services, DFSDSCS, how the child was known; and

(iv) make further extensive inquiries, complete Part 2 of the form, and e-mail the completed Parts 1 and 2 of the form to the email addresses provided by the contacting member.

Child Safety After Hours Service Centre's information

Any verbal information obtained from the CSAHSC and the completed QPS Child Death Information Request form is to be provided to the appointed investigating officer. The investigating officer is to attach a copy of the QPS Child Death Information Request form results to the original copy of the Form 1 to be subsequently forwarded to the coroner and ensure the results are scanned in and attached to the relevant QPRIME Sudden Death Occurrence.

8.5.3 Investigations of child reportable deaths

All child reportable deaths are to be investigated by an officer:

(i) of at least the rank of detective sergeant; or

(ii) where a detective sergeant is not available, a senior or experienced officer with sufficient criminal investigation experience to carry out investigations; and

OPM Issue 113 Public Edition

(iii) in the case of a reportable death occurring as a result of a fatal traffic crash, a qualified Forensic Crash Unit officer in consultation with a detective sergeant or a senior or experienced officer with sufficient criminal investigation experience to carry out investigations.

When preliminary inquiries establish that the death is a reportable death, first response officers are to immediately advise their supervisor of the circumstances of the death.

Supervisors advised in accordance with this section are to advise the regional crime coordinator immediately upon notification of a child reportable death.

A regional crime coordinator advised in accordance with this section is to:

(i) ensure:

(a) an appropriate investigating officer is appointed;

(b) the investigation is conducted in a thorough, professional and consistent manner and in accordance with the relevant procedures outlined in this Manual; and

(c) the required coronial files are completed in accordance with s. 8.15.1: 'Covering report' of this chapter;

(ii) overview the coronial file in accordance with regional arrangements; and

(iii) in cases where suspicious circumstances exist, as soon as practicable notify the:

(a) Detective Inspector, Homicide Group, Crime Command; and

(b) Detective Inspector, Child Trauma Unit, Child Abuse and Sexual Crime Group (CASCG), Crime Command.

Officers dealing with a child's reportable death are to:

(i) consider any available information known to police, regarding possible contact that the Child Safety Services, DFSDSCS has had with the child or their family, including parental history, mental health, drug use, domestic and family violence and assault history;

(ii) explain to parents, guardians or caregivers that investigations are conducted in relation to all deaths and that the adopted procedures are used to assist in determining the cause of death; and

(iii) advise the parents, guardians or caregivers of the 24 hour Child Death Support Hotline, where trained counsellors from SIDS and Kids Queensland Incorporated can provide counselling and follow-up support.

Investigating officers, in addition to the requirements of ss. 1.11.2: 'Recording an offence in QPRIME' of this Manual, and 8.3.2: 'Responsibility for investigating and reporting on deaths' and 8.3.3: 'Additional responsibilities of investigating officers' of this chapter, are to:

(i) assess the risk to any children remaining in the care of the deceased child's parents, guardians or caregivers in accordance with s. 7.3.4: 'Initial inquiries by officer investigating the report' of this Manual;

(ii) be aware of the possibility that mistreatment of the child may be the cause, or a contributing factor to the cause, of death; and

(iii) consult with the local forensic pathologist, pathologist, forensic physician with a view to attending the scene or providing relevant advice if deemed necessary. The on-call Forensic Pathologist, Coronial and Public Health Services (CPHS) may be contacted through Brisbane Police Communication Centre.

When investigating a suspicious death of a child, officers are to refer to s. 2.6.2: 'Homicide' of this Manual.

Officers are to ensure that coronial files relating to non-suspicious deaths of children are completed within 28 days.

8.5.4 Suspected Child Abuse and Neglect (SCAN) Team representative

The local SCAN team representative upon being notified is to:

(i) conduct a search of the local SCAN data system to establish if any information is available on the deceased child, remaining siblings, parents or caregivers; and

(ii) provide all information relevant to the deceased child to the investigating officer promptly.

If the deceased child, remaining siblings or their parents, guardians or caregivers may have previously been known to police in another location, the local SCAN Team representative is to cause an email to be sent to other SCAN team representatives so that a search of local SCAN data systems can be conducted. The results of additional SCAN data systems searches are to be forwarded to the investigating officer in a timely manner.

See ss. 2.7.6: 'Homicide Group' and 2.7.3: 'Child Abuse and Sexual Crime Group' of this Manual.

OPM Issue 113 Public Edition

8.5.5 Criminal investigations—child deaths

By written notice, the Commissioner can request information, including notifier details, from the Chief Executive, Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS) when officers are investigating a child death. The Chief Executive, DFSDSCS must provide information about the child to assist officers in conducting a criminal investigation (see s. 188E: 'Chief executive must give police commissioner information about deceased child' of the CPA).

ORDER

The investigating officer is responsible for identifying whether a request should be made to the Chief Executive, DFSDSCS for information relevant to a criminal investigation about a child death. The power to request information under s. 188E of the CPA is delegated to specific officers (see Delegation D 33.7).

The investigating officer must complete the QPS Child Death Information Request form for information under s. 188E of the CPA and seek appropriate approval from an officer with the delegated authority. The request form will be forwarded to the Office of the Director-General, DFSDSCS to action the request. Officers are to ensure any information received under s. 188E of the CPA is maintained securely and not distributed to unauthorised persons.

8.5.6 Sudden unexpected death in infancy

Sudden unexpected death in infancy (SUDI) is the sudden unexpected death of an infant, when there is no apparent cause of death. SUDIs may be due to injury, congenital birth defects, infection or metabolic disorders, but where an investigation does not confirm a cause of death, the death is referred to as sudden infant death syndrome (SIDS). SIDS is the most frequently determined cause for SUDI between one month and one year of age. The pathologist will determine the cause of death based on information taken from the death scene investigation, autopsy, and clinical history.

The first National SIDS Pathology Workshop in Canberra, March 2004 adopted the definition of SIDS as the

> *'…death of an infant under one year of age, with onset of the lethal episode apparently occurring during sleep, that remains unexplained after a thorough investigation including performance of a complete autopsy, and review of the circumstances of death and the clinical history'*.

Officers are to be aware that SUDIs are invariably extremely traumatic for the parents and any investigation is to be conducted in a sensitive, tactful and unobtrusive manner.

Where an officer attends a SUDI, attempts are to be made to interview the parents and arrange identification of the infant before the body is removed to the mortuary. Where possible, efforts are to be made to avoid the trauma of having a parent attend at the mortuary to identify the infant. The parents should be reassured that either they or their relatives may arrange with the funeral director to view the body again if they so desire.

Investigations of sudden unexplained deaths of infants

Investigating officers are to be mindful of crime scene contamination and management when the identification process of the deceased infant is occurring.

Investigating officers are responsible for advising the parents, guardians or caregivers of the existence of the SIDS and Kids Queensland Incorporated (for the 24-hour Child Death Support Line, see SMCD). This organisation can assist parents, guardians or caregivers with follow up counselling and support, if required see s. 6.3.14: 'Police Referrals' of this Manual.

In addition to the provisions in Chapter 2: 'Investigative process' of this Manual, when investigating a SUDI the investigating officer is to comply with the provisions as outlined in this chapter.

When conducting an investigation in relation to the sudden unexplained death of an infant, the investigating officer should:

(i) immediately activate their body worn camera (see s. 4.4: 'Body worn cameras' of the DERIE Manual) or QLiTE to make a recording of the scene where the infant was found deceased;

(ii) note the following while at the scene, where applicable:

(a) the position of the body and its location;

(b) whether there is any froth, foam or foreign matter in the mouth or nose of the deceased;

(c) full description of:

- the cot or bed;
- the mattress and what it is made of;
- the pillow and what it is made of (kapok, down); and
- the bed clothing (material and position);

(d) if any plastic or rubber sheeting was used on the cot or bed;

OPM Issue 113 Public Edition

(e) the position of the cot or bed in relation to any window or door and whether either of these were open or closed;

(f) are there visible marks on the deceased;

(g) has the deceased had any falls or sustained any injury recently;

(h) the dwelling both internally and externally for any signs of forced entry; and

(i) whether the neighbours may have information relating to possible arguments or domestic violence at the home of deceased;

(iii) have the scene of the death photographed, if possible prior to the removal of deceased's body. Where appropriate conduct a video re-enactment of events at the scene;

(iv) obtain the following information from the parents, guardians or caregivers to complete the specific questions concerning SUDI investigations as outlined in the Form 1 to assist the coroners inquiry:

(a) action taken to revive the deceased (this information, the position of the body and lividity should be consistent);

(b) when the deceased was last seen by a doctor or member of a health centre;

(c) whether the deceased was on any medication (list the type and dosage, where appropriate);

(d) any illnesses suffered by the deceased since birth;

(e) any feeding difficulties experienced;

(f) the time the deceased was last fed;

(g) the food the deceased was fed (breast or other, include brand and type);

(h) the position of the body in the cot or bed when located by the parent, guardian or caregiver;

(i) the clothing the deceased was wearing and type of material;

(j) colour of the face and hands when the deceased when located by the parent, guardian or caregiver;

(k) any fluid or vomit seen coming from the nose or mouth;

(l) the precise time at which either parent, guardian or caregiver was last satisfied that the deceased was alive and well;

(m) whether any insect repellent or insecticide or room freshener was used, if so, what type and how frequently or recently;

(n) an estimate of room temperature just prior to the discovery of the body;

(o) pay particular attention to where the deceased is routinely placed. It may be relevant to look for impact signs on the cot or other surfaces; and

(p) if a version is given that the deceased suffered a fall from an object take whatever steps necessary to record the relevant height of the said object. This is important in any later bio-mechanical argument as in detailing the height of any supposed trip or fall;

(v) where suspicious circumstances exist and to assist in determining a cause of death, the following items should be seized by the investigating officer (see s. 597: 'Powers for reportable deaths' of the PPRA):

(a) clothing, including stained clothes that may have been removed from the baby prior to the arrival of the ambulance;

(b) bedding;

(c) medicines or medicine containers the child may have taken or may have been prescribed but not given;

(d) formula and feeding bottles;

(e) discarded nappies (blood in stools can give an early indication of internal injuries); and

(f) any property considered to be relevant to the investigation;

(vi) where property has been seized as part of an investigation, the investigating officer should ensure that such property is treated in accordance with Chapter 4: 'Property' of this Manual and that it is returned as soon as possible. Normally, this will be after an autopsy establishes the cause of death and the coroner has indicated that no inquest will be held; and

(vii) in cases where Infant Abusive Head Trauma is suspected see s. 7.5: 'Infant Abusive Head Trauma' of this Manual.

OPM Issue 113 Public Edition

In any incident where the possibility of mistreatment of the child may be the cause, or contributing factor, to the death of the child, assess the risk to any other children remaining in the care for the deceased child's parents, guardians or caregivers in accordance with s. 7.3: 'Investigating child harm' of this Manual.

See ss. 2.6.2: 'Homicide', 2.7.6: 'Homicide Group' and 2.7.3: 'Child Abuse and Sexual Crime Group' of this Manual.

8.6 Death of a member of the Service

When a member dies and with certainty of the identity of the deceased member—the commissioned officer, or equivalent, who had line control of the deceased is to, as soon as possible, personally advise the next of kin. Where this is impractical, that commissioned officer, or equivalent, is to arrange for another commissioned officer, or equivalent, to perform this duty. For the definition of 'next of kin' see s. 8.1: 'Introduction' of this chapter.

Where the deceased member is an SES or MRQ member (employee or volunteer), the DDO or RDO is to ensure the relevant agency's chief officer (see SMCD) is notified. The State Duty Officer holds the chief officers' contact telephone numbers. As a last resort, if the chief officer cannot be contacted by telephone, an email is to be sent advising them of the member's death. Where possible, the notifier should also advise the agency's chief officer on whether the next of kin has been notified. If the next of kin has not yet been notified, a priority next of kin notification job is to be completed in accordance with s. 8.3.5: 'Advising next of kin' of this chapter.

Evolution of modern communication capabilities (e.g. social media) has enabled unique opportunities for members to remain in touch with their families, this may include the ability to rapidly acquire real-time information on members and the knowledge of evolving critical incidents—incidents that potentially may involve the death of their family member. These modern capabilities can result in families learning about evolving critical incidents prior to official notification being delivered by the Service. If a member's death is confirmed to a commissioned officer during an evolving critical incident, the commissioned officer should exercise discretion and consider attending the family home to remain with the family until the situation is fully resolved. Where the commissioned officer is unable to attend, consideration should be given to arrange another commissioned officer to perform this duty.

The commissioned officer, or equivalent, advising the next of kin should as soon as possible provide or arrange provision of all assistance required by the family of any deceased member. In all cases, the commissioned officer, or equivalent, should wherever possible be accompanied by a regional human services officer, police district welfare officer or police chaplain when making initial contact with the next of kin of the deceased.

As soon as possible after the death, the commissioned officer, or equivalent, who advised the next of kin of the death is to forward by the most expedient means to the Executive Director, Workforce Management and Wellbeing Division the following information:

(i) full name, rank, registered number and station or establishment of deceased member;

(ii) date of death;

(iii) cause of death;

(iv) time, date and place of funeral, if known;

(v) whether the services of a police chaplain, members of the Service (to form a guard of honour), the Police Pipe Band or the Academy Colour or Lance Party are desired by the next of kin;

(vi) full name and address of the deceased's spouse if applicable; and

(vii) the full name and address of the deceased's next of kin in any other instance.

For further information and procedures relating to Service funeral services and other related matters refer to QPS Protocol and Procedures Manual on the QPS Protocol SharePoint page.

For additional requirements refer to s. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (police related incidents)' of this Manual.

Family liaison officer

Where a member dies in the execution of their duty, the assistant commissioner of the relevant region where the incident occurred, in consultation with the relevant deputy commissioner, is to appoint a commissioned officer to liaise with the deceased member's spouse or immediate family members in terms of appraisal of the progress of the investigation into the death until the investigation and any coronial inquest is completed.

Where the death of the member occurs outside the region where the member is based, consideration should be given to the appointment of a family liaison officer (FLO) in the region where the deceased member's spouse or immediate family resides.

The appointed FLO is to notify the deceased member's supervising commissioned officer and OIC of their appointment. The FLO is to coordinate their role with any other support or ongoing liaison role provided to the spouse and family of the deceased member.

OPM Issue 113 Public Edition

The appointed FLO is to consider the wishes of the spouse and family when performing their role and should comply with any reasonable request for investigation updates or assistance.

Where the death of a member occurs outside the execution of their duty, consideration of the appointment of a FLO is at the discretion of the relevant assistant commissioner.

The OIC or manager of the deceased member is to ensure that effective provisions are in place to provide the spouse and immediate family members the appropriate level of support and access to relevant information, including the accessing and offering support services (see 'Separations and Funerals' on the QPS Human Resources SharePoint page).

ORDER

Commissioned officers appointed as FLOs are not to be involved in the investigations relating to the death of the member or involved in delivering the death message.

The role of the FLO can be emotionally challenging and draining. The officer assigned as the principal investigating officer is to conduct welfare checks on the FLO. For the first month these checks should be conducted weekly, then monthly checks thereafter. Any change to these durations is subject to negotiation between the principal investigating officer and the FLO.

See s. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (police related incidents)' of this Manual.

8.7 Deaths in care

Death in care is defined in s. 9: '*Death in care* defined' of the *Coroners Act*.

The coroner investigating a death must hold an inquest if the coroner considers the death is a death in care, in circumstances that raise issues about the deceased person's care as outlined in s. 27: 'When an inquest must be held' of the *Coroners Act*.

Where an adult person's death is found or suspected to be a death in care, the matter is to be investigated by a senior or experienced officer with sufficient criminal investigation experience to carry out investigations.

For deaths of children, see s. 8.5: 'Deaths of children' of this chapter.

The OIC of the station within whose division the person died is to ensure that a suitable officer is assigned to investigate such a death.

District officers are to consider developing instructions, in consultation with senior management of facilities or services in their area of responsibility, for the purpose of liaison between investigating officers and a nominated representative from those facilities or services where there is a reasonable possibility of a death in care occurring. For example: an authorised mental health service with in-patient facilities or a level 3 accredited residential service providing for people with a disability covered under the *Disability Services Act*.

Any procedures adopted need to take local issues and conditions into account but are to ensure that a representative from the facility or service is nominated to provide:

(i) assistance to investigating officers with any request they may have relevant to the investigation;

(ii) advice to investigating officers on the procedures of the facility or service relevant to the particular case; and

(iii) contact details to the investigating officers for any future liaison in relation to the investigation.

Form QP 0607: 'Reportable Death – Death in Care' as the covering report to a coroner, available through Forms Select.

See ss. 2.6.2: 'Homicide' and 2.7.6: 'Homicide Group' of this Manual.

8.8 Deaths in custody

Death in custody is defined in s. 10: '*Death in custody* defined' of the *Coroners Act*.

For the purposes of the *Coroners Act*, the term death in custody is applied to a wide range of custodial situations. The term will include deaths occurring while a person is detained under an arrest, by a court order, under the authority of a Commonwealth Act or under the authority of a Queensland Act other than the *Education (General Provisions) Act*, *Forensic Disability Act* or the *Mental Health Act*. Consequently, a death in custody may occur while a person is in the custody of the Service, another Queensland agency or a Commonwealth agency. In all cases it is the responsibility of the Service to investigate the death and report to the coroner.

A death in custody must be investigated by the State Coroner, Deputy State Coroner, an appointed coroner or local coroner, approved by the Governor in Council to investigate a particular death in custody or any death in custody, on the recommendation of the Chief Magistrate in consultation with the State Coroner (see s. 11: 'Deaths to be investigated' of the *Coroners Act*).

OPM Issue 113 Public Edition

Where a person's death occurs while in police custody, in the course of, or as a result of police operations, or otherwise in the company of police, the death is to be investigated in accordance with s. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (police related incidents)' and s. 16.23: 'Deaths in police custody' of this Manual.

If a death in custody occurs in a Queensland correctional centre, see s. 13.5.3: 'Corrective Services Investigation Unit to be advised' of this Manual.

If a death in custody occurs in a youth detention centre, see s. 8.5: 'Deaths of children' of this chapter.

If a death in custody occurs in other circumstances (i.e. while the deceased person is in the custody of an agency other than the Service or Queensland Corrective Services), first response officers should treat the matter as a major investigation (see s. 2.4.5: 'Major investigations' of this Manual).

Subject to any direction by the State Coroner, arrangements are to be made to ensure that the death is investigated, and a report prepared for the coroner, by the Homicide Group, Crime Command. The investigating officer from the Homicide Group, Crime Command should liaise closely with any investigators appointed by the agency in whose custody the deceased person was held. However, responsibility for the conduct of the investigation and report to the coroner will remain with the investigator from the Homicide Group, Crime Command.

Officers investigating deaths in custody, which would not be considered as deaths in police custody, should nevertheless conduct such investigations in a manner consistent with the provisions of s. 16.23: 'Deaths in police custody' of this Manual to the extent that it is practicable to do so and making necessary adjustments such as reporting progress to the Assistant Commissioner, Crime Command rather than the Assistant Commissioner, ESC.

When completing the covering report for a death in custody, investigating officers should refer to s. 8.15.1: 'Covering report' of this chapter.

Depending on the circumstances of the death in custody, other headings in the covering report may be included. To assist an investigating officer in completing a covering report for such a death, examples of completed reports can be obtained from the Coroners Court of Queensland via the CSU.

See s. 8.15.4: 'Responsibilities of officers in charge' of this chapter for action relating to the completed investigation file.

8.9 Domestic and family violence related deaths

For the purpose of a coronial investigation State Coroner's Guidelines provides guidance in relation to reportable domestic and family violence (DFV) related death. These criteria are not exhaustive. The context and circumstances of a death, even when it does not meet the criteria outlined, may still support a finding that the death was DFV related.

To assist the coroner in identifying specific DFV related factors leading up to a death, officers investigating DFV related deaths are to comply with the requirements of this section in addition to ss. 1.11.2: 'Recording an offence in QPRIME', 2.6.2: 'Homicide' and 8.3.2: 'Responsibility for investigating and reporting on deaths' of this Manual.

Officers investigating a reportable death, are to:

(i) conduct checks of QPRIME, LCAD and NCIS to identify any relevant DFV occurrences;

(ii) investigate the relevant DFV occurrences leading up to the death;

(iii) obtain statements from all witnesses including police officers. Investigators should consider any available information known to the police, regarding DFV and assault history, mental health, drug use, adverse firearms history and possible contact had with the Child Safety Services, Department of Families, Seniors, Disability Services and Child Safety, if applicable;

(iv) include any interaction the deceased or other involved parties had with support services such as DVConnect for previously reported DFV incidents. Consider contacting the Police Referral Services Unit regarding any referrals made, see s. 6.3.14: 'Police Referrals' of this Manual;

(v) ensure a QPRIME notification task is assigned, as soon as practicable, to the relevant district Domestic, Family Violence and Vulnerable Persons Unit (DFV&VPU), in QPRIME. The task is to contain:

(a) the name of the victim (if known);

(b) the name of the offender (if known);

(c) the name of the investigating officer and contact telephone number; and

(d) brief particulars of the incident, and

(vi) ensure the QPRIME Occurrence DV indicator has been selected.

In the case of a child death or involvement of a child in the death of another, refer to s. 8.5: 'Deaths of children' of this chapter and Chapter 7: 'Child Harm' of this Manual.

OPM Issue 113 Public Edition

The file and report are to be forwarded to the coroner to provide sufficient evidentiary basis for the coroner to give consideration as to whether an inquest should be convened having regard to the potential for the coroner to make preventative recommendation.

8.10 Health care related deaths

A health care related death is defined in s. 10AA: '*Health care related death* defined' of the *Coroners Act*.

A death is health care related if either (see s. 10AA of the *Coroners Act*):

(i) the health care caused or contributed to the death and immediately before the health care was provided, an independent person would not have expected death to occur; or

(ii) a failure to provide health care caused or contributed to the death and at the time the health care was sought, an independent person would not have expected that there would be a failure to provide health care that could cause or contribute to the death occurring.

A definition of an 'independent person' is provided in s. 10AA(4) of the *Coroners Act*.

In investigating a 'health care related death', the investigating officer should seek statements from all persons:

(i) involved in providing the health care; or

(ii) who failed to provide the health care,

which may have contributed to or caused the death.

Statements obtained from the persons involved in the health care should show the treatment of the deceased preceding morbidity.

Officers who take such statements should, in respect of each statement:

(i) have the witness sign each page of the original statement; and

(ii) have the witness complete:

(a) a declaration under the *Oaths Act* on the final page of the original statement and swear and sign that declaration in the presence of a Justice of the Peace or a Commissioner for Declarations; or on the final page of the original statement and swear and sign that declaration in the presence of a Justice of the Peace or a Commissioner for Declarations; or

(b) an acknowledgement under the *Justices Act* on the final page of the original statement.

Where there is insufficient room on the final page, the declaration or acknowledgement is to be entered on the reverse of the final page. Under no circumstances is the declaration or acknowledgement to be made other than on the last page of the statement.

See s. 8.15.2: 'Forms and statements' of this chapter.

Investigating officers should note that under s. 19(8): 'Order for autopsy' of the *Coroners Act*, the coroner must not allow a person to conduct or help at an autopsy if the person is accused by someone, on oath, of causing the deceased's death.

In circumstances where a surgeon or doctor who treated, performed a medical procedure or operated on a deceased patient, will also conduct an autopsy on the deceased, officers should consider the provisions of s. 19(8) of the *Coroners Act*.

The coroner may then consider any necessary action to be taken. This action may include:

(i) hearing on oath and by personal appearance, any accusation from any person; or

(ii) order an independent pathologist to conduct the autopsy.

For the purposes of s. 19(8)(a) of the *Coroners Act* it is not necessary to make any written application or prepare any affidavit.

Before proceeding to interview a staff member attached to a metropolitan hospital, officers should seek the advice and assistance of officers from the CIB or CPIU .

In some instances of deaths in hospitals, the hospital administrator will provide the investigating officer with some or all of the medical file relevant to the deceased. When this is received, the file should accompany the body to the mortuary and remain there for the information of the pathologist. Medical files should not accompany the completed coronial file. If the hospital or medical facility declines to provide medical records for transport with the deceased to the mortuary, see s. 8.3.3: 'Additional responsibilities of investigating officers' of this chapter for the action to be taken.

Officers should ensure that this required information is included in the relevant Form 1 or report by form QP 0528: 'Supplementary Form 1 – Police Report of a Death to a Coroner' (in QPRIME).

OPM Issue 113 Public Edition

Where a health care related death occurs in a hospital or medical facility, officers should refer to s. 4.4: 'Preserving evidence when a health care related death occurs in a health care setting' of the State Coroner's Guidelines. The purpose of these guidelines is to provide health care staff and first response officers with assistance in determining the steps needed to preserve evidence without unduly affecting the capacity of the facility to provide treatment to other patients.

See ss. 8.3: 'Death investigations' and 8.10.1: 'Deaths occurring as a result of a reportable event' of this chapter.

8.10.1 Deaths occurring as a result of a reportable event

Under the *Hospital and Health Boards Act* (HHBA) a commissioning authority can appoint a team to conduct a Root Cause Analysis (RCA) where a reportable event occurs at a health service facility (see s. 98: 'Appointment of RCA team' of the HHBA). For the definition of a reportable event refer to s. 94: 'Definitions' of div 2' of the HHBA.

In certain circumstances officers may request a copy of a RCA where a death has occurred as a result of a reportable event by completing a form QP 0528 'Supplementary Form 1 – Police Report of a Death to a Coroner' available in QPRIME.

Requests to a commissioning authority for a copy of a RCA will be coordinated through the CSU who will forward the request submitted by QP 0528, to the investigating coroner for consideration.

Any contact made with a commissioning authority should be recorded against the relevant QPRIME occurrence.

On completion of the coronial file the requesting officer should forward any original RCAs obtained in the course of the investigation back to the commissioning authority.

Where a commissioning authority advises that a stop notice in relation to the RCA has been issued, the officer receiving such a notice should note this in the relevant QPRIME occurrence, including:

(i) why the RCA team stopped conducting the RCA;

(ii) if the RCA was stopped under s. 103: 'Stopping conduct of RCA of reportable event—commissioning authority' of the HHBA; and

(iii) the reasons for giving the direction.

OPM Issue 113 Public Edition

8.11 Voluntary assisted dying

The *Voluntary Assisted Dying Act* (the VADA) establishes the legal framework for voluntary assisted dying in Queensland, allowing eligible persons who are suffering and dying to choose the timing and circumstances of their death. Voluntary assisted dying means the administration of a voluntary assisted dying substance and includes steps reasonably related to that administration (see Schedule 1: 'Dictionary' of the VADA).

Voluntary assisted dying is not a reportable death pursuant to s. 8: '*Reportable death* defined' of the *Coroners Act* and, in accordance with s. 8 of the VADA, voluntary assisted dying is not suicide.

There is strict eligibility criteria for accessing voluntary assisted dying (see s. 10: 'Eligibility' of the VADA). A person must meet all the eligibility criteria to access voluntary assisted dying.

Pursuant to s. 50: 'Administration decision' of the VADA the person may, in consultation with and on the advice of the coordinating practitioner for the person:

(i) decide to self-administer a voluntary assisted dying substance (a self-administration decision); or

(ii) decide that a voluntary assisted dying substance is to be administered to the person by the administering practitioner for the person (a practitioner administration decision).

8.11.1 Protection from liability and privacy considerations

Protections (see Part 10: 'Protection from liability' of the *Voluntary Assisted Dying Act* (VADA)) for persons assisting access to voluntary assisted dying or who are present when a substance is administered; persons acting under the VADA; and health practitioners and ambulance officers, for certain offences under Chapter 28: 'Homicide—suicide—concealment of birth' of the CC.

The VADA protects the privacy of people accessing voluntary assisted dying. An offence for making a record or disclosing personal information in the course of, or because of, the exercise of a function or power under the Act (see s. 146: 'Personal information not to be recorded or disclosed' of the VADA). It does not apply however for a purpose under the Act, with the consent of the person to whom the personal information relates, in compliance with a lawful process, or authorised or required by law.

8.11.2 Voluntary assisted dying information portal and handbook

Queensland Health are the responsible agency in relation to voluntary assisted dying and have developed a dedicated information portal and produced the Queensland Voluntary Assisted Dying Handbook which is available on the Queensland Health website.

The Queensland Voluntary Assisted Dying Support Service (QVAD-Support) provides advice and support about voluntary assisted dying. QVAD-Support is free for all Queenslanders and is run by care coordinators who are medical, nursing and allied healthcare workers.

QVAD-Support contact details are listed in the SMCD under Queensland Health. For urgent QPS inquiries, officers are to contact QVAD-Support via phone: 1800 431 371 and select the 'Urgent Clinical Contact' option. A secondary contact option is available to members and is not to be provided to the general public.

ORDER

Members of the Service are not to provide advice to members of the public in relation to voluntary assisted dying. All inquiries should be directed to QVAD-Support.

8.11.3 Referrals from the Voluntary Assisted Dying Review Board

The *Voluntary Assisted Dying Act* established the Voluntary Assisted Dying Review Board (VADRB) to provide independent oversight and monitor compliance with the Act. The VADRB is responsible for reviewing completed voluntary assisted dying requests to ensure legal requirements have been met by all those involved.

If required, the VADRB will refer to an entity, including the Commissioner of Police, issues identified by the board in relation to voluntary assisted dying that are relevant to the functions of the entity (see s. 2.3: 'Functions of service' of the PSAA).

8.11.4 Role of Assistant Commissioner, Crime Command

Allegations of indictable offences committed against the *Voluntary Assisted Dying Act* (VADA) (and other indictable offences) may be referred to the Commissioner by the Voluntary Assisted Dying Review Board (VADRB).

Part 9: 'Offences' of the VADA creates the following indictable offences:

(i) s. 140: 'Unauthorised administration of voluntary assisted dying substance';

(ii) s. 141: 'Inducing a person to request, or revoke request for, voluntary assisted dying';

(iii) s. 142: 'Inducing self-administration of voluntary assisted dying substance';

(iv) s. 143: 'Giving board false or misleading information';

(v) s. 144: 'Making false or misleading statement'; and

(vi) s. 145: 'Falsifying documents'.

OPM Issue 113 Public Edition

The Assistant Commissioner, Crime Command is authorised to receive referrals and to provide information to the VADRB on behalf of the Commissioner (see Delegation D 15.46, D 154.1 and s. 117: 'Functions' and Part 8, Division 5: 'Miscellaneous' of the VADA).

8.11.5 Indictable offences

Where a referral is made in relation to an indictable offence under the *Voluntary Assisted Dying Act* (VADA), an offence under Chapter 28 'Homicide—suicide—concealment of birth' of the Criminal Code, or other indictable offences, the Assistant Commissioner, Crime Command is to:

(i) cause the matter to be recorded in QPRIME (see s. 1.11: 'QPRIME occurrences' of this Manual);

(ii) assign the matter to the relevant group within Crime Command for investigation; or

(iii) refer the matter to an assistant commissioner in charge of a region where the death occurred for investigation by a district CIB.

The regional assistant commissioner is to report the outcome to the Assistant Commissioner, Crime Command at the conclusion of the investigation.

The Assistant Commissioner, Crime Command is to report the outcome of the investigation by Crime Command or the relevant region to the VADRB to the Director of the Office of the Voluntary Assisted Dying Review Board via email VADReviewBoard@health.qld.gov.au.

ORDER

Where a voluntary assisted dying death, which was not initially a reportable death pursuant to section s. 8: '*Reportable death* defined' of the *Coroners Act*, results in the commencement of a criminal proceeding under the VADA or the Criminal Code, that death becomes reportable as per s. 8.3: 'Death investigations' of this Manual.

8.11.6 Non-indictable offences

Where a matter referred to the Assistant Commissioner (AC), Crime Command by the VADRB is not in relation to an indictable offence, the AC CIC is to action the matter or refer the matter to the relevant AC or executive director for actioning.

The relevant AC or executive director is to report the outcome of action taken (if any) in relation to the referral to the AC, Crime Command.

The AC, Crime Command is to report the outcome of the referral to the VADRB to the Director of the Office of the Voluntary Assisted Dying Review Board via email VADReviewBoard@health.qld.gov.au.

8.11.7 First response procedures

In either a self-administration or a practitioner administered decision, the place where the voluntary assisted dying substance may be administered includes the following places:

(i) a public or private hospital;

(ii) a hospice;

(iii) a residential aged care facility; or

(iv) their home or a home environment.

In the event police are called to a voluntary assisted dying related matter at any place, officers should:

(i) conduct discrete inquiries with persons present to ascertain the circumstances surrounding the request for police attendance;

(ii) if necessary, contact QVAD-Support for advice in relation to the matter;

(iii) if a voluntary assisted dying substance has been administered and the person is deceased, officers should inquire as to whether a cause of death certificate is or will be issued by the medical practitioner and that the cause of death was the disease, illness or medical condition from which the deceased suffered in accordance with s. 81: 'Cause of death certificate' of the *Voluntary Assisted Dying Act* (VADA);

(iv) where officers suspect that an indictable offence under the VADA, an offence under Chapter 28: 'Homicide—suicide—concealment of birth' of the CC, or any other indictable offence has been committed, then officers should refer to s. 2.4: 'Incident management' and s. 8.3: 'Death investigations' of this Manual; and

(v) cause the matter to be recorded in QPRIME (see s. 1.11: 'QPRIME occurrences' of this Manual).

OPM Issue 113 Public Edition

8.12 Suicide

For information about attempted suicide investigations refer to s. 6.3.9: 'Attempted suicide' of this Manual.

8.12.1 Investigation of suicide

Preservation of life is the priority when responding to suicides. Once a person has been clearly determined deceased an apparent suicide is to be treated as a suspicious death until such time as investigations clearly indicate the deceased died without the intervention or assistance of another person (see s. 8.11: 'Voluntary assisted dying' of this chapter). This involves complying with the procedures for the investigation of a major incident as outlined in s. 2.4: 'Incident management' of this Manual.

Officers should contact a scenes of crime officer to attend the location and conduct any scene examinations required.

Where the deceased leaves a suicide note or recording, investigating officers are to locate relatives or other witnesses that can identify the deceased's handwriting or voice. Where the handwriting or voice can be identified it is to be included in a statement from the witness and explain how they formed that opinion. Officers should consider the services of handwriting or fingerprint experts in identifying the deceased with a suicide note. The original suicide note is to be seized as evidence.

If a suicide note is located, a copy of the note is to be recorded and scanned into the relevant QPRIME occurrence.

Officers attending or investigating an apparent suicide are to take possession of anything at the scene which may be relevant to the investigation of the death by a coroner (see s. 597(4): 'Powers for reportable deaths' of the PPRA). For example, in all hangings, officers are to take possession of the relevant rope, ligature or other item used until the coroner determines the cause of death. Where possible the ligature (rope or other item) should be inserted into the sealed body bag for comparison during autopsy, after being photographed and sampled for potential trace DNA (see 'Disposal of property seized in connection with a coronial investigation' in s. 4.6.9: 'Disposal of deceased person's property' of this Manual).

If a suicide involves the death of a child, also refer to s. 8.5: 'Death of children' of this chapter.

ORDER

Where a suicide falls within the definition of a death in custody as outlined in Chapter 16: 'Custody' of this Manual, the provisions of that chapter are to be complied with.

8.12.2 Suicide prevention research and support

Investigating officers are to ensure the suspected suicide section of the Form 1 (in QPRIME) is completed and the Australian Institute for Suicide Research and Prevention (AISRAP) questions are completed.

8.13 Other death investigations

8.13.1 Diving deaths and incidents

For the purpose of this section, a diving death is considered to be the death of a person while using underwater breathing apparatus, whether self-contained, surface supplied or snorkelling equipment.

The scene of any diving fatality, or diving incident where any person is disabled to the extent that as a consequence of that injury that person is subject to a period of admission to hospital as an in-patient, may fulfil the definition of a workplace pursuant to the provisions of s. 8: 'Meaning of *workplace*' of the *Work Health and Safety Act*.

Matters involving recreational divers and snorkelers at a workplace come under the *Safety in Recreational Water Activities Act*.

ORDER

In addition to complying with all relevant requirements of the provisions of this Manual, an officer who investigates a diving fatality or diving incident is to:

(i) ensure that all diving equipment, including face mask, breathing apparatus, snorkel, fins, weight belt, wet suit, gauges and computers, compressors, umbilicals, harnesses and cameras, is immediately seized. Consideration should be given to seizing relevant equipment from associated divers such as dive buddies or instructors for comparative purposes;

(ii) ensure that where possible, equipment seized is not interfered with. However, in the case of breathing gas cylinders, turn off the supply valve, noting the number of turns required to do so;

(iii) contact the OIC, Diving Unit, through the QPS Diving Unit SharePoint page, notifying them of the diving fatality or diving incident and seek assistance from that officer where required;

(iv) arrange for the delivery of all equipment seized to the OIC, Diving Unit, ensuring that continuity of evidence is maintained and all property is linked to the relevant sudden death occurrence. Officers should note that scuba diving cylinders containing compressed air cannot be transported by Queensland Government Air (QGAir) or commercial aircraft. The OIC, Diving Unit, is to be advised so that appropriate arrangements can be made for suitable packaging of the equipment and transportation by road;

(v) ensure that the following are included in the final report to the coroner and scanned and attached to the relevant QPRIME Sudden Death Occurrence:

(a) the diving history of the deceased diver for the forty-eight hours prior to the incident giving rise to the investigation; and

(b) a copy of the deceased diver's log book if available;

(vi) include any report received from the OIC, Diving Unit, in the final report to the coroner and ensure the report is scanned and attached to the relevant QPRIME Sudden Death Occurrence;

(vii) include in the Form 1 and relevant QPRIME occurrence the name of any vessel involved in the incident together with the name and address of both the owner and its master; and

(viii) ascertain what experience the deceased diver had with any equipment used and the activity being undertaken.

Actions by Officer in Charge, Diving Unit

ORDER

The OIC, Diving Unit, on receipt of diving equipment forwarded for the purposes of investigating a death, is to:

(i) liaise with officers of Workplace Health and Safety Queensland, Department of Justice in relation to the testing of seized equipment received;

(ii) make or arrange for a visual examination of the equipment with a view to evaluating the correctness of assembly;

(iii) where, in the opinion of the OIC, it is safe to do so, conduct or arrange for the conduct of a practical underwater test of the equipment;

OPM Issue 113 Public Edition

(iv) where the equipment includes a SCUBA cylinder, arrange for an analysis of the contents of the cylinder;

(v) make or arrange for a physical examination, including disassembly, of the equipment to ascertain whether all parts are functioning correctly; and

(vi) compile a comprehensive report containing information as to tests performed on the diving equipment tested and the results of all tests and examinations conducted. Forward the report and all equipment received, together with copies of documentation, to the officer in charge of the investigation and ensure that the report and any other documentation is scanned in and attached to the relevant QPRIME Sudden Death Occurrence.

The OIC, Diving Unit, is to:

(i) maintain a current copy of the 'Autopsy and the Investigation of Scuba Diving Fatalities' as published by the Royal College of Pathologists of Australasia or other established guide; and

(ii) provide appropriate assistance and information to investigating officers upon request.

8.13.2 Fatal mining incidents

ORDER

Officers called to investigate a death at a mine, in addition to carrying out their first response duties (see s. 2.4.1: 'First response procedure at an incident scene' of this Manual) are to ensure:

(i) they identify the danger that may be present, e.g. high voltage electricity, chemicals, heat sources etc. It may be necessary to secure the scene and prohibit entry until it has been declared safe by a qualified person;

(ii) the inspector of mines from the Resources Safety and Health Queensland for the district is notified;

(iii) unless permission of the inspector of mines is given to the officer (by telephone or otherwise) or action is necessary to save life, officers are to:

(a) isolate and secure the incident site, including relevant machinery, equipment and materials involved or likely to have been involved, to prevent interference prior to the inspector's arrival; and

(b) prohibit entry to the secured incident scene unless access is:

- required to assist an injured person;
- required to remove a deceased person; or
- essential to make the site safe or to minimise the risk of a further incident (e.g. disconnect electrical supply);

(iv) the Forensic Crash Unit is requested to attend (see s. 5.9: 'Investigation of major incidents by Forensic Crash Unit' of the TM); and

(v) an investigation into the fatal incident is commenced.

The inspector of mines is to be notified of the expiry date of any crime scene warrant and any subsequent extensions, prior to the release of a crime scene.

Incident investigation

Whilst the inspector of mines is responsible for investigating mine incidents under the relevant legislation, the Service is responsible for:

(i) investigating and reporting the death to the coroner (see s. 8.3.3: 'Additional responsibilities of investigating officers' of this chapter); and

(ii) conducting investigations to determine whether any criminal offences have been committed.

Inspectors of mines are experienced in the operation of mines and safety procedures and systems used in mines. Internal arrangements exist between the Mines Inspectorate and the State Coroner for notification of fatal mining incidents.

The Service, in accordance with the MOU between the Service and Department of Justice, is the lead agency for all reportable deaths outlined in s. 8: '*Reportable death* defined' of the *Coroners Act* and will be the lead agency for all other serious mine incidents until the investigating officer determines there are no outstanding issues.

All fatal mine incidents should be investigated by qualified forensic crash unit officer or suitably experienced investigator as determined by the RCC.

Investigators are to conduct a thorough investigation into possible criminal offences and, where appropriate, into the cause and circumstances of any death for reporting to the coroner.

The responsibility for finalising the investigation may be reassigned to another officer if the FCU and CIB officer have carried out sufficient investigations to determine that no criminal acts have occurred.

OPM Issue 113 Public Edition

Investigating officers are to liaise with the inspector of mines and any other involved government investigators (e.g. Queensland Fire Department) during the investigation and prior to submitting their report to the coroner. While liaison with other agencies is encouraged, investigative responsibilities cannot be abrogated to another agency.

A copy of the inspector of mines' report is to be attached to the coronial report.

Exhibits

Generally a thing seized by an inspector of mines can only be retained for one year and must be returned to the owner under s. 146: 'Return of seized things' of the *Mining and Quarrying Safety and Health Act* or s. 149: 'Return of seized things' of the *Coal Mining Safety and Health Act*. Officers are to determine the need to seize the thing prior to the end of the relevant period.

Where it is deemed appropriate to seize a thing in relation to a coronial investigation, a search warrant can be obtained (see s. 8.16.1: 'Coroner's investigation Coroner's search warrants' of this chapter).

Where practicable, officers are to consult with the relevant inspector of mines in relation to the retention of exhibits connected with a person's death.

Alcohol and drug testing

Depending on the circumstances, investigating officers are to consider any existing legislative provisions which permit the taking of specimens of breath, blood, urine or saliva from mine employees involved in the incident for alcohol and/or drug testing purposes (see Chapter 7: 'Drink and Drug Driving' of the TM and ss. 2.23: 'Forensic procedure orders' and 2.24: 'Non-medical examinations' of this Manual).

Investigating officers are to ascertain if the relevant mine undertakes regular drug and alcohol testing of employees. Some mines have internal policies and procedures that require drug and alcohol testing of employees involved in workplace incidents. In such circumstances, investigating officers are to ascertain if the mine has undertaken drug and alcohol testing of relevant employees, advise the relevant coroner if they have and if necessary, obtain a Coroner's search warrant to obtain the results (see s. 8.16.1: 'Coroner's investigation Coroner's search warrants' of this Manual).

Workplace incidents resulting in injury or death are to be recorded in QPRIME.

8.13.3 Fatal workplace or electrical incidents

Officers should be aware of the Memorandum of Understanding (MOU) between the Service and Minister of Industrial relations detailing the responsibilities and procedures of relevant services at a workplace or electrical incident (see s. 2.6.11: 'Workplace and electrical incidents' of this Manual).

Officers whenever practicable, should ensure a fatal workplace or electrical incident scene is secured until a Workplace, Health and Safety Queensland (WHSQ) or Electrical Safety Office (ESO) inspector attends the scene (see SMCD).

It is not necessary for a WHSQ or ESO inspector to view the body of any deceased person at the incident scene. A deceased person may be removed from the incident scene prior to the arrival of the WHSQ or ESO inspector provided:

(i) the deceased person is photographed in situ;

(ii) notations are made including distances from the original location of any deceased person to other items of interest (e.g. items of plant and equipment); and

(iii) copies of the photographs and notations made are provided to the WHSQ or ESO inspector upon request.

Incident investigation

Whilst WHSQ and ESO inspectors and investigators are responsible for the investigation under the relevant legislation, the Service is responsible for:

(i) investigating and reporting the death to the coroner (see s. 8.3.2: 'Responsibility for investigating and reporting on deaths' of this chapter); and

(ii) conducting investigations to determine whether any criminal offences have been committed (other than industrial manslaughter (see subsection 'Industrial manslaughter' of this chapter)).

The Service, in accordance with the MOU between the Service and Minister of Industrial Relations is the lead agency for all reportable deaths outlined in s. 8: '*Reportable death* defined' of the *Coroners Act* and will be the lead agency for all other serious workplace or electrical incidents until the investigating officer determines there is no issue relating to the incident that needs to progress further.

All fatal workplace and electrical incidents investigations should be conducted by a qualified forensic crash unit officer or suitably experienced investigator as determined by the RCC.

When investigating an electrical incident, inquiries should be aimed at establishing whether the electrical installation or repair which is suspected of causing the injury or death was installed or repaired by an authorised person. This information should be included in the officers covering report.

OPM Issue 113 Public Edition

Investigating officers should liaise with the WHSQ or ESO investigator and any other government investigators (e.g. QFD) involved in the incident during the investigation and prior to submitting their report to the coroner. While liaison with other agencies is encouraged, investigative responsibilities cannot be abrogated to any other agency.

Where practicable the relevant Forensic Coordinator should be consulted regarding the method of examinations to be performed and possible forensic services required (see s. 2.19.6: 'Forensic Services Group' of this Manual).

ORDER

Workplace incidents resulting in injury or death are to be recorded in QPRIME.

Industrial manslaughter

Prosecutions for industrial manslaughter under Part 2A of the *Work Health and Safety Act*, Part 2B of the *Electrical Safety Act* and Part 2A of the *Safety in Recreational Water Activities Act*, under these Acts may only be commenced by WHSQ or ESO investigators or the Office of the Director of Public Prosecutions.

ORDER

Whilst there is no legislated authority for police to prosecute industrial manslaughter, officers are to:

(i) conduct investigations to determine whether other criminal offences have been committed; and

(ii) provide appropriate assistance to the WHSQ and ESO inspector investigating the incident.

Disclosure of information

Information relevant to the investigation of fatal workplace or electrical incidents may be released to inspectors and investigators from WHSQ and ESO as they are declared as law enforcement agencies (see s. 5.6.15: 'Requests for information from other law enforcement agencies' of the MSM).

8.13.4 Deaths on board vessels

The extent of jurisdiction of a coroner for reportable deaths is provided for in s. 8(2) of the *Coroners Act*. In brief, a coroner has jurisdiction to inquire into any death where that death occurs in Queensland; or where a death occurs elsewhere, and the body is in Queensland; or the person, at time of death, was on a journey to or from somewhere in Queensland. This is especially important in terms of deaths on board vessels at sea.

When a death occurs as a result of the operation of a vessel in Queensland, the matter may be required to be investigated as a marine incident.

See s. 2.5.9: 'Offences committed at sea' and s. 13.8.3: 'Investigation of marine related offences and marine incident' of this Manual.

8.13.5 Drowning

The death of a person whilst using underwater breathing apparatus, whether self-contained, surface supplied or snorkelling equipment is to be investigated in accordance with s. 8.13.1: 'Diving deaths and incidents' of this chapter.

Pool immersion incidents

A pool immersion incident refers to when a person has died or has been deprived of air and their health and wellbeing adversely affected as a result of immersion under water in a swimming pool. The *Building Act* obliges local governments to investigate all reported pool immersion incidents to enforce pool safety standards.

Officers responding to a pool immersion incident should notify the relevant local government agency of the incident as soon as practicable.

When a death occurs as a result of drowning in a swimming pool, the investigating officer should ascertain as much of the following information as is possible and include same on the relevant part of the Form 1:

(i) whether the pool is in ground or above ground;

(ii) whether fencing around the pool, distinct from fencing around the boundary of the property, exists;

(iii) description and condition of existing pool fencing, including height of the fence, construction materials and method of construction;

(iv) the presence or otherwise of pool gates, including detailed description of their operation; and

(v) details as to why the pool fencing did not prevent the drowning.

The investigating officer is to inform the local government agency of a pool immersion incident, so that investigations under the *Building Act* can be conducted to: can be conducted to:

(i) identify any breaches of the Act; and

(ii) provide information to the investigating officer of the compliance of the swimming pool for the purposes of informing the coroner of the grounds surrounding the death.

OPM Issue 113 Public Edition

The investigating officer should provide an officer from the local government agency with:

(i) the name and age of the injured or deceased person;

(ii) details of parents or guardians if the injury or death involves a child;

(iii) the address at which the immersion occurred;

(iv) details of the owner(s) and occupant(s) of the address at which the immersion occurred;

(v) other relevant details which would assist their investigation.

ORDER

Officers are not to supply a Form 1 to a local government officer.

Drowning death at a surf lifesaving event

Matters involving competitors at an official surf lifesaving event are dealt with under the *Safety in Recreational Water Activities Act*.

ORDER

Officers responding to a:

(i) drowning death; or

(ii) missing competitor who is suspected to have drowned,

at an official surf lifesaving event are to notify the Advisory and Assessment Centre, Office of Industrial Relations through the Duty Officer, Police Communications Centre, Brisbane, or local communication centre.

The investigation of a death at an official surf lifesaving event is to be conducted in conjunction with inspectors from Workplace Health and Safety Queensland in accordance with s. 8.13.3: 'Fatal workplace or electrical incidents' of this chapter.

8.13.6 Aircraft incidents resulting in death

The following section deals only with the requirements for reporting on deaths as a result of aircraft incidents. See s. 17.3.3: 'Aircraft incidents' of this Manual for policy on the investigation of aircraft incidents generally.

For the purposes of this section an aircraft incident includes any incident involving a powered aircraft, glider, hang glider, occupied balloon or parachute while taking off, landing or in flight and, where the term aircraft is used, it includes any craft using the within mentioned means of flight.

All fatal aircraft incident investigations should be investigated by a qualified forensic crash unit officer or suitably experienced investigator as determined by the RCC.

Officers who investigate a fatal aircraft incident, should ascertain and include in the final report to the coroner as much of the following information as possible. Additionally, any of these reports or statements are to be uploaded to the relevant QPRIME Sudden Death Occurrence. The information relevant includes:

(i) a summary of the events leading up to the incident;

(ii) the time of the incident;

(iii) the names of the first police at the scene and the time of their arrival;

(iv) details of any witnesses;

(v) an accurate description of the incident location, including distance from the airport if applicable;

(vi) number of passengers on board the aircraft;

(vii) number of crew on board the aircraft;

(viii) an accurate description, including a scale diagram if available, of the incident site showing the location, extent of wreckage and the location of bodies;

(ix) the details of members who attended the scene, and the roles each of them filled, (e.g. on scene commander, radio operator, investigating officer);

(x) the assistance provided by State Emergency Service personnel, including the number of personnel, person in charge and the duties performed;

(xi) the number of ambulance vehicles and officers that attended and their stations of origin;

(xii) the number of fire service units that attended, their time of arrival and their stations of origin;

(xiii) full details of any Australian Transport Safety Bureau or Workplace Health and Safety investigators;

(xiv) insurance and ownership details of the aircraft;

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(xv) full details of the aircraft, including:

(a) aircraft type and serial number;

(b) age of aircraft and date put into service;

(c) dimensions;

(d) number, make and type of engine(s);

(e) fuel capacity and type of fuel used;

(f) amount of fuel on board at time of incident;

(g) minimum take-off and landing speed; and

(h) aircraft call sign;

(xvi) full details of the pilot and co-pilot, including:

(a) name, address and date of birth;

(b) total logged flying hours; and

(c) all pilot's licence endorsements;

(xvii) full details of any crew, including:

(a) name, address and date of birth;

(b) position in crew; and

(c) position on aircraft;

(xviii) full details of all passengers, including name, address, date of birth and position on aircraft;

(xix) weather conditions at the time of the incident, including conditions at various altitudes through which the aircraft passed in flight; and

(xx) ground conditions.

The report should include a summary of the result of inquiries into the possible cause or causes of the accident.

External organisations assisting with investigations

All examinations or testing conducted by external organisations are to be arranged by the Service. When an external organisation such as the Australian Transport Safety Bureau conducts and completes an examination of an aircraft on behalf of the Service, or the aircraft is to be released to another investigating authority, the responsible officer is to contact the CSU regarding the storage of the aircraft until a coronial inquest is held.

A document titled, 'Aviation Accident Checklist—Hazards at Aviation Accident Sites' can be located on the Australian Transport Safety Bureau's (ATSB) website (www.atsb.gov.au). This document contains useful information for first response officers when attending an aircraft crash site including explanations of potential hazards, the role of the ATSB and the Directorate of Defence Aviation and Air Force Safety and what information those bodies will require from officers.

The Service is the lead agency for all reportable deaths (see s. 8: '*Reportable death* defined' of the *Coroners Act*) and will also be the lead agency for all other serious workplace or electrical incidents until the investigating officer determines there is no issue relating to the incident that needs to progress further. Investigating officers are to request investigations conducted by external organisations on behalf of the Service are finalised within the nominated timeframes to allow the results to be included with the final report to the coroner.

8.13.7 Fatal traffic crashes

For the purpose of this section, the officer who is first detailed to attend the incident is the first response officer.

Responsibilities of first response officer

ORDER

The first response officer is responsible for:

(i) taking all action required in terms of the Traffic Manual; and

(ii) complying with all provisions of s. 8.3.2: 'Responsibility for investigating and reporting on deaths' of this chapter.

First response officers, are to ensure they comply with s. 5.6.1: 'Duties of investigating officer to record information' of the TM in relation to reporting requirements prior to the completion of the shift during which they are detailed to attend a fatal traffic crash.

Should the death be as a result of a traffic crash, after the initial traffic crash has been entered in QPRIME, officers are to add the sudden death occurrence to the initial traffic crash report, and not create a separate occurrence.

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When required to complete the relevant Form 1 (in QPRIME), first response officers are to include an endorsement showing the name, rank and station of the investigating officer.

On completion of these responsibilities, first response officers are to submit all documentation to their OIC. The OIC, on being satisfied that the first response officer has fully complied with the provisions of this section, is to assign the occurrence to the investigating officer via QPRIME.

Responsibilities of investigating officer

ORDER

The officer assigned to investigate a fatal traffic crash is responsible for finalising inquiries, completing the traffic crash occurrence in QPRIME and for submitting all reports necessary to finalise the matter. This includes compliance with s. 8.15: 'Finalisation of investigation' of this chapter.

Deaths at hospitals as a result of traffic crashes

To ensure that there is a minimum of delay in updating records on the traffic crash occurrence in QPRIME when a victim of a traffic crash dies later in a hospital the responsibility for modifying the record shall rest with the officer reporting on the death. The officer investigating the traffic crash retains responsibility for making all investigations into the cause and circumstances of the death.

ORDER

An officer detailed to attend at a hospital where a person has died where the cause of death is as a result of a traffic crash is to:

(i) comply with s. 8.3.3: 'Additional responsibilities of investigating officers' of this chapter with the exception of paragraphs (vi) and (xiii);

(ii) prior to terminating duty on the day such death is reported, the following items are to be recorded in QPRIME in the traffic crash occurrence:

(a) add major occurrence flag to occurrence;

(b) link deceased person(s);

(c) ensure a person Motor Vehicle Crash (MVC) Report for each deceased person has been completed and modify if necessary; and

(d) modify occurrence type to 'Traffic Crash – Fatal' if necessary.

(iii) complete all of the steps to report a sudden death to the coroner in QPRIME. Where the death has occurred in hospital of a person where the cause of death is as a result of the traffic crash, only one occurrence is to be entered in QPRIME (i.e. traffic crash occurrence and not also a sudden death occurrence);

(iv) immediately notify the OIC of the station or establishment which reported on the original traffic crash and the OIC FCU in the relevant district that the death has occurred through the sudden death workflow in QPRIME; and

(v) submit the file completed in compliance with s. 8.3.3: 'Additional responsibilities of investigating officers' of this chapter excluding paragraphs (vi) and (xiii) for transmission to the OIC of the station or establishment which reported on the original traffic crash.

OICs of stations or establishments who receive a file relating to the death of a person at a hospital in their division as a result of a traffic crash are to transmit the file to the OIC of the station or establishment which reported on the original traffic crash.

OIC of stations or establishments receiving advice that persons have died as a result of a traffic crash which occurred in their division are to notify the officer investigating the traffic crash.

8.13.8 Suspected drug overdoses

If during the investigation of an incident it is suspected that a death has occurred from a drug overdose officers are to:

(i) treat the scene as a crime scene and preserve it;

(ii) notify scenes of crime personnel and request their attendance;

(iii) advise CIB personnel;

(iv) advise DACU;

(v) search the crime scene and surrounds in consultation with scenes of crime personnel with a view to locating possible exhibits, in particular illicit drugs, drug paraphernalia and prescription drugs;

(vi) where prescription drugs are found, record:

(a) the details of the prescription label on the packaging including:

- the drugs' name, quantity and dosage;

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- who the drugs were prescribed to;
- the prescribing doctor;
- the pharmacy or chemist that provided the drugs;
- the date the drugs where provided;
- instructions on how the drug is to be taken; and

(b) how many tablets and dosages remained;

(vii) ensure that all exhibits are photographed in situ; and

(viii) ensure any illicit drugs seized are analysed and the regional crime coordinator and DACU advised immediately of the results of that analysis.

Crime Command advised immediately of the results of that analysis.

Investigating officers are to endeavour to obtain the following information regarding the deceased:

(i) names and addresses of family members and close associates;

(ii) telephone numbers known to have been regularly used, including details of ownership of telephones;

(iii) type, usual quantity and frequency of drug(s) used;

(iv) usual method of administration of drugs;

(v) source of drugs;

(vi) in the case of illicit drugs, how the deceased obtained money for the purchase of drugs;

(vii) in the case of illicit drugs, how the deceased was financially supported;

(viii) in the case of illicit drugs, knowledge of how drug deals were arranged;

(ix) in the case of illicit drugs, usual mode of transport to collect drugs;

(x) medical background;

(xi) history of overdoses (reported to police or otherwise);

(xii) results of analysis of any drugs located; and

(xiii) any other relevant information (including depression, attempts at suicide or other forms of self-harm and use of drugs in company with other persons).

Investigating officers are to record this information in the relevant QPRIME Sudden Death Occurrence and assign a task for information to their local intelligence officer. Intelligence officers are to enter this information on the Australian Criminal Intelligence Database (ACID).

In the case of illicit drugs, as part of the investigation, investigating officers should liaise with their local intelligence officer in an effort to locate the source of supply of the drug(s).

The contents of this section are to be read in conjunction with ss. 2.6.6: 'Clandestine illicit drug laboratories' and 2.6.7: 'Illicit drug crops' of this Manual.

8.13.9 Deaths resulting from fires

All fatal fires should be investigated by an officer from the criminal investigation branch. Officers investigating fatal fires are to conduct a thorough investigation into possible criminal offences and, where appropriate, into the cause and circumstances of any death for reporting to the coroner. The responsibility for finalising the investigation may be reassigned to another officer if a criminal investigation branch officer has carried out sufficient investigations to determine that no criminal acts have occurred in the incident.

Investigating officers should liaise with the Queensland Fire Department (QFD) fire investigator and any other government investigators (e.g. WorkSafe investigators) involved in the incident during the investigation and prior to submitting their report to the coroner. While liaison with other agencies is encouraged, investigative responsibilities cannot be abrogated to any other agency.

The regional forensic coordinator is to be contacted to organise the required forensic response.

When investigating a death which occurs as a result of a fire, investigating officers should seek statements from all persons having any significant knowledge concerning the cause or behaviour of the fire including:

(i) the owner of the premises damaged by the fire;

(ii) the person who first raised the alarm;

(iii) the senior QFD officer in attendance;

OPM Issue 113 Public Edition

(iv) the QFD fire investigator; and

(v) any other person who has knowledge bearing on the cause or behaviour of the fire.

Investigation reports should be sought from external investigators for inclusion in the police submission to the coroner.

Officers attending fires should also comply with the provisions of s. 2.6.1: 'Fire investigation' of this Manual.

8.13.10 Unidentified human remains

Where any unidentified human remains (i.e. body or part thereof) are located, investigating officers are to ensure a scenes of crime officer attends the scene and photograph the remains in situ. This will assist with the assessment of the remains to confirm they are human. If human, the investigating officer is to ensure that a new person record is to be created in QPRIME with the name 'Unknown' to record the deceased until such time as identification is established.

Officers are to record the details of the property identified location in QPRIME. The location can be added in QPRIME as a new address, allowing the entry of latitude and longitude details. In remote areas without mobile device connectivity, latitude and longitude can be obtained from a breathalyser device.

If the unidentified human remains are skeletal, the regional forensic coordinator is to be contacted to organise the required forensic response.

The local CIB is to be contacted and advise of the incident particulars.

The Missing Persons Unit is to be advised by assigning a task for information in QPRIME, and ensure the relevant sudden death occurrence made in QPRIME contains the following information:

(i) a description of the human remains;

(ii) when and where the human remains were located; and

(iii) where possible:

(a) how long has the victim been deceased; and

(b) the existence of any personal belongings including clothing.

The officer responsible for the investigation is to ensure that a Form 1 is completed in compliance with the provisions of this chapter.

Officers are to take into consideration s. 8.2.2: 'Location of possible First Nations burial remains' of this chapter.

8.13.11 Fatalities on Queensland Rail, Citytrain network

The first response officer attending the scene of a railway incident on the Queensland Rail, Citytrain network, is to advise the relevant Police Communications Centre immediately upon confirming that the incident involves a fatality. The Duty Officer at the advised Police Communications Centre is to ensure that appropriate arrangements are made for the undertaker to attend the scene.

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8.13.12 Missing person reasonably suspected of being deceased

The State Coroner requires notification by report as soon as a missing person is reasonably suspected of being deceased, and that such death was a reportable death pursuant to s. 8: '*Reportable death* defined' of the *Coroners Act*.

Examples of circumstances where a missing person may be reasonably suspected of being deceased:

A person falls off a fishing trawler. Despite extensive searches, the person has not been located.

An angler is washed off rocks by strong waves into the ocean. This was observed by several witnesses. Searches fail to locate the person.

A person goes missing in suspicious circumstances, which leads officers to believe that the person is deceased, as opposed to a person going missing by their choice. Further supporting evidence might include the missing person has had no contact with family and close friends, has left significant property and personal belongings behind, and has not accessed bank accounts, Centrelink, Medicare etc. for an extended period of time.

A QP 0608: 'Report to State Coroner (Missing Person—Suspected Reportable Death)' is to be completed and forwarded to Missing Persons Unit (MPU), Crime Command.

The investigating officer is to obtain:

(i) a DNA sample from a source directly linked to the missing person, unless a permanent sample exist; or

(ii) a DNA sample from an appropriate family member of the missing person. Biological samples obtained are to be treated as an evidence sample; and

(iii) details of the person's current medical practitioner and dentist are to be entered in the relevant QPRIME occurrence.

In cases where a person is missing for longer than three months and it is reasonably suspected the missing person may be deceased, the investigating officer is to complete the QP 0608: 'Report to State Coroner (Missing Person—Suspected Reportable Death)' and forward to Missing Persons Unit (MPU), Crime Command.

The investigating officer is to obtain:

(i) a DNA sample from a source directly linked to the missing person, unless a permanent sample exist; or

(ii) a DNA sample from an appropriate family member of the missing person. Biological samples obtained are to be treated as an evidence sample; and

(iii) details of the person's current medical practitioner and dentist are to be entered in the relevant QPRIME occurrence.

It is the responsibility of the MPU to complete proof of life checks and provide notification by report, including the QP 0608, completed by the reporting officer, to the Coronial Support Unit (CSU), Security, Counter-Terrorism and Forensic Services Command as initial advice (see ss. 12.4.4: 'Missing person investigations involving multiple regions, interstate or international' and 12.4.6: 'Report to coroner where missing person reasonably suspected of being dead' of this Manual).

Completion of a QP 0608 after initial notification

At the expiration of twelve months from when a person is reported missing and:

(i) the person is reasonably suspected of being deceased; and

(ii) a QP 0608 has not previously been submitted,

the investigating officer is to complete a QP 0608 and any supporting documents and forward it to the Operations Leader, MPU, through the chain of command along with the completed investigation file.

The investigation file should include the results of the investigation into the cause and circumstances of the missing persons disappearance. All documents are to be attached to the QPRIME missing person occurrence.

Duties of Operations Leader, Missing Persons Unit, Crime Command

The Operations Leader, MPU upon receipt of the report, is to:

(i) review the contents of the QPRIME missing person occurrence;

(ii) where considered necessary, initiate further inquiries;

(iii) where considered appropriate, complete a report with a request to the State Coroner to request a coroner to hold an inquest into the cause and circumstances of the disappearance of the missing person (see ss. 11(6): 'Deaths to be investigated—generally' and 28: 'When inquest may be held' of the *Coroners Act*); and

(iv) forward that report together with recommendations to the State Coroner.

Coroner's determination

Where the coroner determines the missing person is deceased and that suspicious circumstances exist, the CSU is to forward the investigation to the Homicide Group, Crime Command.

Victims Assist Queensland is only able to assist a family if the coroner determines the death of the missing person is of a suspicious nature.

8.14 Mortuary

8.14.1 Removal of bodies from scene

It is the responsibility of the investigating officer to:

(i) arrange removal of the body;

(ii) ensure the removal is not prolonged unnecessarily; and

(iii) conduct a final search of the scene to ensure no human remains are left at the scene (this final search may be delayed in some circumstances e.g. until all the debris from an air crash site has been removed).

Officers should consider the welfare of family members viewing the body and the resulting deterioration caused by environmental exposure.

When the body is no longer required at the scene, the investigating officer should arrange to have the local contracted government undertaker attend and remove the body to an appropriate mortuary in line with local arrangements (see s. 8.17.1: 'Funeral directors' of this chapter). A person who is involved in transporting the body to a mortuary is to comply with any direction by a coroner or officer (see s. 18: 'Transferring body to mortuary' of the *Coroners Act*).

OPM Issue 113 Public Edition

The reporting officer is to produce the sealed body bag kit removing the QP 0070: 'Morgue Tag' and two joined body barcode bracelets with identical barcodes.

Before a body is removed from the scene, the investigating officer is to maintain the continuity of identification by:

(i) removing the two bar-coded adhesive labels designated morgue tag from the top body barcode bracelet;

(ii) affixing the labels in the applicable areas on the morgue tag;

(iii) completing the QP 0070 and:

(a) immediately attaching the top portion of the morgue tag to the left wrist of the deceased. Where the left arm or wrist is missing investigating officers should attach the morgue tag and body barcode bracelet to another appendage, or suitably conspicuous place; and

(b) retaining the bottom portion of the morgue tag to be lodged later with the deceased in the sealed body bag envelope. This portion is not to be placed with the deceased as it may be contaminated by bodily fluids;

(iv) affixing the bar-coded adhesive label designated police notebook from the top body barcode bracelet to the relevant entry in their official police notebook;

(v) separating the two body barcode bracelets and attaching the top body barcode bracelet (from which the adhesive labels designated morgue tag and police notebook were removed) to the left wrist of the deceased;

(vi) ensuring the sealed body bag is sealed with the provided security tag to maintain the continuity of identification. The seal number is to be noted on the cover page of the sealed body bag document envelope; and

(vii) affix the second bracelet with the remaining barcode stickers through the security tag.

Investigating officers are to ensure all body barcode numbers are recorded in the relevant QPRIME occurrence.

Use of sealed body bags

To minimise time responding to sudden deaths, officers should use sealed body bags to transport deceased persons and human remains to the mortuary.

The security tie can be found in the sealed body bag kit. The government undertaker will provide the sealed body bag. The body is to be placed in the body bag. The zip should be fastened and fixed by placing the body bag security tie through the head of the zip and through the body bag loop at the top of the bag, ensuring that the bag cannot be opened without interfering with the security tie. The second barcode bracelet is to be secured through the security tag.

If the body bag requires reopening, the security tie is to be broken. Contracted government undertakers can assist in breaking the security tie. A new security tie is to be used to reseal the body bag. Documentation (QP 0873: 'Record of breaking of security tie) indicating that the security tie has been broken and by whom is to be completed, along with details of the new security tag', and placed in the document envelope.

All relevant records and documents are to be placed in the document envelope and sealed. The check sheet on the document envelope (QP 0874) is to be completed and signed by the investigating officer.

The document envelope must contain the QP 0001: 'Life Extinct Form' and where applicable, should contain the following documents:

(i) QP 0872: 'Statement of Formal Identification';

(ii) QP 0450: 'Hospital Identification Statement';

(iii) QPB32A: 'Field Property Receipt', white copy;

(iv) QP 0070: 'Morgue Tag', completed bottom section;

(v) QP 0873: 'Record of Breaking Security Seal'; and

(vi) any other appropriate record e.g. medical/dental records.

Upon completion the document envelope is given to the contracted government undertaker to be conveyed with the body to the mortuary. At no time is the contracted government undertaker to be advised of the contents of the envelope or have access to these records.

Investigating officers are to record the security tie number and the attending undertaker's details in their official police notebook.

There may be some instances where the sealed body bag system is not utilised in accordance with local arrangements.

8.14.2 Life extinct form

Prior to placing a body in a mortuary, the investigating officer are to arrange for the completion of a QP 0001 'Life Extinct Form'. A doctor, registered nurse or paramedic can issue a life extinct form. Government undertakers are not to transport a deceased person without an original, or copy, of a life extinct form.

Officers may only issue a QP 0001: 'Life Extinct Form' in cases of obvious deaths.

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The definition of obvious deaths is where the state of the body is clearly incompatible with life, such as:

(i) severe incineration has caused charring and blackening of most of the body surface, with exposure of underlying tissues in some areas;

(ii) extensive trauma has caused decapitation, severance of the torso, disruption of vital organ, (e.g. brain), or fragmentation of the body;

(iii) well established decomposition has caused extensive discolouration of the skin, bloating of the body, larval infestation and partial exposure of the bones; or

(iv) advanced decomposition has exposed most of the skeleton.

There will be instances where other versions of a life extinct form will be used. For example, the QAS will use an 'Electronic ambulance report' form to record the life extinct procedure. In the case of a death occurring in a hospital, doctors may use the 'Hospital discharge' form. In these circumstances, officers should accept these forms in lieu of a QP 0001: 'Life Extinct Form' and process in the usual manner.

The investigating officer is to place the QP 0001: 'Life Extinct Form' into the sealed body bag document envelope that is to accompany the deceased to the mortuary. A copy should be scanned into the relevant QPRIME occurrence.

ORDER

Officers are to obtain a life extinct form for all deceased persons including skeletal remains prior to transport by government undertaker to a mortuary.

Officers are not to transport bodies in Service vehicles or any other vehicle not specifically designed or used for that purpose unless exceptional circumstances exist.

Officers may transport bodies in Service vehicles in circumstances where instructions have been established for cost sharing arrangements with the registrar of the local coroner's court.

Property from deceased persons

Officers at the scene of the death, are not to remove clothing or property from deceased persons where the death is:

(i) a death in custody;

(ii) a death in care or the unexplained death of a child;

(iii) any incident in which the Disaster Victim Identification Squad has been involved;

(iv) a case or suspected case of unlawful killing;

(v) a case where examination of the clothing or the arrangement of the clothing may assist in determining the cause or circumstances of death (e.g. industrial accidents); or

(vi) a case where the severity of decomposition of the body makes it impractical to remove the clothing until the autopsy.

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In all these cases, officers are to ensure any clothing or property on the deceased's body remains on the deceased until a government pathologist, government medical officer or other doctor, who is to perform the autopsy, has examined the body and approves the removal.

In all other cases, officers should remove valuable items such as jewellery, wallets, keys, mobile phone etc. from the deceased at the scene for immediate return to the next of kin if appropriate or lodgement at a property point in accordance with Chapter 4: 'Property' of this Manual. There is no requirement for officers to remove clothing of the deceased at the scene or mortuary.

8.14.3 Identification of deceased

Where a death is referred to a coroner, it is necessary to identify the body to the satisfaction of the coroner concerned.

Where police presence is required at a scene of death, the investigating officer is to make all inquiries necessary to positively identify the body by a means acceptable to the coroner. If there is a problem with the identification, the investigating officer is to liaise with the CSU and ensure the means of identification used is acceptable.

Methods of identification include (in order of preference):

(i) visual;

(ii) fingerprints;

(iii) dental;

(iv) circumstantial; and

(v) DNA.

Visual identification method involves a family member, person who knows the deceased (neighbour or work colleague) viewing the deceased and confirming identity to the officer present. Visual identification does not include the officer

sighting the deceased persons photographic identification and forming the opinion on appearance that they are the same person.

Fingerprint identification can be used where visual identification is not suitable or appropriate. An attending scenes of crime officer can submit an image of the deceased's fingerprints to the Fingerprint Bureau for comparison. Officers should check QPRIME to establish whether the deceased has a CNI. If a scenes of crime officer is not able to attend the scene and the deceased has a CNI, the reporting officer is to liaise with the local CSU to have the fingerprint comparison performed.

Dental identification can be used where visual or fingerprint identification is unsuitable or unsuccessful. The investigating officer is to liaise with family to obtain details of private dental clinic. These details are to be provided to the CSU to engage the Forensic Odontologist for identification comparison.

Circumstantial identification can be used where visual, fingerprint and dental identification is unsuccessful. A QP 0528: 'Supplementary Form 1 – Police Report of Death to a Coroner' is to be compiled detailing all available information supporting an identification. CSU can assist with examples of what is required in a circumstantial identification report.

DNA identification can be used where all identification avenues have failed. DNA analysis can be requested through CSU. The investigating officer will be responsible for providing the deceased PDNA barcode number for comparison or if no previous DNA is available in QPRIME records, the officer will be responsible for obtaining and submitting relevant immediate biological family DNA consent samples in accordance with s. 2.25: 'DNA' of this Manual.

Officers should make every attempt to have the identification done at the scene rather than bringing family to a Queensland Health mortuary.

Preferably, the investigating officer should be present when a body is formally identified. Another officer may be present where the investigating officer is unable to attend.

The officer present at the visual identification should complete a QP 0872: 'Statement of Formal Identification' for inclusion in the sealed body bag document envelope.

If a non-suspicious death occurs at a hospital:

(i) and a certificate as to the cause of death is not forthcoming; and

(ii) the body is identified to hospital staff by a family member or appropriate person who is not present to identify the body to police,

the attending officer should have the relevant hospital staff member complete CSU Fact Sheet Number 14: QP 0450: 'Hospital Identification Statement'.

Where the identification occurs at a later time, and there is no hospital staff able to assist with identification, officers should complete a QP 1022: 'Hospital Unique Reference Number (URN) Identification Statement'.

Identification viewing supported by a government undertaker

An officer is authorised under s. 18(2)(a) of the *Coroners Act* to direct a government undertaker to prepare a body for identification viewing and perform tasks related to lodging a deceased in a mortuary. The reporting officer is responsible for conducting the visual identification; however, assistance can be requested from the attending government undertaker to prepare the deceased for identification. Preparation includes appropriately positioning and covering the deceased. government undertakers are not to conduct the visual identification.

Continuity of identification

The investigating officer must be able to prove continuity of identification at any time during the investigation.

Prior to removal of a body from the scene, the investigating officer should ensure a morgue tag and body barcodes (provided by the attending government undertaker) are attached, see s. 8.14.1: 'Removal of bodies from scene' of this chapter.

Where an officer becomes aware a body has been removed from the scene without a morgue tag and/or body barcodes being placed on the deceased, that officer should immediately ensure a morgue tag and body barcodes are attached in accordance with s. 8.14.1 of this chapter.

Investigating officers are to ensure all body barcode numbers used are recorded in the relevant occurrence in QPRIME.

8.14.4 Coronial counselling services

Coronial Family Services counsellors appointed by Queensland Health are based at Coronial and Public Health Sciences (CPHS), Coopers Plains, Brisbane.

Counsellors are engaged for reportable deaths only (see 'Definitions' of this chapter).

Counsellors are available during office hours to assist with support for persons attending the CPHS to formally identify deceased relatives or other deceased persons. Officers may consult with the counsellor about the needs of bereaved persons with whom they may have contact.

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The counsellor's role is to assist the deceased's family with the coronial process and can provide information to bereaved persons regarding autopsy results, the coronial process generally and resources that exist for counselling and assistance in the local community.

Officers who require the assistance of a counsellor for a reportable death may obtain such assistance by contacting the Coronial Family Services (see Queensland Health in SMCD).

8.14.5 Attendance at the autopsy

An officer investigating a death is entitled to observe and participate in an autopsy as outlined in s. 21(1): 'Observing an autopsy' of the *Coroners Act*.

ORDER

The investigating officer, or another officer who has knowledge of the investigation, and a forensic officer are to attend suspicious death autopsies at Coronial and Public Health Sciences (CPHS). In all other areas, it is the responsibility of the OIC of the region to determine local procedures for the attendance of officers. An officer may be tasked through QPRIME to attend an autopsy. It is desirable that the investigating officer attends the autopsy, or another officer who has knowledge of the investigation.

The officer who attends the autopsy is known as the autopsy officer. The autopsy officer should obtain or arrange to obtain a copy of the Form 29: 'Autopsy Notice' and Form 30: 'Autopsy Certificate' from the pathologist whilst attending the autopsy. A copy of these forms should be scanned and attached to the relevant QPRIME Sudden Death Occurrence. CSU will complete this for autopsies performed at CPHS.

The autopsy officer has responsibility for completing all the steps in QPRIME listed under 'Manage Sudden Death—Attend and Record Autopsy Results' of the QPRIME User Guide and notifying the investigating officer of the results where appropriate.

Non-suspicious deaths

If the death is non-suspicious, officers are not required to take possession of, nor arrange for the transport for, any specimens taken at the time of the autopsy by the forensic physician (FP) or pathologist. CPHS will arrange for the transportation and delivery of the specimens to Brisbane for further analysis.

Suspicious deaths

If the death is suspicious, the autopsy officer is to collect any specimens retained by the FP or pathologist and arrange for the transportation and delivery of these specimens for further analysis. The FP or pathologist will provide appropriate specimen containers for this purpose, generally consisting of tubes, containers or both, a clip seal plastic bag, a bio bottle or container, a packing box and continuity or security labels.

The provided packaging is designed to comply with relevant legislation for the safe transportation of specimens by road, rail or air.

Packaging of specimens from a suspicious death (autopsy officer)

After the FP or pathologist has placed the tubes, containers or both containing the specimens into the appropriate bio bottle or container and closed and sealed it, the autopsy officer is to:

(i) sign and date two continuity or security labels and ensure the FP or pathologist also signs same; and

(ii) affix one continuity or security label on the Bio bottle or container ensuring half is on the lid and the remainder on the bottle or container.

After the FP or pathologist has placed a copy of the Form 1 and the completed Request for Examination form into the clip seal bag, and placed the bio bottles or containers containing the specimens into the pre-labelled packing box together with the clip seal bag, the autopsy officer is to:

(i) ensure the lid is adequately closed and sealed; and

(ii) affix the second continuity or security label on the packing box ensuring half is on the flap and the remainder on the packing box.

The autopsy officer should not take possession of the specimens until they are packaged and sealed by the FP, pathologist or mortuary staff.

The autopsy officer has responsibility for delivering or forwarding those specimens with a copy of the Form 1 to the appropriate location for analysis (see subsection 'Lodgement of forensic samples for testing' of s. 2.19.6: 'Forensic Services Group (FSG)' of this Manual and s. 8.3.3: 'Additional responsibilities of investigating officers' of this chapter).

The autopsy officer also has responsibility for maintaining and providing evidence of continuity of possession of those specimens.

OPM Issue 113 Public Edition

Holding of specimen by forensic physician or pathologist

In some instances, including where an examination of a whole-body organ is required, the FP or pathologist will retain the specimen for a period of time prior to sending to an appropriate location for analysis. In these cases, the autopsy officer should:

(i) request the FP or pathologist notify the investigating officer when the specimen is ready for collection;

(ii) if the specimen has been placed in a container which has been sealed, sign and date a continuity or security label and ensure that the FP or pathologist also signs same; and

(iii) affix the continuity or security label on the container ensuring half is on the lid and the remainder on the container.

Packaging of specimens from a suspicious death (collecting officer)

Investigating officers notified that an autopsy specimen is ready for collection are to ensure it is collected and forwarded to the appropriate location for analysis.

The officer collecting the specimen (collecting officer) is to:

(i) if the specimen has been previously placed in a container and sealed by the autopsy officer with a signed continuity or security label:

(a) ensure the container is placed in a packing box together with a clip seal bag containing a copy of the Form 1 and the Request for Examination form;

(b) sign and date a continuity or security label, ensuring the FP or pathologist also signs same;

(c) ensure the lid is adequately closed and sealed; and

(d) affix the continuity or security label on the packing box ensuring half is on the flap and the remainder on the packing box; or

(ii) if the specimen has not previously been placed in a container and sealed as above:

(a) sign and date two continuity or security labels and ensure the FP or pathologist also signs same; and

(b) affix one continuity or security label on the container ensuring half is on the lid and the remainder on the container.

After the FP or pathologist has placed a copy of the Form 1 and the completed Request for Examination form into the clip seal bag, and placed the container containing the specimens into the pre-labelled packing box together with the clip seal bag, the collecting officer is to:

(i) ensure the lid is adequately closed and sealed; and

(ii) affix the second continuity or security label on the packing box ensuring half is on the flap and the remainder on the packing box.

The collecting officer has responsibility for delivering or forwarding those specimens with a copy of the Form 1 to the appropriate location for analysis. See subsection 'Lodgement of forensic samples for testing' of s. 2.19.6 of this Manual and s. 8.3.2: 'Responsibility for investigating and reporting on deaths' of this chapter.

The collecting officer also has responsibility for maintaining and providing evidence of continuity of possession of those specimens.

8.14.6 Removal of body parts

Impressions of fingers, palms, feet or teeth of deceased persons may be taken for any of the following reasons:

(i) to establish or confirm the identity of the deceased where:

(a) there are no other means of identification available; or

(b) the body is unrecognisable due to decomposition or mutilation;

(ii) to prevent impersonation of the deceased person by another person;

(iii) to attempt to eliminate the possibility of anyone trying to escape from their true identity;

(iv) by order of a coroner who may not be satisfied with other forms of identification;

(v) to establish the identity of a person whose fingerprints, palm prints, footprints or teeth (teeth marks) have been located at crime scenes; or

(vi) to assist in police investigations.

In some instances, body parts such as the fingers, hands or teeth of a deceased person may need to be removed from the body to obtain fingerprint, palm print or tooth impressions. These instances include where:

OPM Issue 113 Public Edition

(i) the body, including the fingers, hands or teeth, have been badly charred by fire;

(ii) the fingers, hands or teeth are affected by immersion in fluid; or

(iii) the fingers, hands or teeth are mummified.

The need to remove body parts from a deceased person for the purpose of obtaining impressions of the fingers, palms, feet or teeth is to be determined by a fingerprint technician, scientific officer, scenes of crime officer, forensic pathologist or forensic odontologist following a request from the investigating officer or relevant Queensland Health specialist.

The coroner is to be notified of the need to remove body parts from the body of a deceased person. Before any body parts are removed from the body of a deceased person, the coroner's authorisation is to be obtained either in a general consent included in the order for the autopsy, or by separate written authority.

The body of a deceased person that has had any body part removed for examination purposes is not to be released from the mortuary in which it is lodged, until the examination is complete and the remaining removed body part has been returned to the body.

Where the examination of a body part will cause a significant delay in the release of the deceased from the mortuary, the coronial counsellor will liaise with the deceased's next of kin or representative to advise them of the delay and reason for the delay.

ORDER

The investigating officer is to advise the relevant CSU and Forensic Co-ordinator and request the services of a fingerprint technician, scientific officer or scenes of crime officer when the need arises to take impressions of fingers, palms, feet or teeth, for any of the reasons mentioned above.

A fingerprint technician, scientific officer or scenes of crime officer who requires the removal of a body part(s) from the body of a deceased person, for the purpose of identification or obtaining impressions of a finger(s), a palm(s), foot, feet or teeth, is to:

(i) advise the coroner of the:

(a) details of the deceased;

(b) body part(s) proposed to be removed from the deceased; and

(c) reasons for removal of the body part(s);

(ii) request the coroner to:

(a) direct a pathologist or other qualified persons to remove the required body part(s); and

(b) delay the authority to release the body of the deceased until such time as the examination of the body part(s) has been completed and the body part(s) has been returned to the body;

(iii) attend at the mortuary where the deceased is located and request the pathologist or other qualified persons to remove the required body part(s) from the deceased as directed by the coroner;

(iv) take possession of the body part(s);

(v) in cases where fingers are removed, place the fingers in individual, clearly marked containers indicating the designation of the finger contained therein (i.e. right thumb, left index); and

(vi) complete a QP 0070: 'Morgue Tag' and attach it to the body part(s) or the receptacle in which the body part(s) is placed.

A fingerprint technician or scenes of crime officer who takes possession of a body part(s) is to:

(i) commence examination of the body part(s) as soon as practicable ensuring that the body part(s) is retained for the shortest time possible; and

(ii) advise the investigating officer if the examination of the body part(s) will cause a significant delay in the release of the deceased from the mortuary.

An investigating officer who receives advice from a fingerprint technician, scientific officer or scenes of crime officer that the examination of a body part(s) will cause a significant delay in the release of the deceased from the mortuary, is to confirm the coronial counsellor has advised the deceased's next of kin or representative of the delay and the reason for the delay.

A fingerprint technician, scientific officer or scenes of crime officer who has completed all necessary examinations of a body part(s) is to:

(i) return to the mortuary where the deceased is held and in the presence of a pathologist or other qualified person, place the body part(s) with the deceased;

(ii) advise the coroner of the return of the body part(s) to the deceased; and

OPM Issue 113 Public Edition

(iii) where the examination of the body part(s) has caused a significant delay in the release of the deceased from the mortuary, advise the investigating officer of the return of the body part(s).

An investigating officer who receives advice from a fingerprint technician or scenes of crime officer that a body part(s) has been returned to the deceased is to, where the next of kin or representative is awaiting the release of the deceased from the mortuary, notify the coronial counsellors to advise next of kin or representative of the availability of the body for release from the mortuary.

8.14.7 Requests for autopsy by relatives or interested party

Where a relative or interested party requests an autopsy to be conducted in situations when:

(i) a cause of death certificate has been issued without an autopsy having been conducted; or

(ii) there is an allegation the person who is to conduct, or help at, an autopsy caused the deceased person's death (see s. 19(8)(a): 'Order for autopsy' of the *Coroners Act*),

the officer receiving the request is to advise the relevant coroner on behalf of the relative or interested party.

8.14.8 Obtaining autopsy related documents

When compiling a report to a coroner and the investigating officer requires documentation relating to an autopsy (a Form 29 or 30 and statements of continuity of identification) or test results related to an autopsy, those officers should make a request by completing and submitting a QP 0528: 'Supplementary Form 1 – Police Report of Death to a Coroner' (in QPRIME) outlining the documents required and for what purpose, for the coroners consideration.

8.15 Finalising the investigation

When completing a Form 1 (in QPRIME), investigating officers are to note in the 'Summary of Incident' section of the form:

(i) if the investigation is finalised; and

(ii) where further investigations are required, the direction of those investigations (i.e. the avenues of investigation and for what purpose).

The submission of a Form 1 for a non-suspicious reportable death should finalise the investigation, except where the coroner orders an inquest or that a death be further investigated. In such circumstances, officers are to compile a report and attach all relevant material. This becomes the file that is forwarded to the coroner for determination.

Where a prosecution is commenced against a person in connection with a reportable death the Coronial Support Unit (Coroners Court of Queensland) will provide the presiding coroner a copy of the Court Brief (QP9). If at the end of the criminal proceedings further information is required, the coroner may request a copy of the brief of evidence through the CSU.

If requested, the brief of evidence should be accompanied by a general covering report outlining:

(i) the current status of the court proceedings, including forthcoming court dates; and

(ii) any further matters which may not have been reported in the criminal brief but which may be relevant to the Coroner's obligation to make findings (refer to s. 45: 'Coroner's findings' of the *Coroners Act*).

Where officers are advised that a coroner orders an inquest, they will be advised with a Form 17: 'Coroners Notice of Inquest'.

Where a Form 1 has been submitted to a coroner relating to a non-suspicious reportable death, the coroner will advise the investigating officer through CSU by a 'Coroners direction/request' in a QPRIME tasking, to the OIC of the investigating station or establishment as to whether:

(i) no further police investigation is required;

(ii) any further statement(s) and information is required;

(iii) a full police investigation is required; or

(iv) any other requests are required.

It is the responsibility of the relevant OIC to ensure the coroner's direction or request is assigned as a QPRIME task to the relevant investigating officer.

Officers are to comply with any direction given by the coroner.

A coronial file is to consist of the following:

(i) a covering report;

(ii) forms (see s. 8.15.2: 'Forms and statements' of this chapter);

OPM Issue 113 Public Edition

(iii) statement of witnesses;

(iv) in cases of a child, a copy of a QPS Child Death Information Request form, located on the CSU Operational Resources SharePoint page; and

(v) supporting material.

Information on updating the status of the occurrence relating to the stage of the investigation is provided in 'Updating the status of sudden death occurrences in QPRIME' in s. 8.15.3: 'QPRIME' of this chapter.

8.15.1 Covering report

When submitting a finalised coronial file relating to a death as a result of a coroner's direction requesting a full coronial investigation or a Form 17: 'Coroners Notice of Inquest' from a coroner, the investigating officer should prepare and attach a covering report showing results of inquiries within 28 days to the OIC of the relevant station or establishment.

If a finalised report cannot be furnished within 28 days, the investigating officer is to furnish a QP 0528: 'Supplementary Form 1 – Police Report of Death to a Coroner' (in QPRIME) to that officer's OIC detailing the progress of the investigations, including if any person has been charged with any offence surrounding the death and the result of any court proceedings. The investigating officer is to ensure a further QP 0528 is furnished every 28 days, until the matter is finalised, to the OIC of the relevant station or establishment.

Officers are to ensure a task is assigned to a supervisor to check the QP 0528, prior to workflow notification to the CSU being commenced.

The checking supervisor is to generate a QPRIME workflow to the CSU who will provide the QP 0528 to the relevant local coroner.

Where there are suspicious circumstances, or the finalised coronial file is being submitted by a specialist unit member, the covering report should contain:

(i) an outline of the investigation in chronological order detailing all inquiries made and the results. Where any person has been charged in relation to the death, that person's particulars and details of the charges should be included. All inquiries undertaken should be recorded, including unsuccessful;

(ii) a list of all forms attached to the file;

(iii) a list of all statements attached to the file;

(iv) a precis of the contents of each statement attached to the file; and

(v) a list of all officers involved in the continuity of identification.

Where the following is established at the conclusion of inquiries:

(i) the death is apparently due to natural causes;

(ii) there are no suspicious circumstances; and

(iii) injury is not a contributory cause of death,

the covering report QP 609: 'Sudden Death—No Suspicious Circumstances' is to be used.

The report should contain a list of all forms and statements attached to the file.

ORDER

Where an officer wishes to express a personal opinion, as distinct from a fact, on any matter, the officer is to ensure that opinion is clearly identified as an opinion only.

8.15.2 Forms and statements

Forms

ORDER

In finalising the coronial report, the investigating officer is to submit:

(i) a copy of the original Form 1 (in QPRIME) and a QP 0528: 'Supplementary Form 1 – Police Report of Death to a Coroner' if applicable;

(ii) the QP 0001: 'Life Extinct Form' with the original Form 1;

(iii) the copy of the QPB32A: 'Field Property Receipt' for property located on or in the possession of the deceased;

(iv) the police copy of the Autopsy Certificate (Form 30) and Autopsy Notice (Form 29); and

(v) in cases of a child, a QPS Child Death Information Request form located on the CSU Operational Resources SharePoint page.

OPM Issue 113 Public Edition

Statements

Statements should be obtained and submitted from all persons who have significant knowledge of the cause or circumstances of the death.

The purpose of supplying statements to a coroner is to provide a complete picture of the events and circumstances surrounding the death. While no specific direction exists as to whom statements should be obtained from, consider:

(i) the person who last saw the deceased alive;

(ii) the person who discovered the body;

(iii) any witnesses to the death;

(iv) any person who may provide information in relation to the scene of the death;

(v) ambulance officers who attended the scene or transported the deceased;

(vi) an expert who may be able to make comment on any particular matter or circumstance which has bearing on the death; and

(vii) any person or member who was involved in the chain of identification.

Statements obtained in respect of a coronial matter may contain hearsay evidence and conversation in the third person. Where possible, conversation should be in first person.

8.15.3 QPRIME

Supporting material

Any other material of investigative value should be scanned and attached to the relevant QPRIME Sudden Death Occurrence. Where appropriate, this will include:

(i) photographs taken of the scene or body; where a scenes of crime officer is unable to attend and a Service issued BWC, or QLiTE device, is used to capture the scene and body, these images are to be uploaded to Evidence.com and not stored elsewhere (see s. 4.4: 'Body worn cameras' of the DERIE Manual);

(ii) certificates of analysis of blood or other body samples;

(iii) sketches or plans of the scene of the death;

(iv) diaries, letters or other personal correspondence, where this provides an insight into the state of mind of the deceased, and is relevant to the investigation;

(v) any medical prescriptions;

(vi) suicide note where applicable; and

(vii) any other relevant documentation.

OPM Issue 113 Public Edition

Updating the status of sudden death occurrences in QPRIME

The management of coronial investigations within QPRIME is a three-stage process, which is reflected by the status of the occurrence:

(i) investigation continuing—when police are actively investigating the death, interviewing witnesses or suspects and compiling the coronial file;

(ii) finalised—when all police investigations and coroner's reports have been completed and any relevant charges have been laid. The police investigation into non-suspicious deaths will be finalised prior to the autopsy results being issued by the Coroner.

(iii) concluded—when:

(a) all police investigations have been completed;

(b) a cause of death certificate has been issued by the deceased's treating doctor;

(c) the findings of the coroner have been released;

(d) all criminal proceedings related to the death have been finalised and the appeal period has lapsed; and

(e) all property and exhibits related to the death have been returned or disposed, as appropriate.

The CSU will send a QPRIME task to the OIC of the reporting work unit when the coroner's finding has been released. The task will include advice that all exhibits can be disposed of and the occurrence is to be concluded.

There may be a lengthy period of time between the occurrence being finalised by police and the coroner's findings being released.

ORDER

OICs of stations or establishments are to ensure all deaths occurring within their area is recorded in compliance with the status indicated within this section.

8.15.4 Responsibilities of officers in charge

OICs are to ensure:

(i) the original Form 1 and any QP 0528: 'Supplementary Form 1 – Police Report of Death to a Coroner' (completed in QPRIME) are forwarded or caused to be delivered to the local coroner;

(ii) the Sudden Death Workflow notification in relation to the Form 1 and QP 0528 has been sent to the CSU, Coroners Court of Queensland; and

(iii) once in each 24-hour period, the sudden death occurrences for the relevant division are checked in QPRIME and any appropriate action taken.

8.16 Coroner's court

8.16.1 Coroner's investigation Coroner's search warrants

Under s. 599: 'Coroner's search warrant' of the PPRA, a coroner may, on their own initiative, issue a search warrant for a place if the coroner reasonably suspects that there is evidence at the place that may be relevant to the coroner's investigation.

Where an officer believes that there is evidence that may be pertinent to a coronial investigation, and that a warrant is required to obtain that evidence, that officer should submit a QP 0528: 'Supplementary Form 1 – Police Report of Death to a Coroner' (available in QPRIME) to the relevant QPRIME occurrence detailing why the evidence is relevant to the coronial investigation and a recommendation for the coroner to issue a Coroner's search warrant.

The powers under a Coroner's search warrant are contained in s. 599(4) of the PPRA.

See s. 2.8.6: 'Coroner's search warrant' of this Manual.

ORDER

Where an officer executes a Coroner's search warrant that officer is:

(i) to comply with s. 158: 'Copy of search warrant to be given to occupier' of the PPRA (see s. 599(5) of the PPRA); and

(ii) not to exercise a power under subsection (4)(c) to (f) of s. 599 of the PPRA unless the officer reasonably suspects that the exercise of the power is necessary for the coroner's investigation.

OPM Issue 113 Public Edition

8.16.2 Inquest or pre-inquest conference

District officers where the incident occurred are to ensure welfare support is provided to attending members required to give evidence as well as information about the coronial process.

The district officer where the death occurred is to appoint a commissioned officer to attend the inquest to:

(i) monitor the welfare of Service members giving evidence; and

(ii) provide daily updates to the district officer about the inquest so the senior executive can be aware of the evolving court proceedings.

Investigating officers are to attend an inquest or pre-inquest conference when required by a coroner. Where the investigating officer is unavailable, an officer with knowledge of the investigation should be nominated to attend.

In cases where a person has been summoned to appear as a witness at a coroner's court where no statement has been previously obtained, the investigating officer is to ensure the statement is obtained wherever possible and added to the relevant QPRIME Sudden Death Occurrence.

Where witnesses will be required to attend an inquest or pre-inquest conference, the investigating officer or delegated officer is to ensure the witness expense claims are completed and submitted (see s. 3.10: 'Witnesses' of this Manual).

Exhibits for a coronial investigation are to be held in compliance with s. 4.6.9: 'Disposal of deceased person's property' of this Manual.

8.16.3 Giving evidence in coronial inquests

ORDER

Where a member is asked to express a personal opinion, as distinct from a fact on any matter in the course of giving evidence in an inquest, the member is to ensure the opinion is clearly identified as a personal opinion only and not the opinion of the Service.

See 'Performance and Conduct' on the Human Resources SharePoint page.

8.16.4 Coroner's findings and recommendations

District officers are to ensure any response to a coroner's finding or recommendation is forwarded to the Office of the Deputy Commissioner, Specialist Operations.

8.16.5 Persons committed for trial or sentence as a result of an inquest

The following refers only to coroner's inquest matters for which the *Coroners Act 1958* still applies. See s. 100A: 'Application of repealed Act to unfinished repealed Act inquest' of the *Coroners Act*.

When, as a result of a coroner's inquest, a person is committed to a Superior Court for trial or sentence, in accordance with the *Coroners Act 1958*, and a QPRIME occurrence in respect to the subject matter of the inquest:

(i) was not previously created, the investigating officer responsible for the investigation that resulted in the holding of the inquest, is to ensure a QPRIME occurrence is created; or

(ii) has previously been created (e.g. suspected murder, suspected arson), a QP 0528: 'Supplementary Form 1 – Police Report of Death to a Coroner' (available in QPRIME) should be created by the investigating officer responsible for the investigation that resulted in the holding of the inquest.

At the time a person is committed for trial or sentence in accordance with the *Coroners Act 1958*, as a result of an inquest, the prosecutor assisting the coroner is to ask the coroner for an order under s. 471: 'Court may order taking of identifying particulars' of the PPRA, for the person's identifying particulars. In cases where a prosecutor is not assisting the coroner, the investigating officer is to ask the person helping the coroner during that inquest to ask the coroner for such an order.

At the time a person is committed for trial or sentence as a result of an inquest, the prosecutor assisting the coroner is to ensure particulars of the committal are entered into QPRIME (capture court results) in accordance with s. 3.6.2: 'Responsibilities of police prosecutors' of this Manual. In cases where a prosecutor is not helping the coroner, the investigating officer is to make the necessary arrangements with the relevant Police Prosecution Corps for the particulars of the committal to be entered into QPRIME.

8.17 Miscellaneous coronial matters

8.17.1 Funeral directors

Investigating officers are to use the services of the relevant contracted government undertaker. There is no obligation on the family of the deceased person to use the services of this funeral director.

Officers investigating a sudden death are not to:

(i) pass on literature supplied by a funeral director to relatives and friends of the deceased person; or

(ii) supply details of relatives and friends of deceased persons to a funeral director, other than the required details to the relevant government undertaker.

8.17.2 Organ and tissue donation

Definitions

For the purpose of this section, the following definitions apply:

Designated officer

as provided in s. 4: 'Interpretation' of the *Transplantation and Anatomy Act* (TAA).

Next of kin

as provided in s. 4: 'Interpretation' of the TAA.

Organ donors (deaths occurring in Intensive Care Unit of a hospital)

Where persons who have expressed their consent for the removal after death of organs and tissues (see ss. 22: 'Authority to remove tissue where body of deceased in a hospital' and 23: 'Authority to remove tissue where body of deceased not in hospital' of the TAA), personnel from DonateLife Queensland, the State Organ and Tissue Donations Service, will coordinate the legal and medical processes including the surgical retrieval for donation.

Consultation is to take place between the treating medical officer, the forensic pathologist performing the autopsy and the coroner before any donated organs, tissues or both can be removed from a body after death. A coroner will only consent to the process if the government pathologist, government medical officer, or other medical practitioner, as applicable, who will complete the autopsy, is convinced that the police investigation would not be compromised in any way.

OPM Issue 113 Public Edition

Consent for the removal of any organs or tissues is contained in Part 3: 'Donations of tissue after death' of the TAA. No retrieval can occur without the post death consent of the senior available next of kin, the authorisation of a designated officer and the consent of the coroner. Any consultation which may be required to complete this process will also be handled by DonateLife personnel.

DonateLife personnel will liaise with the next of kin of the deceased and complete the necessary forms relating to the proposed organ donation. This will include:

(i) the QP 0450: 'Hospital Identification Statement' where a third party ID will be performed with the DonateLife personnel and the next of kin; and

(ii) DonateLife personnel will use an identification sticker bearing the Hospital UR number which is unique to the deceased person on all relevant documents.

At the end of the retrieval procedure:

(i) DonateLife personnel will place the Hospital Identification Statement in a clear plastic sleeve and insert inside the mortuary body bag of the deceased, and

(ii) DonateLife personnel will notify police to transport the deceased to the Coronial and Public Health Services (metro Brisbane) or the hospital mortuary (in regional Queensland) in compliance with the provisions of s. 8.14.1: 'Removal of bodies from scene' of this chapter.

Tissue Donors (reportable deaths which occur outside of a hospital intensive care unit)

Tissue donors are those individuals whose death did **not** occur within a hospital intensive care unit (organs are not suitable for donation in these circumstances).

Where an officer is approached by relatives offering tissue donation on behalf of a deceased, the officer should contact the Tissue Bank (see SMCD) and advise them, where possible, of the deceased's:

(i) name;

(ii) age;

(iii) date of birth;

(iv) date, time, current location and circumstances of death;

(v) address; and

(vi) relative's contact details.

The wishes of the next of kin can be added into the summary on the Form 1.

OPM Issue 113 Public Edition

8.17.3 Exhumation

To enable an autopsy of a body to be conducted, s. 20: 'Exhuming body or recovering cremated remains' of the *Coroners Act* allows the State Coroner to order a body to be exhumed or the cremated remains to be recovered.

As the exhumation of a body is an event which has the potential for causing a great deal of trauma for the relatives and friends of the deceased, the Service will not seek the exhumation of a body or recovering of cremated remains except under the most pressing circumstances.

An application for exhuming a body or recovering cremated remains is to be based on a thorough investigation of the circumstances and the information obtained must be capable of being presented in a criminal court proceeding or Coroners Court. Mere suspicion may result in the application being rejected.

An officer who is of the opinion that an exhumation order should be sought is to submit a full and detailed report to the officer in charge of the region or command indicating:

(i) full details of the circumstances of the death and the investigations of the death prior to burial, supported by all available relevant documentary evidence such as certificates and statements;

(ii) a detailed location and description of the grave site supported by documents from the undertaker and the local authority controlling the cemetery and the section's records, or if the body was cremated and the cremated remains may be recovered, the location of the cremated remains;

(iii) full and comprehensive details of the suspicion;

(iv) full and comprehensive details of the investigation into the circumstances of the death and suspicions, supported by all relevant documentary evidence such as statements;

(v) why there is the necessity for an exhumation;

(vi) what further achievements in the investigation would occur should the exhumation order be approved, e.g. charging of a defendant with a serious criminal charge and the establishment of the correct cause of death; and

(vii) whether the deceased's next of kin has been consulted and if so, their attitude to the possible exhumation.

As indicated it is necessary to have a full brief of evidence completed to the stage where all that is required is the details of the exhumation and the results of subsequent examinations.

An OIC of a region or command who receives a report seeking approval for an exhumation should make a recommendation before forwarding the report through usual channels to the Commissioner.

Where, an order has been issued by the State Coroner, the authorised investigating officer may enter a place stated in the order and stay there for as long as reasonably necessary to exhume the body or recover the cremated remains. This officer must arrange for the body or cremated remains to be taken, in accordance with the directions of the order, to a place stated in the order.

When an order under s. 20 of the *Coroners Act* is issued, the officer in charge of the region or command is to detail a commissioned officer to attend the exhumation. The coroner may attend the exhumation.

The commissioned officer who is to attend the exhumation is to ensure that the investigating officer responsible for the exhumation:

(i) consults the undertaker and sexton as to the practical method of performing the exhumation;

(ii) records every stage of the exhumation process, preferably on video, otherwise by means of extensive notes;

(iii) obtains soil samples at regular intervals from the exhumation site;

(iv) obtains the control soil samples from adjacent areas;

(v) arranges for the exhumation site to be closed from the public, with partitions if possible;

(vi) carries out any other duty as requested by the State Coroner; and

(vii) in circumstances where:

(a) no QPRIME entry exists, add the deceased as a QPRIME Sudden Death Occurrence; or

(b) if a QPRIME entry exists, update the relevant sudden death occurrence.

The commissioned officer attending is to furnish a report to the officer in charge of the region or command for forwarding to the Commissioner outlining details of the exhumation or the recovered cremated remains.

Reburial

ORDER

The investigating officer is to arrange for the body or cremated remains to be taken, in accordance with directions of the order (Form 11: 'Order for return of exhumed body or cremated remains'), to a place stated in the order. The State Coroner must, as soon as reasonably practical, after the autopsy, order the body or cremated remains to be returned to the place from where they were taken. The investigating officer is to contact the next of kin, if possible, and advise of any reburial.

OPM Issue 113 Public Edition

8.17.4 Burials Assistance Act 1965

The Director-General (DG), Department of Justice (DJ), has an obligation to arrange for the burial or cremation of a deceased person where no other person has made arrangements for the disposal of the body (see s. 3: 'Burial or cremation of the dead' of the *Burials Assistance Act* (BAA). Police are obliged to assist the DG in this function. The powers provided under the BAA are normally used when no suitable arrangements for the disposal of the body have been or are being made.

Responsibilities of investigating officer

ORDER

When an officer investigates the death of a person and it becomes apparent that no suitable arrangements have been, or are being made, to dispose of the body, that officer is to:

(i) make all inquiries necessary to locate any relatives or friends of the deceased and ascertain if any of these persons are prepared to arrange for burial or cremation; and

(ii) where no friend or relative is able or prepared to arrange for burial or cremation of the body, notify the DG, DJ or the registrar of the local Magistrates Court outside of Brisbane, as appropriate.

When officers are required to notify the DG, DJ or, in areas outside Brisbane, the Registrar of the local Magistrates Court that assistance under the BAA is required, they are to:

(i) complete and submit a Coroners Court of Queensland (CCQ) Funeral Assistance Scheme application, and

(ii) save the completed CCQ application form in the relevant QPRIME 'Sudden Death occurrence'.

Where assistance is sought under the BAA it is the responsibility of the DJ to make the arrangements for the burial or cremation.

Where an officer is able to locate a relative or friend who is willing to take responsibility for the deceased's funeral but is unable to meet the cost of such funeral, the officer should advise the relative or friend to contact DJ, or Magistrates Courts outside of Brisbane, to request assistance under the BAA.

Officers should advise any relative or friend who is seeking assistance under the BAA that such a burial is to be conducted by the contracted government undertaker for the area.

Interim report

ORDER

When officers are making inquiries with a view to arranging the disposal of a body, and the body has been held at a mortuary for more than 3 months, they are to submit a report to their OIC outlining the inquiries made to that point and the results of those inquiries.

8.17.5 Costs in obtaining expert medico/legal opinions and reports

Investigations of a death may at times require opinions or reports to be provided by suitably qualified experts in various sciences (e.g. engineering, pharmacology etc.). Costs associated with these types of investigations may be met by the Coroners Court of Queensland. However, the approval of the State Coroner is to be obtained prior to engaging any expert.

Officers who identify the need to, or who are directed or requested to, obtain the services of a suitably qualified expert in relation to the investigation of a death, in cases where costs will be incurred, are to furnish a report to their assistant commissioner for referral to the relevant Coroner. Upload the report to the relevant QPRIME Sudden Death Occurrence. The report is to identify the particular investigation, the need for the opinion or report of the suitably qualified expert, costs expected to be incurred, and a request for approval by the State Coroner of the required expense.

OPM Issue 113 Public Edition

Chapter 9—Domestic and Family Violence

9.1 Introduction 788

9.1.1 Confidentiality of an aggrieved, named persons and respondent to be protected 788
9.1.2 Definitions for DFV 788

9.2 Investigation and response to DFV 792

9.2.1 Procedures on receipt of an initial DFV report 792
9.2.2 Reporting requirements on receipt of an initial DFV report 793
9.2.3 DFV relevant relationship 793
9.2.4 DFV investigative powers under the PPRA 793
9.2.5 Holistic investigation of DFV 793
9.2.6 Initial DFV investigative action 794
9.2.7 Initial actions when a person attends a station or establishment in relation to a DFV matter 796
9.2.8 Initial action to be taken where the respondent's location is unknown 796
9.2.9 Detention under the PPRA 797
9.2.10 Domestic violence protective assessment framework (DV-PAF) 798
9.2.11 Choking, suffocation or strangulation in a domestic setting 799
9.2.12 Intimate images 799
9.2.13 Safeguards 800

9.3 Actions to be taken by officers after completing a holistic investigation 800

9.3.1 Commencing proceedings for statutory offences 800
9.3.2 Contravention of DVO, release conditions, PPD or PPN 801
9.3.3 Police protection direction (PPD) 803
9.3.4 Police protection notice (PPN) 807
9.3.5 Taking a respondent into custody under the DFVPA 809
9.3.6 Application for a DVO 813
9.3.7 Application for a temporary protection order (TPO) 814
9.3.8 Application to vary a DVO (increase conditions) 815
9.3.9 Respondent continues to commit DFV before court order is issued 818
9.3.10 Where the order has been issued but is not yet served 818
9.3.11 Cross-orders 819
9.3.12 DFV as a result of the serious injury or death of a child 820
9.3.13 Police action to be taken where applying for a DVO or issuing a PPD is not appropriate 820
9.3.14 Completion of QPRIME custody and search reports 822
9.3.15 Recording DV offence on a person's criminal history 822
9.3.16 DFV referral agencies 823
9.3.17 Recorded statements 823
9.3.18 Surrender of weapons and weapons licences after being named as a respondent in a TPO, PPD, PPN or release conditions 824
9.3.19 Concise grounds for a PPD, PPN or DV 01 825

9.4 Electronic monitoring (DVO condition)—Caboolture and Townsville pilot 825

9.4.1 Court ordered DVO condition to wear an electronic monitoring device 826
9.4.2 Action on imposing an electronic monitoring DVO condition 827
9.4.3 Electronic monitoring device alerts 827
9.4.4 Police communications centre responsibilities when an alert has been generated and imminent risk to another person 827
9.4.5 First response officers 827
9.4.6 Respondent held in a watch-house wearing an electronic monitoring device 827
9.4.7 Electronic monitoring device removal 828
9.4.8 Actions on court varied DVO 828
9.4.9 Actions on electronic monitoring device fault 828
9.4.10 Officers requiring electronic monitoring data for court 828
9.4.11 Travel advice from a respondent wearing an electronic monitoring device 829

9.5 Assisting persons involved in DV 829

9.5.1 Transport assistance to an aggrieved 829
9.5.2 Transport and accommodation assistance to a respondent 830

OPM Issue 113 Public Edition

9.5.3 Assisting persons involved in DV to retrieve property 831

9.6 Service of DV documents 833

9.6.1 Method of service 833
9.6.2 Determining method of service 833
9.6.3 Service risk considerations 833
9.6.4 Tell provisions 834
9.6.5 Personal service 834
9.6.6 Electronic Service of DFV prescribed (and related) documents 834
9.6.7 Affirmation of statement of police service 835
9.6.8 Affidavit of service 835
9.6.9 Service of a PPD or PPN and Grounds 835
9.6.10 Service of court orders 836
9.6.11 Release from custody 836
9.6.12 Documents to be fully explained 837
9.6.13 QPRIME checks prior to serving documents 837
9.6.14 Service of unserved documents 837
9.6.15 Giving documents to the aggrieved 837
9.6.16 Power to give a direction to remain or move to another location 838
9.6.17 DVO, PPD or PPN unable to be served 839
9.6.18 Relevant document service on prisoners by QCS (Brisbane Correctional Centre Trial) 839

9.7 Interstate (National Domestic Violence Order Scheme) and registered foreign (New Zealand) orders 841

9.7.1 Declaring an order under the National Domestic Violence Order Scheme 841
9.7.2 Officers are to comply with the Victims of Crime Assistance Act 841
9.7.3 Enforcing a nationally recognised interstate order/registered foreign order 841
9.7.4 Officer to complete a domestic violence request form 842
9.7.5 Investigating an undeclared interstate or unregistered foreign (New Zealand) domestic violence order 842

9.8 Children involved in or exposed to DFV 842

9.8.1 A child may be an aggrieved or a respondent in intimate partner or informal care relationships only 842
9.8.2 Including the names of children in a DVO 843
9.8.3 Children who are the victims of a criminal offence 843
9.8.4 Other action to protect children exposed to DV 843
9.8.5 Children's evidence in DV proceedings 844
9.8.6 Service of DV documents on children 845
9.8.7 Police action regarding DFV involving a child in a family relationship 845

9.9 DV court related matters 846

9.9.1 Police prosecutor's role in private applications 846
9.9.2 Documents required by police prosecutor 847
9.9.3 Responsibilities of police prosecutors (police and private applications) 848
9.9.4 Role of prosecutor in cross applications 848
9.9.5 Role of prosecutor in tenancy applications 849
9.9.6 Role of prosecutor under s. 68R of the Family Law Act 849
9.9.7 Preparation of briefs of evidence 849
9.9.8 Appeals under the DFVPA 852
9.9.9 Consultation with Community Justice Groups 853
9.9.10 Intervention orders 854
9.9.11 Service to appear and make representations at a variation of an order 854
9.9.12 Withdrawal of DVO applications 854
9.9.13 Diversion orders scheme (Brisbane Magistrates Court only) 855

9.10 QPRIME DV occurrences 856

9.10.1 Responsibilities of an OIC to ensure DV entries are entered into QPRIME 856
9.10.2 Responsibilities of an officer taking action against a respondent for offences under the DFVPA 856
9.10.3 Responsibilities of releasing officers prior to releasing respondents from custody 857
9.10.4 Authorisation to receive documents 857
9.10.5 Responsibilities of OIC of stations or establishments receiving DFV documents 857
9.10.6 Police Information Centre management of DFV documents 857

OPM Issue 113 Public Edition

9.11 Proceedings initiated against members of the Service 857

9.11.1 Responsibilities of members who initiate or become aware of DV proceedings against a member of the Service 858
9.11.2 Responsibilities of members who have DV proceedings initiated against them 858
9.11.3 Possession of weapons by members who are subject to DV proceedings 858

9.12 PPD reviews 860

9.12.1 Police Review of a PPD 860
9.12.2 Court Review of a PPD 864

9.13 DFV coordination 864

9.13.1 District DFV specialist responsibilities 864
9.13.2 Domestic, Family Violence and Vulnerable Persons Group (DFV&VPG) 865
9.13.3 Regional DFV liaison officers 865
9.13.4 District DFV coordinators 865
9.13.5 Station DFV liaison officers 866
9.13.6 Deleted 866

9.14 High risk teams 866

9.14.1 Responsibilities of district officers 866
9.14.2 Responsibilities of DFV&VPU officers and DFV coordinators (DFVC) 867
9.14.3 Responsibilities of QPS HRT senior project officers 867

9.15 Relevant information exchange 868

9.15.1 Limitations on information that may be shared 869
9.15.2 Confidential information 869
9.15.3 Recording requests for information exchange 869
9.15.4 Sharing of information in relation to PPDs 869
9.15.5 Supplying information to the court on application for a protection order involving parties to the PPD 870

9.16 Domestic and family violence homicide review 870

9.16.1 Domestic, Family Violence and Community Engagement Group (DFVCEG) review 870
9.16.2 Independent Regional Crime Coordinator review 870

OPM Issue 113 Public Edition

9.1 Introduction

The Queensland Police Service Domestic and Family Violence Doctrine and Queensland Police Service Domestic and Family Violence Strategy establish our commitment to domestic and family violence. This commitment will enable the Service to deliver victim-centric, trauma-informed responses to domestic and family violence and drive continual improvement, best practice and an integrated Service-wide policing agenda to reduce domestic and family violence and make Queensland the safest state.

The Service recognises the importance of the police response, as officers are often the first contact a victim-survivor has with the criminal justice system.

Domestic and family violence can affect any person regardless of race, gender, age, beliefs, religion or socio-economic or cultural background. The causes of domestic and family violence are complex, multi-faceted and influenced by broad and intersectional criminal justice, health and social issues. While any individual can be a victim of domestic and family violence and domestic and family violence can occur in any relationship, the evidence clearly demonstrates domestic and family violence is overwhelmingly a gendered issue embedded in structural inequalities and power imbalances, and the rate of domestic and family violence committed against women and children of all ages is significantly higher than against men.

The Service recognises domestic and family violence (DFV) is a serious and complex social problem within the community.

When responding to DFV matters, officers are to apply victim-centric and trauma-informed practices that protect victim-survivors and their children, hold perpetrators to account and contribute to reducing community harm.

Officers are responsible for assessing and evaluating all reported DFV and conducting a holistic, victim-centric and trauma-informed investigation with the paramount aim of:

(i) maximising the safety, protection and wellbeing of people who fear or experience DFV, and to minimise the disruptions to their lives;

(ii) preventing or reducing DFV and the exposure of children to DFV;

(iii) ensuring people who commit DFV are held accountable for their actions; and

(iv) appropriate identification of the person most in need of protection.

Officers should actively enforce legislation and make use of investigative skills and evidence gathering procedures to identify and support the person most in need of protection. Additionally, they should hold perpetrators of abuse and violence responsible and accountable for their behaviour by commencing proceedings for associated criminal offences, where appropriate.

Officers should work in partnership with government and non-government agencies to develop strategies to reduce the incidence of DFV and promote coordinated service delivery and appropriate referral points to those experiencing DFV, including where possible, the perpetrator.

OPM Issue 113 Public Edition

9.1.1 Confidentiality of an aggrieved, named persons and respondent to be protected

ORDER

Members are to keep confidential the contact details of an aggrieved, named person and respondent and are not to disclose their details verbally, written or electronically unless it is a requirement by law.

9.1.2 Definitions for DFV

For the purposes of this chapter the following definitions and abbreviations apply:

Associated DV

means associated domestic violence as defined under s. 9: 'Meaning of *associated domestic violence*' of the DFVPA.

Aggrieved

means the person for whose benefit a DVO, PPD, PPN or release conditions are in force or may be made under s. 21(1): 'Who is an *aggrieved* and who is a *respondent*' of the DFVPA.

Business days

means a day that is not a Saturday, Sunday or a public holiday, special holiday or bank holiday.

Child

means a child who is a biological, adopted or a step-child of the aggrieved or respondent, or both parties, including a child who is in the care or custody of the aggrieved or respondent, or both.

Court

means a Court under the definition of s. 6: 'Meaning of *court*' of the DFVPA.

DFV

means domestic and family violence. This includes DV as defined under s. 8: 'Meaning of *domestic violence'* of the DFVPA.

Domestic violence offence (DV offence)

means:

(i) an offence against an Act other than the DFVPA committed by a person where the act done, or omission made, which constitutes the offence is also:

(a) domestic violence (DV) or associated DV, under the DFVPA, committed by the person; or

(b) a contravention of s. 177(2): 'Contravention of domestic violence order' of the DFVPA,

(e.g. a wilful damage offence committed during a DV incident) (see s. 1: 'Definitions' of the CC);

(ii) an offence against part 7: 'Offences' of the DFVPA.

Domestic violence order (DVO)

means:

(i) a protection order; or

(ii) a temporary protection order; and

includes:

(i) an order made by a Queensland court;

(ii) a nationally recognised interstate order;

(iii) a registered foreign (New Zealand) order.

DV

means domestic violence as defined under s. 8 of the DFVPA.

DV 01

means a DV 01: 'Application for a Protection Order'.

DV 02

means a DV 02: 'Temporary Protection Order'.

DV 04

means a DV 04: 'Application to Vary a Domestic Violence Order'.

DV 21A

means a DV 21A: 'Statement of Police Service'.

DV 25

means a DV 25: 'Affidavit'.

DV other action

is where an officer determines:

(i) the involved persons are in a relationship as defined under s. 13: 'Meaning of *relevant relationship'* of the DFVPA; and

(ii) allegations of DFV have been made; or

(iii) DFV has occurred,

and after conducting a holistic investigation, determines a police application for a DVO, release conditions, PPD or PPN is not appropriate due to:

(i) insufficient evidence to support an application; or

(ii) a protection order is not necessary or desirable to protect the aggrieved; and

(iii) a supervising police officer, who has not been involved in the investigation of the reported DFV, authorises the matter to be finalised as a 'Domestic Violence—Other Action'.

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DV-PAF

means the Domestic Violence Protective Assessment Framework (see s. 9.2.10: 'Domestic violence protective assessment framework (DV-PAF)' of this chapter).

Issuing officer

means in relation to a PPD or PPN, the officer that issues and signs the:

(i) PPD and PPD Grounds; or

(ii) PPN and PPN Grounds,

regardless of who the serving officer is.

Local Magistrates Court

means:

(i) for a respondent named in a police protection notice, a Magistrates Court within the district where the police protection notice was issued against the respondent; or

(ii) for a respondent named in an application for a protection order prepared by a police officer under s. 118(1): 'Police officer must apply for protection order' of the DFVPA, a Magistrates Court within the district where the respondent was taken into custody under s. 116: 'Police officer may take person into custody' of the DFVPA.

Most senior officer on duty

means the officer present at the relevant station or establishment:

(i) who is most senior by rank; or

(ii) if there is no officer who is most senior by rank—who is most senior by continuous service as an officer.

No DV

is where allegations of DFV have been made and after conducting a holistic investigation an officer determines:

(i) the involved persons are in a relevant relationship as defined under s. 13: 'Meaning of *relevant relationship*' of the DFVPA; and

(ii) no DV has occurred as defined under s. 8: 'Meaning of *domestic violence*' of the DFVPA; and

(iii) a supervising police officer who has not been involved in the investigation of the reported DFV authorises the matter to be finalised as a 'Domestic Violence—No DV'.

Personal property

means property that is tangible or material things—chattels or goods. The term generally encompasses moveable property, for example, furniture, clothing or household goods. It can also include personal papers such as birth certificates or passports.

PMINOP

means the person identified under s. 22A: 'Who is the *person most in need of protection* in a relevant relationship' of the DFVPA as the person most in need of protection.

PPD

means either:

(i) the 'Police Protection Direction' part of a Form 1224D; or

(ii) a Form 1224: 'Police Protection Direction/Notice' issued as a PPD.

PPD Grounds

means either:

(i) the 'Police Protection Direction Grounds' part of a Form 1224D; or

(ii) a Form 1224G: 'Police Protection Direction/Notice Grounds' issued as part of a PPD.

PPD reviewing officer

means an officer:

(i) of the rank of senior sergeant or above (including officers temporarily performing higher duties for that rank);

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(ii) of a rank higher than the supervising police officer who approved the issuing of the PPD; and

(iii) who was not involved in the investigation of the reported DFV,

(see Delegations D 130.3 and D 130.4).

PPN

means either:

(i) the 'Police Protection Notice' part of a Form 1224N; or

(ii) a QP 1224: 'Police Protection Direction/Notice' issued as a PPN.

PPN Grounds

means either:

(i) the 'Police Protection Notice Grounds' part of a Form 1224N; or

(ii) Form 1224G: 'Police Protection Direction/Notice Grounds' issued as part of a PPN.

Property (of a person)

means:

(i) property the person owns; or

(ii) property the person does not own, but:

(a) is used and enjoyed by the person;

(b) is available for the person's use or enjoyment;

(c) is in the person's care or custody; or

(d) is at the premises at which the person is living.

Protection order

means an order made:

(i) after an application has been heard by a court and it has been determined by the court that:

(a) a relevant relationship exists between the aggrieved and the respondent;

(b) the respondent has committed DV against the aggrieved; and

(c) the protection order is necessary or desirable to protect the aggrieved from DV; or

(ii) the involved persons consent to the making of an order (see s. 51: 'Court may make or vary domestic violence order by consent' of the DFVPA);

(iii) by the court on its own initiative if the court convicts the person of a DV offence as defined in the schedule to the DFVPA (including on conviction for contravention of a PPD).

Release conditions

means a QP 0937: 'Release from custody conditions'.

Releasing officer

in relation to a person in custody, means:

(i) the most senior officer on duty at the station or establishment: or

(ii) if the person is in custody at a watch-house:

(a) the watch-house manager; or

(b) an officer performing duties at the watch-house in relation to the person in custody.

Relevant station

means the station or establishment area in which the respondent ordinarily resides or was last known to reside.

Relevant relationship (see s. 13 of the DFVPA)

means:

(i) an intimate personal relationship (see ss. 15: 'Meaning of *spousal relationship*', 17: 'Meaning of *engagement relationship*', 18: 'Meaning of *couple relationship*' of the DFVPA);

(ii) a family relationship (see s. 19: 'Meaning of *family relationship* and *relative*' of the DFVPA); or

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(iii) an informal care relationship (see s. 20: 'Meaning of *informal care relationship*' of the DFVPA).

Respondent

means the person against whom a DVO, PPD, PPN or release conditions are in force or may be made under the DFVPA.

Serving officer

means in relation to a PPD or PPN, the officer that serves the:

(i) PPD and PPD Grounds; or

(ii) PPN and PPN Grounds,

completed and signed by the issuing officer, regardless of who the issuing officer is.

Specialist DFV officer

includes:

(i) a DFVC;

(ii) a DFV officer; and

(iii) officers of a DFV and vulnerable persons unit, while performing DFV-related functions.

Supervising police officer

means an officer who has not been involved in the investigation of the reported DFV of the rank or above of (including officers temporarily performing higher duties for that rank):

(i) sergeant for the approval of the:

(a) finalisation of a matter as a No DV or DV other action;

(b) issuing of a PPD or PPN (subject to (ii) below); and

(c) inclusion of a cool-down condition and/or named persons on a PPN; and

(ii) senior sergeant for the approval of a PPD or PPN which includes an ouster condition or a no-contact condition.

A supervising police officer has not been involved in the investigation where they are not the investigating officer of the reported DFV. A senior police officer may attend the scene of a DFV incident to render the location safe or for the purpose of supervision and overview of the response to the reported DFV. The investigating officer is the member responsible for the investigative process involving the collection of evidence and interviewing of witnesses.

Temporary protection order (TPO)

means an order made in the period before a court decides whether to make a protection order.

Victim-centric and trauma-informed

means a systematic focus on the needs and concerns of a victim survivor to ensure the compassionate and sensitive delivery of services in a non-judgemental manner which seeks to minimise re-traumatisation. This approach seeks to understand the physical, social and emotional impacts of trauma on individuals.

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9.2 Investigation and response to DFV

9.2.1 Procedures on receipt of an initial DFV report

Members receiving an initial report relating to DFV, where the identity of the involved persons or the location of the incident is known are to conduct checks, or cause checks to be completed, on the following information systems:

(i) QPRIME;

(ii) QCAD; and

(iii) NCIS (to identify any nationally recognised DVOs and DFV-related criminal history),

where available.

ORDER

Members who receive a report of:

(i) DFV; or

(ii) a contravention of a DVO, release conditions, PPD or PPN,

are to record particulars of the report on a relevant information recording system for future reference (see s. 1.6.1: 'Recording initial demand' of this Manual).

9.2.2 Reporting requirements on receipt of an initial DFV report

Members are **not** to create a QPRIME street check or intelligence submission to record an initial report of DFV.

When the initial report is received, the incident is to be classified as DV (i.e. job code 312) when:

(i) a person claims to be a victim of DFV;

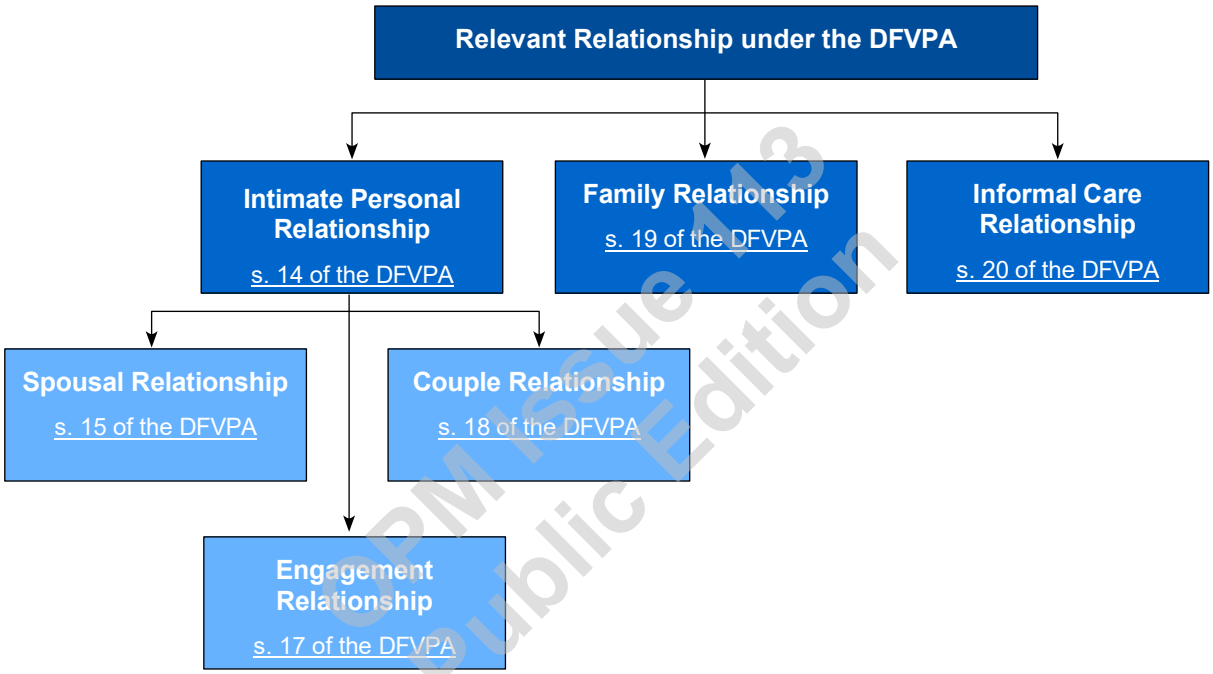
(ii) a person at the incident address claims DFV is occurring or has occurred;

(iii) a person at the incident address claims there is a current DVO, release conditions, PPD or PPN between the parties involved in the current incident; or

(iv) the information is received from a third party who is not at the incident address and the information is that DFV is occurring at the address.

9.2.3 DFV relevant relationship

Section 8: 'Meaning of *domestic* violence' of the DFVPA identifies behaviour which constitutes DFV and s. 13: 'Meaning of *relevant relationship*' of the DFVPA defines a relevant relationship.



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9.2.4 DFV investigative powers under the PPRA

Officers investigating reports of DFV should make use of investigative powers provided by the PPRA that officers do not have under the DFVPA, including:

(i) s. 19: 'General power to enter to make inquiries, investigations or serve documents';

(ii) s. 157: 'Powers under search warrant';

(iii) s. 160: 'Search to prevent loss of evidence';

(iv) s. 365: 'Arrest without warrant';

(v) s. 403: 'Initial period of detention for investigation or questioning';

(vi) Part 4: 'Identifying particulars' (ss. 467 to 473); and

(vii) s. 609: 'Entry of place to prevent offence, injury or domestic violence'.

9.2.5 Holistic investigation of DFV

ORDER

The member receiving the initial report is to ensure a holistic investigation is commenced in compliance with s. 9.2.6: 'Initial DFV investigative action' of this chapter.

ORDER

Officers are responsible for ensuring QPRIME occurrences are created and investigated, or action taken, under another Act in circumstances when no action is taken for matters involving a family relationship and one or both of the persons is under 18 years of age (see s. 1.11: 'QPRIME occurrences' of this Manual).

ORDER

Officers who receive a report of DFV (other than a child being a party in a family relationship) are to commence an investigation in accordance with s. 9.2.6 of this chapter. Officers who receive a report of DFV involving a child are to comply with s. 9.8: 'Children involved in or exposed to DFV' of this chapter.

ORDER

An officer who reasonably suspects DFV has been committed, is to investigate or cause to be investigated the circumstances surrounding the report. If, after conducting a holistic investigation, an officer reasonably believes DFV has been committed, within a relevant relationship (other than that involving a child in a family relationship), the officer is to consider whether it is necessary or desirable to take any action under s. 100(3): 'Police officer must investigate domestic violence' of the DFVPA to protect a person from further DFV.

ORDER

Where a report of a contravention of the DVO, release conditions, PPD or PPN is received, officers are to conduct a holistic investigation and approach these offences in the same manner as investigating any other criminal offence (see Chapter 2: 'Investigative Process' of this Manual).

Officers responding to a DFV call for service where the incident involves a relevant relationship and one of the persons is under 18 years of age should note that a child may only be named as an aggrieved or respondent if the relationship is an intimate personal relationship or an informal care relationship. A child cannot be named as an aggrieved or respondent in a family relationship but can be included as a named person (see s. 9.8: 'Children involved in or exposed to DFV' of this chapter).

Identification of person most in need of protection (PMINOP)

At any stage, where an officer is provided information relating to an application for a DVO or a DVO, which upon review determines the PMINOP has not been appropriately identified, the officer is to review all information and consider whether the PMINOP has been appropriately identified and take appropriate action as required (see s. 22A: 'Who is the *person most in need of protection* in a relevant relationship' of the DFVPA).

Where a determination is made that the PMINOP has not been appropriately identified, officers are to refer to ss. 9.4.8: 'Application to vary a domestic violence order' and 9.9.12: 'Withdrawal of DVO applications' of this chapter.

Review of particular occurrence types to ensure the PMINOP is identified

The Vulnerable Persons Group (VPG) has developed a number of operational resources and dashboards to assist officers enhance consistency and productivity to ensure the PMINOP is identified (see Gender-Centred Review User Guide on the VPG SharePoint page).

Responsibilities of district DFV specialist

A district DFV specialist is responsible for the regular and timely review of gendered applications, PPDs and orders, using the Gender-Centred Review dashboard to ensure the PMINOP has been identified and to make recommendations to an OIC of a station or establishment following the review where rectification work or further investigation is required.

The OIC of a station or establishment should review and consider the recommendation and either:

(i) action the recommendation from DFV specialist; or

(ii) if not proceeding with the recommendation partly or completely, provide reasoning for not accepting the recommendation or taking alternative action in QPRIME.

ORDER

The Gender-Centred Review is to be prioritised and is recommended to be undertaken daily.

9.2.6 Initial DFV investigative action

ORDER

Where a report of DFV has been received, the investigating officer is to:

(i) commence a holistic investigation in accordance with Chapter 2: 'Investigative process' of this Manual (officers should refer to the 'Guide to responding to domestic & family violence (DFV) incidents' and see s. 4.4: 'Body worn cameras' of the DERIE Manual);

(ii) determine if any DVOs, release conditions, PPDs or PPNs are in existence. This includes conducting checks via NCIS for any nationally recognised orders or any other order that is not yet nationally recognised;

(iii) identify the PMINOP;

OPM Issue 113 Public Edition

(iv) give or arrange for reasonable help to any person at the place;

(v) apply the DV-PAF (see s. 9.2.10: 'Domestic violence protective assessment framework (DV-PAF)' of this chapter) to assess risk and consider the protective needs of the aggrieved. This includes considering previous protective assessments relating to the aggrieved and protective assessments relating to other matters involving the respondent;

(vi) consider the circumstances of previous DFV reports and incidents. This includes considering reports and incidents relating to matters involving the respondent and another aggrieved;

(vii) take an affidavit or statement from the aggrieved (see also s. 9.3.17: 'Recorded statements' of this chapter);

(viii) ascertain whether any children (including unborn) who usually lives with either the aggrieved or respondent has been exposed to DFV;

(ix) identify any associated criminal offences and investigate or cause to be investigated the circumstances of those offences;

(x) identify and interview any witnesses;

(xi) identify and obtain the details of any witnesses to any preliminary complaint (see s. 2.13.3: 'Hearsay evidence' of this Manual and s. 94A: 'Admissibility of preliminary complaint in sexual offences and domestic violence offences' of the *Evidence Act*).

(xii) conduct an electronically recorded interview with the respondent (see s. 120: 'Person not to be questioned about offence' of the DFVPA). Action should not be stopped or delayed due to an inability to locate or interview the respondent;

(xiii) gather any supporting evidence for issuing a PPD or PPN, an application for a DVO or the commencement of proceedings for any associated criminal charges. Supporting evidence for an application may include, but is not limited to:

(a) the initial call for service, including any 000 recording and CAD job details;

(b) medical evidence;

(c) statements/affidavits, e.g. aggrieved, witnesses, neighbours;

(d) any prior contact by the aggrieved with DFV support agencies;

(e) photographic or video evidence of the involved persons and the scene;

(f) circumstances of previous DFV reports and incidents; and

(g) a statement/affidavit from an investigating officer;

(xiv) offer the involved persons a Police Referral to a relevant support agency (see s. 9.3.16: 'DFV referral agencies' of this chapter);

(xv) be aware that if the identified PMINOP is a respondent in a PPD with the identified respondent listed as the aggrieved, that if a DVO is made and enforceable or a PPN or release conditions are issued, the existing PPD will then no longer be in force and the previously identified PMINOP left without protection. The investigating officer making application for a DVO in these circumstances is to:

(a) ensure the supervising police officer is fully informed:

- that a PPD has previously been issued; and
- of the results of the holistic investigation including the history of the parties;

(b) consider whether it is appropriate to make an application for cross orders to ensure protection for both parties due to exceptional circumstances where both parties are in clear need of protection from each other;

(c) if a cross-order application is not made, advise the person who was named as the aggrieved in the PPD (the currently identified respondent) that the PPD is no longer in force and that they can make a private application for a DVO; and

(d) ensure that action taken is appropriately reflected in QPRIME including in relation to the effect on the PPD that had previously been in force;

(xvi) take appropriate action to immediately protect the aggrieved and any named persons from DFV, where:

(a) the respondent is taken into custody, officers should issue and serve a PPN, unless:

- additional conditions are required other than those in s. 106A: 'Other conditions' of the DFVPA, officers should complete an application for a DV 02 'Temporary protection order' (see s. 9.3.7: 'Application for a temporary protection order (TPO)' of this chapter); or
- there is an existing cross order (naming the respondent as the aggrieved), then:

OPM Issue 113 Public Edition

- make an application for a temporary protection order (see s. 9.3.7 of this chapter); or
- release the person from custody on release conditions (see s. 9.3.2: 'Contravention of DVO, release conditions, PPD or PPN' of this chapter);

(b) the respondent being present but has not been taken into custody, the officer should issue and serve a PPD or PPN as appropriate (see ss. 9.3.3: 'Police protection direction (PPD)' and 9.3.4: 'Police protection notice (PPN)' of this chapter); or

(c) the respondent is not present, issue a PPD or PPN as appropriate (see ss. 9.3.3 and 9.3.4 of this chapter) for subsequent service as soon as possible,

(see s. 125: 'When police officer must release person on conditions' of the DFVPA);

(xvii) when a respondent is named in a TPO, PPD, PPN or release conditions, immediately seize as soon as possible any weapon licence or weapons that the respondent is required to immediately surrender in the respondent possession (see s. 27A: 'Effect of temporary protection order, police protection notice or release conditions on licence' of the *Weapons Act* and s. 9.3.18: 'Surrender of weapons and weapons licences after being named as a respondent in a TPO, PPD, PPN or released conditions' of this chapter).

9.2.7 Initial actions when a person attends a station or establishment in relation to a DFV matter

Where a person attends a station or establishment in relation to a DFV matter, members are to ensure the person is taken to a designated private area (see s. 2.6.8: 'Designation of private area for domestic and family violence matters' of the MSM) to progress all enquiries, discussions, reports, interviews and investigations.

Where a person reports DFV, an officer is to prioritise the receipt of the initial report and commence a holistic investigation. Where, after a holistic investigation has been conducted, an officer reasonably believes:

(i) a relevant relationship exists between the parties involved;

(ii) DFV has occurred;

(iii) the PMINOP has been identified;

(iv) any associated criminal offences and supporting evidence have been identified;

(v) it is necessary or desirable to protect a person from DFV (see s. 37(2): 'When court may make protection order' of the DFVPA); and

(vi) there is sufficient evidence to a civil standard—'balance of probability',

the officer is to take appropriate action to immediately protect the aggrieved and any named persons from DFV.

When deciding the appropriate action to take, an officer should consider the wishes of the aggrieved and whether the aggrieved is supportive of an application and any conditions. However, the absence of support from an aggrieved does not mitigate an officer's responsibility to act to protect the aggrieved or to seek appropriate conditions.

See ss. 4(2)(b): 'Principles for administering Act', 51(3),(4): 'Court may make or vary domestic violence order by consent' and 100(2): 'Police officer must investigate domestic violence' of the DFVPA.

ORDER

When completing a DFV occurrence or application officers are to detail:

(i) whether the aggrieved is supportive of an application and any conditions; and

(ii) if the aggrieved is not supportive and an application has been made to protect the aggrieved, why the order is required to immediately protect the aggrieved and any named persons from DFV.

9.2.8 Initial action to be taken where the respondent's location is unknown

This section does not limit or prohibit officers from conducting investigations within adjoining police station areas.

Where a respondent is not present at the location of an initial report of DFV and the respondent's location is unknown, the investigating officer is to commence a holistic investigation in accordance with s. 9.2.6: 'Initial DFV investigative action' of this chapter and assess the protective needs of the aggrieved by applying the DV-PAF (see s. 9.2.10: 'Domestic violence protective assessment framework (DV-PAF)' of this chapter).

Where there is an immediate risk of harm to the aggrieved or any named person, the investigating officer is to:

(i) as soon as reasonably practicable, cause a job to be entered through the relevant police communications centre or LCAD for officers to attempt to locate the respondent at an address where the respondent is known to reside or frequent. This affords the respondent their natural justice to provide a version and enables police to identify the person most in need of protection. Before creating an LCAD job, the reporting officer must ensure a QPRIME occurrence is generated, which documents the version of the party and any witnesses and for use in subsequent inquiries, including attempting to talking to the respondent by telephone (see ss. 101(1)(b): Police

OPM Issue 113 Public Edition

officer may issue police protection notice' and 100B(3): 'Police officer may issue direction' of the DFVPA)—unless exceptional circumstances exist;

(ii) if appropriate:

(a) prepare and arrange for service of a PPD or PPN; or

(b) apply for a TPO; and

(iii) offer a Police Referral to the aggrieved.

Where there is no immediate risk of harm to the aggrieved or any named person and the respondent resides in another police station area, the investigating officer is to:

(i) obtain authorisation from a supervising police officer prior to leaving the job address (unless exceptional circumstances exist), create a 'DV—Other Action' QPRIME occurrence and upload all relevant supporting evidence to the occurrence;

(ii) create and forward a QPRIME investigative task to the station where the respondent is known to reside or frequent to request the matter be further investigated and the respondent interviewed; and

(iii) record a 'wanted for questioning' flag against the respondent in the QPRIME occurrence.

Once the subsequent investigating officer has taken the respondent's version, the 'wanted for questioning' QPRIME flag is to be expired.

If after obtaining the respondent's version and undertaking any further investigative action, the subsequent investigating officer reasonably believes:

(i) DFV has occurred, and it is necessary or desirable to protect a person from DFV, the subsequent investigating officer is to:

(a) complete and serve a PPD, PPN or DV 01 on the respondent with appropriate conditions; and

(b) change the 'DV—Other Action' QPRIME occurrence type to reflect the correct occurrence type 'DV—Application Police'; or

(ii) there is insufficient evidence to support issuing a PPD, PPN or an application for a DVO, the subsequent investigating officer is to:

(a) record the respondent's version and other necessary inquiries based on the respondent's version on the 'DV-Other Action' occurrence via supplementary report;

(b) obtain authorisation from a supervising police officer for the matter to remain as a 'DV—Other Action', noting the date and time of authorisation in their supplementary report and articulating why no action is being taken (prior to cessation of shift); and

(c) complete the investigation task, requesting the task be reassigned to the initial investigating officer, requesting they determine whether any further action or investigation is required.

OPM Issue 113 Public Edition

Investigating officers requesting assistance from another station in relation to a report of DFV are encouraged to contact a shift supervisor or DDO to assist in the coordination and negotiation of an appropriate policing response.

Where appropriate and reasonably practicable, officers are to keep the aggrieved informed about the progress of an investigation to maintain victim engagement. Officers need to ensure that the views and wishes of the victim are sought and considered before any action is taken.

9.2.9 Detention under the PPRA

If an officer reasonably suspects domestic violence is occurring, or has occurred before the officer's arrival at the place, the officer may detain a person:

(i) to prevent acts of violence or damage to property; or

(ii) to search the person for anything that may be, or has been used to cause injury or damage or for an act of domestic violence (see s. 609: 'Entry of place to prevent offence, injury or domestic violence' of the PPRA).

Officers should be aware detention under s. 609 of the PPRA is not the same as taking a person into custody under s. 116: 'Police officer may take person into custody' of the DFVPA. Where an officer has taken a person into custody under s. 116 of the DFVPA, the officer is first to 'un-detain' the person under the PPRA prior to taking the person into custody under the DFVPA.

Detention under the PPRA is to be recorded as a separate enforcement act in QPRIME to the person's custody under the DFVPA.

Enforcement act to be entered into QPRIME register

ORDER

Any detention or search conducted under s. 609 of the PPRA is an enforcement act and a register entry is to be created (see ss. 679 of the PPRA and 2.1.2: 'Registers required to be kept' of this Manual). Enforcement act register entries are to be recorded within the relevant QPRIME occurrence prior to the reporting officer terminating duty.

9.2.10 Domestic violence protective assessment framework (DV-PAF)

The DV-PAF is a decision-making framework designed to assist officers in assessing the protective needs of an aggrieved. Identifying the presence of risk factors and assessing the aggrieved's level of fear will assist in determining the required response.

Officers are to conduct a protective assessment at all incidents or reports of DFV and utilise information gathered on risk factors in conjunction with their investigative skills, knowledge, experience and the respondent's criminal and DFV history to make an informed decision. Officers play a crucial role in identifying and responding to DFV and their actions and decisions can have a marked effect on future violence.

A record of the relationship and identification of category 1 and 2 risk factors, fear level and level of risk will assist with future assessments and determination of risk, as well as informing internal case management. DV-PAF risk factors are shared with service providers in DFV referrals to inform their assessment and assistance to be provided to an aggrieved and/or respondent.

Category 1 Risk Factors

Frequency: are DV incidents happening more often and between shorter time periods? This may include incidents not reported to police.

Pregnancy: is the aggrieved (if female) pregnant? This may create considerable stress on the relationship.

Previous incident(s)/contraventions(s): are there previous DV incidents/contraventions recorded between the aggrieved and respondent?

Separation: have the aggrieved and respondent recently separated or are they separating? Is the aggrieved wanting or attempting to leave the relationship?

Severity: is the violence escalating/becoming more serious? For example, moving from verbal to physical, pushing to slapping, slapping to beating or serious/life threatening injuries.

Sexual violence: has the respondent committed sexual violence against the aggrieved? For example, using sex or sexual acts as a form of control, punishment or violence.

Significant change in circumstances: is there now or recently been a significant change in circumstances? For example, unemployment, financial hardship, child custody/access disputes, interfamily conflict.

Strangulation/suffocation: is there evidence the respondent has attempted to strangle/suffocate the aggrieved now or in the past?

Threats to kill: has the respondent threatened to kill the aggrieved/family members?

Use of weapons: has the respondent used or threatened to use a weapon to commit DV against the aggrieved/family in current or previous incidents?

Not present—no category 1 risk factors present.

Category 2 Risk Factors

Alcohol/drug misuse: is there a history of alcohol/drug misuse by aggrieved/respondent and does this occur concurrently with DV?

Animal cruelty: has the respondent harmed or threatened to harm family pets?

Child abuse: is there a history of abuse or neglect of a child by the respondent, irrespective of the relationship between the child and respondent?

Controlling behaviour: does the respondent try to control the aggrieved, for example, where he/she goes, what they do, who they spend time with, controlling finances, isolating the aggrieved from friends, family and/or support?

Cultural considerations: are there cultural considerations preventing the aggrieved from reporting DV in the future? For example, aggrieved may not be aware of rights in Queensland, aggrieved is isolated, cultural customs prevent aggrieved from speaking out.

Mental health issues: is there history of mental health issues for respondent? Is there evidence of a diagnosed or undiagnosed disorder which might increase risk of DV to the aggrieved?

Respondent history of violence: does the respondent have a violent history towards the aggrieved, family or others? Are there incidents of domestic violence with a previous partner?

OPM Issue 113 Public Edition

Ongoing conflict: is there an issue creating conflict in the relationship or family unlikely to subside in the near future?

Significant damage/destruction of property: has the respondent significantly damaged property as a means of intimidating or victimising the aggrieved?

Stalking: does the respondent follow, contact, intimidate, place under surveillance, manipulate or harass the aggrieved?

Suicidal: has the respondent or aggrieved threatened or attempted suicide?

Violent threats: has the respondent threatened an act(s) of violence against the aggrieved/children/family?

Not present—no category 2 risk factors present.

Fear Level

Not fearful: aggrieved does not appear fearful of DV occurring in the future.

Fearful: aggrieved appears fearful of DV occurring in the future

Very fearful: aggrieved appears very fearful of DV occurring in the future

Unable to be assessed

Level of Risk

Unknown: level of risk unable to be determined.

Medium: no significant/current indicators of risk of harm to the aggrieved. Changes in circumstance or DV may create risk for the aggrieved and any future incidents should be carefully assessed.

High: proactive police response to risk is recommended. Indicators of risk of harm to the aggrieved have been identified. The respondent has the potential to cause harm. They may also have the potential to cause serious harm if there is future violence and/or risk and/or a change in circumstance.

Extreme: proactive police response to risk is highly recommended. There are identifiable indicators of risk of serious harm to the aggrieved. An incident could happen at any time and the impact could be serious.

9.2.11 Choking, suffocation or strangulation in a domestic setting

ORDER

Non-fatal strangulations have been identified as a key predictor of domestic homicide. Officers responding to a DFV incident and who have identified there is evidence of choking, suffocation or strangulation are to commence a holistic investigation, and if appropriate, commence criminal proceedings (see s. 315A: 'Choking, suffocation or strangulation in a domestic setting' of the CC) and any other action under the DFVPA against the respondent to immediately protect the victim from DFV (see s. 9.3.1: 'Commencing proceedings for statutory offences' of this chapter).

Officers should request Queensland Ambulance Service attendance at all incidents of suspected non-fatal strangulation or arrange for the victim to be transported to obtain medical treatment.

All DV occurrences that involve an allegation of choking, suffocation or strangulation are to be reviewed by a specialist DFV officer.

When a specialist DFV officer reviews a matter that involves an allegation of choking, suffocation or strangulation, the officer is to:

(i) ensure the allegation(s) has been investigated; and

(ii) consider if the matter should be referred to the relevant QPS high risk team (HRT) for it to be assessed for a referral into the multi-agency HRT (see s. 9.14: 'High risk teams' of this chapter).

Where a specialist DFV officer determines a matter involving an allegation of choking, suffocation or strangulation does not require assessment by the relevant QPS HRT, the specialist DFV officer is to record that decision and reasons in the relevant QPRIME occurrence.

9.2.12 Intimate images

Distributing or threatening to distribute an intimate image or visual recording of a person without their consent in a circumstance that would cause the person distress is an offence.

ORDER

Where officers respond to a DFV incident and identify evidence of the distribution or threatened distribution of intimate images or visual recordings, they are to commence an investigation and if appropriate, initiate criminal proceedings (see ss. 223(1): 'Distributing intimate images', 227A(1) or (2): 'Observations or recordings in breach of privacy', 227B(1): 'Distributing prohibited visual recordings' or 229A(1) or (2) 'Threats to distribute intimate image or prohibited visual

OPM Issue 113 Public Edition

recording' of the CC. See also s. 3.7.6: 'Rectification order' of this Manual). Officers should consider whether action should be also taken in relation to possible breaches of domestic violence orders.

Where images have been uploaded to a website, victims should be advised of the option to approach the Office of the e-Safety Commissioner to request removal of the images.

Officers conducting intimate images investigations should refer to the **'**Distributing Intimate Images**'** resources available on the Cybercrime SharePoint page.

9.2.13 Safeguards

Officers are to comply with Chapter 15: 'Powers and responsibilities relating to particular investigations and questioning' of the PPRA when investigating an associated indictable offence that has been identified in connection with a holistic DFV investigation.

Officers are to comply with Chapter 20: 'Other standard safeguards' of the PPRA when entering and searching premises and when seizing anything (see s. 2.8: 'Entry, search and seizure' of this Manual).

9.3 Actions to be taken by officers after completing a holistic investigation

After the completion of a holistic investigation an officer is to consider the most appropriate action to take which may include:

(i) commencing proceedings for statutory offences, including contravention of DVO, release conditions, PPN or PPD;

(ii) issuing a PPD;

(iii) issuing a PPN;

(iv) taking the respondent into custody and releasing them on:

(a) release conditions;

(b) PPN; or

(c) TPO,

and make an application for a DVO;

(v) applying for a TPO;

(vi) making an application to vary an existing DVO; and

(vii) other action (see s. 9.3.13: 'Police action to be taken where applying for a DVO is not appropriate' of this chapter.

OPM Issue 113 Public Edition

9.3.1 Commencing proceedings for statutory offences

Officers investigating DFV should consult with the aggrieved and any named persons about the possibility of pursuing criminal charges where the acts of DFV amount to criminal acts (see Criminal Law Bulletin No. 286.1: 'Ancillary Wording—'the offence is also a domestic violence offence' available on the Legal Division SharePoint page).

If doubt arises whether proceedings should be initiated under other legislation in addition to the DFVPA, the investigating officer is to seek advice from:

(i) a supervising officer;

(ii) a brief checker;

(iii) their OIC;

(iv) a local police prosecutor; or

(v) a specialist DFV officer.

Considerations when investigating DFV and criminal offences

Where an officer is investigating a report of DFV and is considering issuing a PPD or making an application for a DVO (including a PPN) as well as proceeding with a criminal offence, the investigating officer is to determine whether the application should be finalised prior to the continuation or finalisation of the criminal investigation (see also s. 9.3.5: 'Taking a respondent into custody under the DFVPA' of this chapter).

Whether action will be taken under the DFVPA or another Act first, will depend on:

(i) the nature of the DFV;

(ii) the nature, type and seriousness of the related criminal offence;

(iii) the need to immediately investigate the criminal offence, e.g. to prevent the loss of evidence; and

(iv) s. 120: 'Person not to be questioned about offence' of the DFVPA, a person who has been taken into custody under the DFVPA cannot be interviewed in relation to offences under another Act (e.g. common assault under the CC).

Respondent commits an offence under another Act

Where an officer reasonably suspects a respondent has committed an offence under another Act, the officer should consider whether it is more appropriate to:

(i) arrest the respondent under s. 365(1): 'Arrest without warrant' of the PPRA; or

(ii) in the case of an indictable offence, arrest the respondent for the offence for the purpose of questioning the respondent about the commission of the offence in accordance with s. 365(2) of the PPRA,

in preference to taking the respondent into custody under s. 116: 'Police officer may take person into custody' of the DFVPA.

If a person is in custody for an offence under another Act, and the officer identifies the person has committed DFV, the officer is to investigate whether this places the defendant in a show cause situation (see s. 16.20.2 of this Manual).

Arresting a respondent under another Act is not an alternative to investigating the DFV and taking appropriate action under the DFVPA. An offence arising from a DFV incident may be a domestic violence offence (see ss. 9.1.2: 'Definitions for DFV' and 9.3.15: 'Recording DV offence on a person's criminal history' of this chapter).

The onus rests on the investigating officer to properly investigate the incident and obtain all available evidence to support the commencement of proceedings under the DFVPA or another Act (see Chapter 2: 'Investigative Process' of this Manual and s. 4.4: 'Body worn cameras' of the DERIE Manual).

Investigating officers should also consider the use of witnesses for preliminary complaints, where the matter may proceed to committal proceeding or trial (see s. 94A: 'Admissibility of preliminary complaint in sexual offences and domestic violence offences' of the *Evidence Act*).

Forms to be completed if granted bail

If bail is to be granted by the releasing officer, the arresting officer is to prepare and serve one of the following, a:

(i) PPN;

(ii) TPO;

(iii) DV 01 (including release conditions), or

(iv) PPD (only if the offence has not been commenced for a proceeding for a DV offence against the respondent or if other exclusions apply, see s. 9.3.1: 'Police protection direction (PPD) of this chapter'),

prior to releasing the respondent from custody.

OPM Issue 113 Public Edition

9.3.2 Contravention of DVO, release conditions, PPD or PPN

A Queensland DVO made before the 25 November 2017 not declared under the National Domestic Violence Order Scheme remains enforceable in Queensland.

Duration of PPD, PPN and release conditions

Where an officer:

(i) issues a PPD (see s. 100R: 'Duration' of the DFVPA);

(ii) issues a PPN (see s. 113: 'Duration' of the DFVPA); or

(ii) serves a QP 0937: 'Release from custody conditions' (see s. 125(5): 'When police officer must release person on conditions' of the DFVPA),

the conditions remain in force until:

(i) for a PPD:

(a) the end of 12 months from the day the direction took effect;

(b) where in relation to the aggrieved and respondent, regardless of who is named as either party:

- a recognised interstate order, court made DVO or protection order (see s. 42: 'When court on its own initiative can make or vary order against offender' of the DFVPA) becomes enforceable;
- a PPN is issued and takes effect; or
- release conditions are imposed;

(c) where a proceeding for an application for a DVO in relation to the same aggrieved and respondent as named in the PPD, other than proceedings for an application arising from an application for Court Review, if the application is dismissed or adjourned without a TPO being made;

(d) where a PPD reviewing officer revokes the PPD; or

(e) where the Court orders the setting aside of the PPD or orders the PPD to end on a stated day,

(see s. 100R of the DFVPA); or

(ii) for a PPN or release conditions:

(a) where the court makes a DVO, the order becomes enforceable; or

(b) where the court does not make a DVO, the proceeding is adjourned or the application is dismissed.

A DVO becomes enforceable when:

(i) the respondent is present in court when the court makes the order (see s. 177(1)(a): 'Contravention of domestic violence order' of the DFVPA);

(ii) the respondent is served with a copy of the order (see s. 177(1)(b) of the DFVPA);

(iii) the respondent is told by an officer about the order, including the conditions of the order (see ss. 177(1)(c), 177(4) and 184(5): 'Service of order on respondent' of the DFVPA and s. 9.6.4: 'Tell provisions' of this chapter); or

(iv) in relation to a TPO, the court makes a TPO with the same conditions as the PPN or QP 0937 which was served on the respondent (see s. 184 of the DFVPA).

A PPD and PPN become enforceable when:

(i) the respondent is served with a copy of the PPD or PPN (see ss. 100R(1)(a) and 113(1)(a) of the DFVPA); or

(ii) the respondent is told by an officer about the PPD or PPN, including the conditions (see ss. 100R(1)(b), 113(1)(b) and s. 9.6.4 of this chapter).

Arrest of a person for a DV offence or contravention of DVO, release conditions, PPD or PPN

An officer who arrests a person for a DV offence (see s. 9.1.2: 'Definitions for DFV' of this chapter) or a contravention of DVO, release conditions, PPD or PPN is to refuse the adult defendant bail and place the defendant in a show cause situation when the provisions of s. 16 of the *Bail Act* apply (see s. 16.20.2: 'Prescribed police officer's (PPO) responsibilities' of this Manual). The arresting officer is to complete an QP 0215: 'Bail affidavit' and QP 0215A: 'Bail Affidavit Annexure' (Adult) or, where relevant, a QP 0215B: 'Bail Affidavit Annexure' (Child).

A respondent taken into custody under the DFVPA is to be taken to a holding cell at a station, establishment or watch-house and delivered into the custody of the most senior officer on duty at the station, establishment or watch-house manager (officers are to refer to Chapter 16: 'Custody' of this Manual for detention procedures).

When a respondent is taken into custody under the DFVPA and transported to a holding cell or watch-house, the officer who transported the respondent is to create a custody report on the whiteboard in QPRIME. The investigating officer is to link the custody report to the relevant DV occurrence.

Contravention offence

A respondent who contravenes a DVO, release conditions, a PPD or a PPN commits a criminal offence (see Part 7: 'Offences' of the DFVPA).

ORDER

Officers are to conduct a holistic investigation and approach these offences in the same manner as investigating any other criminal offence (see Chapter 2: 'Investigative Process' of this Manual).

Officers are to commence a proceeding for the relevant offence where there is sufficient evidence to prove a respondent contravened:

(i) a DVO which was properly served (see ss. 177 and 184A: 'Substituted service' of the DFVPA and s. 9.6: 'Service of DV documents' of this chapter);

(ii) release conditions (see s. 179: 'Contravention of release conditions' of the DFVPA);

(iii) a PPD which was personally served (see ss. 100O: 'Service of direction and grounds on respondent' and 177A: 'Contravention of a police protection direction' of the DFVPA); or

(iv) a PPN which was personally served (see ss. 109: 'Service of notice on respondent' and 178: 'Contravention of police protection notice' of the DFVPA).

OPM Issue 113 Public Edition

Third party reports of a contravention offence

A third-party report of a contravention of a DV Offence may originate from any source in the community including but not limited to neighbours, family, employers, and support agencies. These reports may involve parties where an enforceable DVO, release conditions, PPD or PPN are linked in QPRIME records.

An officer who receives a complaint, report, or allegation of DFV and based on that complaint, report or allegation reasonably suspects that a contravention of a DVO, release conditions, PPD or PPN has occurred, is to investigate or cause the matter to be investigated (see s. 100: 'Police officer must investigate domestic violence' of the DFVPA).

QPRIME reporting requirements for third party reports of a contravention offence

A No DV occurrence should only be utilised for third party reports at the conclusion of an investigation, when no more inquiries or taskings are to be made, and there is no reasonable suspicion of a contravention of a DVO, release conditions, PPD or PPN, and supervisor approval is granted.

Where a relevant relationship between the parties has not been established, investigating officers are to comply with s. 9.3.13: 'Police action to be taken where applying for a DVO or issue a PPD is not appropriate' of this chapter.

Respondent convicted of a DV offence within relevant period

Where a respondent contravenes a DVO and, within the last 5 years, has been convicted (whether or not a conviction was recorded) of an offence:

(i) where the charge states 'the offence is also a domestic violence offence'; or

(ii) against ss. 177, 177A, 178, 179A: 'Engaging in domestic violence or associated domestic violence to aid respondent' or 179 of the DFVPA,

the respondent should be charged with the indictable offence under s. 177(2)(a) of the DFVPA.

Otherwise, the respondent should be charged with the simpliciter offence against s. 177(2)(b) of the DFVPA.

An aggrieved or other named persons do not commit an offence

If an officer is investigating a report of DFV where an aggrieved or other named persons in a DVO, release conditions, PPD or PPN aids, abets, counsels or procures a respondent to contravene the DVO, release conditions, PPD or PPN, the aggrieved or named person does not commit an offence (see Part 7: 'Offences' of the DFVPA) irrespective whether the person, encouraged, permitted or authorised conduct by the respondent to contravene any of the conditions of the DVO, release conditions, PPD or PPN (see s. 180: 'Aggrieved or named person not guilty of an offence' of the DFVPA).

Notice to allege previous

Officers are to comply with s. 3.5.18: 'Notices alleging previous criminal and traffic histories and circumstances of aggravation' of this Manual. A QP 041A: 'Notice of intention to allege previous conviction' for a charge under s. 177(2) of the DFVPA is to include offences which are a DV offence (see 'Definitions' of this chapter) and any offence under Part 7 of the DFVPA.

Officers are to comply with s. 9.3.15: 'Recording DV offence on a person's criminal history' of this chapter.

Unfounded contravention of DVO, release conditions, PPD or PPN

Where an allegation, complaint or report of a contravention of a DVO, release conditions, PPD or PPN is unfounded after a holistic investigation has been conducted, and sufficient evidence or lack thereof indicates the offence did not occur, the investigating officer is to create an unfounded 'Domestic Violence (Contravene DFVPA)' occurrence to record enforcement act register entries (see s. 9.3.14: 'Completion of QPRIME custody and search reports' of this chapter) and finalise the occurrence in accordance with s. 1.11.2: 'Recording an offence in QPRIME' of this Manual. The occurrence report is to clearly state the actions of the investigating officer and the evidence and reasoning relied on to conclude that the offence did not occur.

9.3.3 Police protection direction (PPD)

ORDER

Only an officer who has successfully completed the approved mandatory training for PPD is authorised to issue a PPD.

Supervising police officers are not to approve the issuing of a PPD unless the issuing officer has met the above training requirement.

Criteria for determining if an officer can issue a PPD

At the conclusion of a holistic investigation officers should consider issuing a PPD if they reasonably believe:

(i) a relevant relationship exists and the respondent has committed DV;

(ii) it is necessary or desirable to protect the aggrieved from DV;

(iii) it is not more appropriate to make an application to a court for a DVO (including by issuing a PPN or serving a DV 01);

OPM Issue 113 Public Edition

(iv) none of the following exclusions apply (see s. 100C: 'Circumstances when police officer must not issue direction' of the DFVPA):

(a) the respondent or aggrieved is a:

- child; or
- an officer;

(b) a DVO (including a recognised interstate order and a registered foreign (New Zealand) order, see s. 9.1.2: 'Definitions for DFV' of this chapter for definition of DVO) relating to the respondent and aggrieved is in force or has previously been in force (regardless of who is or was the respondent and who is or was the aggrieved).

This includes conducting a check of the National Criminal Intelligence System (NCIS) on the ACC database to ensure a recognised interstate order is in force or has been in force (i.e. using the NCIS Portal on a QLiTE NextGen device or via the advance persons search or fast find plug-in in QPRIME);

(c) a PPD against the respondent is in force or has previously been issued;

(d) a PPD against the aggrieved is in force protecting the respondent;

(e) an application for a protection order against the respondent has been made but not finally dealt with;

(f) the respondent has been convicted of a DV offence within the previous 2 years, which includes a contravention of DVO, PPD, PPN or release conditions;

(g) a proceeding for a DV offence against the respondent has previously been started but not been finally disposed of;

(h) the respondent used or threatened to use an offensive weapon or instrument (see Schedule 6: 'Dictionary' of the PPRA) to commit DV;

(i) the respondent should be taken into custody in relation to the relevant DV (see s. 116: 'Police officer may take person into custody' of the DFVPA);

(j) both parties are in need of protection and the person most in need of protection cannot be identified;

(k) it is necessary or desirable to protect a child of the aggrieved, or a child who usually lives with the aggrieved, and conditions other than standard conditions are needed; and

(l) the issuing officer knows or reasonably believes:

- a family law order exists;
- an order or care agreement under the *Child Protection Act* (CPA); or
- a proceedings under the CPA or the *Family Law Act* (Cwlth) has been started but not finally dealt with,

if the officer is seeking to include:

- a child of the respondent as a named person; or
- a condition that would prevent, or limit contact between the respondent and a child of the respondent; and

(v) that it is appropriate to issue a PPD having considered:

(a) s. 4: 'Principles for administering Act' of the DFVPA;

(b) the criminal history and DV history of the respondent and aggrieved;

(c) whether in the circumstances it would be more appropriate to take action that involved an application for a protection order;

(d) any views or wishes expressed by the aggrieved about whether an application for a protection order should be made;

(e) whether the respondent may cause serious harm to the aggrieved or a named person if the respondent commits further DV;

(f) the additional powers of a court in making a protection order may be necessary or desirable to protect the aggrieved from further DV by the respondent (e.g. the power to make an intervention order, the power to impose conditions on a protection order that may not be imposed on a PPD such as a condition about possession of a thing used as a weapon under s. 81: 'Condition relating to thing used as a weapon' of the DFVPA);

(g) if the respondent or aggrieved has a conviction for a DV offence not limited to the previous 2 years; and

OPM Issue 113 Public Edition

(h) if the respondent is not present at the same location as the officer and the officer has not, after making reasonable attempts, been able to locate and talk to the respondent including by telephone, to afford natural justice (see s. 100B(3): 'Police officer may issue direction' of the DFVPA).

Guidance in determining if issuing a PPD is appropriate

Section 100B(1)(d) of the DFVPA requires that when deciding whether to issue a PPD, an officer must reasonably believe it is not more appropriate to make an application for a protection order. This means that at the completion of the holistic investigation, an officer must consider whether:

(i) the nature and seriousness of the acts of DFV committed by the respondent against the aggrieved in the context of the relationship as a whole, regardless of whether the DFV involves this person or another in a relevant relationship (i.e. where the respondent has committed an offence against ss. 315A: 'Choking, suffocation or strangulation in a domestic setting', s. 334C: 'Coercive Control' of the CC or attempted or threatened to kill the aggrieved or named persons;

(ii) they are of the view that:

(a) the escalating nature of the DFV that is alleged to have been committed by the respondent against the aggrieved warrants an application to the court;

(b) conditions other than standard conditions are necessary or desirable specifically to protect a child or children (including an unborn child) and that the matter is considered by a court having regard to the circumstances and complexity of the parties;

(iii) it may be desirable for the court to include exceptions or make conditions not available in a PPD;

(iv) that protection should be in place for 5 years under a protection order rather than 12 months under a PPD, (i.e. because the circumstances that give rise to conflict are likely to exist for longer than 12 months); and

(v) the safety, protection, and wellbeing of individuals who fear or are experiencing DV, including children, is paramount and where appropriate and practicable, the views and wishes of the aggrieved regarding the issuance of a PPD or initiation of proceedings for a DVO, by way of PPN or DV01, should be considered, along with any characteristics that may render them particularly vulnerable to DV (e.g. Aboriginal peoples or Torres Strait Islander peoples).

The protection afforded to an aggrieved or named person under a PPD has the same effect as that of a PPN, release conditions or DVO. The difference is the duration that a PPD is in effect and the conditions that can be imposed.

ORDER

An officer who reasonably believes it is more appropriate to make an application for a protection order:

(i) is not to issue a PPD; and

(ii) is to make an application for a protection order (including issuing a PPN) (see s. 100E: 'Other matters for consideration before issuing direction' of the DFVPA).

Procedural requirements for PPD

When preparing a PPD, officers are to:

(i) contact a supervising police officer (see s. 9.1.2: 'Definitions for DFV' of this chapter) and seek approval to issue a PPD. If the supervising police officer does not grant approval, officers are to:

(a) make application for a protection order by another process under the DFVPA; or

(b) finalise the investigation in accordance with s. 9.3.13: 'Police action to be taken where applying for a DVO is not appropriate' of this chapter;

(ii) ask the respondent for contact details (including email and phone number) and an address for service of documents, however a person is not obliged to provide these details (see s. 100M: 'Contact details and address for service' of the DFVPA), however an officer may require the respondent to provide their name and address (see s. 41(i)(i): 'Prescribed circumstances for requiring name and address' of the PPRA);

(iii) record:

(a) the standard conditions imposed on the respondent; and

(b) any additional conditions imposed that are considered necessary or desirable, i.e. cool-down, no-contact, or ouster conditions that are necessary or desirable to protect the aggrieved and named persons from DV and for a cool-down condition, state the date and time the condition ends.

For an ouster condition to be imposed, the officer must have first considered:

- whether the aggrieved and any child living with them can continue to live safely in the residence if the ouster condition is not made;

OPM Issue 113 Public Edition

- any views or wishes expressed by the aggrieved about an ouster condition in relation to their usual place of residence;
- the desirability of preventing or minimising disruption to the aggrieved and any child living with them including minimising disruption to their living arrangements and allowing them to continue, or return, to live in the residence;
- the importance of the aggrieved and any child living with them being able to maintain social connections and support that may be disrupted or lost if they cannot live in the residence;
- the need to ensure continuity and stability in the care of any child living with the aggrieved;
- the need to allow childcare arrangements, education, training and employment of the aggrieved and any child living with them to continue without interruption;
- the particular accommodation needs, which may include but are not limited to those arising from a disability or impairment, or factors related to the number or age of the children who require accommodation, should be considered for the aggrieved, any child affected by the ouster condition, and the respondent;
- the fact that the aggrieved does not express any views or wishes about imposing an ouster conditions does not of itself give rise to an inference that the aggrieved does not have views or wishes about the condition being imposed;
- imposing a return condition;

(c) any named person being a child, relative or associate of the aggrieved, if the officer believes it is necessary to protect (including an unborn child) and the PPD does not include conditions other than standard conditions, then the PPD may include standard conditions for a child that takes effect when the child is born that the respondent must:

- be of good behaviour towards the child;
- not commit associated domestic violence against the child; and
- not expose the child to domestic violence; and
- not organise, encourage, ask, tell, force or engage another person to do something that, if done by the respondent, would be associated domestic violence against the child; and
- not organise, encourage, ask, tell, force or engage another person to do something that exposes the child to domestic violence.

Officers should also consider s. 9.5.2: 'Transport and accommodation assistance to a respondent' of this chapter in accordance with s. 100J: 'Police officer must consider accommodation needs' of the DVFPA;

(v) personally serve a copy of the PPD on the respondent and explain the direction (see subsection 'Explanation of PPD' of this section and Part 8, Division 1: 'Service' of the DFVPA);

(vi) immediately take possession of or arrange to take possession of any weapons licences and weapons in the respondent's possession (see s. 9.3.18: 'Surrender of weapons and weapons licences after being named as a respondent in a TPO, PPD, PPN or released conditions' of this chapter);

(vii) ensure the grounds for issuing of a PPD are completed and served on the respondent as soon as possible and in any event recorded in QPRIME prior to the termination of shift;

(viii) give a copy and explain the PPD and the grounds to the aggrieved and any named persons (see subsection 'Explanation of PPD' of this section);

(ix) complete a DV 21A: 'Statement of police service' (including using the section on the relevant documents);

(x) offer:

(a) a referral to an aggrieved and respondent issued a PPD (see s. 9.3.16: 'DFV referral agencies' of this chapter); and

(b) the aggrieved and respondent a referral for legal assistance if they:

- identify as an Aboriginal person;
- identify as a Torres Strait Islander person;
- are culturally or linguistically diverse; or
- have a disability;

(xi) complete all fields in the PPD, but to keep the contact details of the aggrieved confidential; and

OPM Issue 113 Public Edition

(xii) ensure a QPRIME occurrence is created and a signed copy of the PPD, PPD Grounds and DV 21A are stored within the QRPIME occurrence prior to terminating the shift.

Officers are to serve a PPD in accordance with s. 9.6: 'Service of DV documents' of this chapter.

Explanation of PPD

When an officer has issued a PPD, the serving officer must:

(i) explain

(a) to:

- a respondent served, or told about the PPD and the conditions;
- an aggrieved or parent of a child (named person) given a copy of the PPD;

(b) the PPD;

(c) the grounds on which the issuing officer reasonably believed DV has been committed; and

(d) the reasons the issuing officer imposed the conditions in the PPD;

(ii) take reasonable steps to ensure they understand the nature and consequences of the PPD;

(iii) explain:

(a) the purpose and effect of the PPD, including, for example, that:

- the PPD may be enforceable in other states and New Zealand without further notice to the respondent;
- that any weapons licence held by the respondent or as a body's representative under the *Weapons Act* (WA) is revoked;
- any WA exemption is removed despite s. 2: 'Application of Act' of the WA;

(b) the duration of the PPD;

(c) the conditions of the PPD, including the behaviour the respondent is prohibited from engaging in under the conditions;

(d) the type of behaviour that constitutes DV, as described on the reverse of the PPD;

(e) the consequences of the respondent contravening the PPD;

(f) that the aggrieved cannot consent to the respondent contravening the PPD;

(g) the right of the respondent or aggrieved to seek a police review or court review;

(h) how to seek a review;

(i) the possible decisions that could be made on a review; and

(j) that the issue of the PPD does not prevent the respondent or aggrieved from applying for a protection order,

see s. 100Q: 'Explanation' of the DFVPA.

Where the issuing officer is unable to give a copy of the PPD, and the PPD Grounds to the aggrieved and named persons, they are to create a QPRIME task for service (see s. 100P: 'Giving copy of direction and grounds to aggrieved and named persons' of the DFVPA).

9.3.4 Police protection notice (PPN)

When a PPN is issued and served in accordance with ss. 101: 'Police officer may issue police protection notice' and 109: 'Service of notice on respondent' of the DFVPA, the aggrieved is immediately protected.

An officer prior to issuing a PPN is to comply with s. 101 of the DFVPA.

An officer is to issue a PPN

Where a respondent has been taken into custody under s. 116: 'Police officer may take person into custody' of the DFVPA, the officer is to issue a PPN unless:

(i) it is reasonably practicable to bring the respondent before the court (see s. 118(2): 'Police officer must apply for protection order' of the DFVPA);

(ii) a temporary protection order has been granted (see s. 44: 'When court may make temporary protection order' of the DFVPA); or

OPM Issue 113 Public Edition

(iii) the person has been released with release conditions pursuant to s. 125: 'When police officer must release person on conditions' of the DFVPA—in circumstances where a PPN cannot be issued pursuant to ss. 103: 'Cross-notice not permitted' or 101 of the DFVPA (because there is already a protection order between the parties).

Procedural requirements for PPN

When preparing a PPN, officers are to:

(i) contact a supervising police officer (see s. 9.1.2: 'Definitions for DFV' of this chapter) and seek approval to issue a PPN. If the supervising police officer does not grant approval for a person to be named (child, associated person or relative) in the notice, or for a condition to be imposed, officers are to:

(a) make application for a protection order by another process under the DFVPA; or

(b) finalise the investigation in accordance with s. 9.3.13: 'Police action to be taken where applying for a DVO is not appropriate' of this chapter;

(ii) require the respondent to provide their name and address in accordance with s. 41(i)(i): 'Prescribed circumstances for requiring name and address' of the PPRA. Officers may request contact details (including email and phone number) however a person is not obliged to provide these details;

(iii) select a hearing date in accordance with s. 105: 'Form of police protection notice' of the DFVPA. If the local Magistrates Court (see s. 9.1.2: 'Definitions for DFV' of this chapter) sits:

(a) within 14 business days after the notice is issued;

(b) if the local Magistrates Court for the respondent does not sit during the time mentioned in paragraph (a), the local Magistrates Court's next sitting date; or

(c) if the local Magistrates Court's next sitting date is more than 28 days after the notice is issued, the respondent is to be advised:

- the matter will be mentioned in a Magistrates Court other than the local Magistrates Court (the other Magistrates Court) within 28 days of the notice being issued;
- the other Magistrates Court will notify the respondent of the date, time and place of the mention;
- the respondent may participate in the mention by attending the other Magistrates Court in person or by electronic means at the next sitting date of the other Magistrates Court; and
- the other Magistrates Court may make a temporary protection order regardless of the respondent participating in the mention,

officers should consider any State or National public holidays or rural specific conditions which may affect a selected court date;

(iv) record the standard conditions imposed on the respondent;

(v) determine whether cool-down, no-contact, or ouster conditions are necessary or desirable to protect the aggrieved and named persons from DV and for a cool-down condition, state the date and time the condition ends.

If an ouster condition is necessary or desirable, consider imposing a return condition (see s. 106A(1)(d) and (2)(c): 'Other conditions' of the DVFPA).

Officers should consider the impact PPN conditions will have on all relevant parties when selecting a hearing date and may elect a hearing date prior to 14 business days outline in paragraph (iii)(a).

Officers should also consider s. 9.5.2: 'Transport and accommodation assistance to a respondent' of this chapter in accordance with s. 108: 'Police officer must consider accommodation needs' of the DVFPA;

(vi) record whether the PPN is issued under ss. 101 or 101A: 'When police officer must issue police protection notice' of the DFVPA (see 'Recording issuing section on PPN' of this section);

(vii) serve a copy of the PPN (personally) on the respondent and explain the notice (see subsection 'Explanation of PPN' of this section and Part 8, Division 1: 'Service' of the DFVPA);

(viii) immediately take possession of or arrange to take possession of any weapons licences and weapons in the respondent's possession (see s. 9.3.18: 'Surrender of weapons and weapons licences after being named as a respondent in a TPO, PPD, PPD or release conditions' of this chapter);

(ix) give a copy and explain the PPN to the aggrieved and any named persons;

(x) complete a DV 21A: 'Statement of police service' electronically;

(xi) ensure a signed copy of the PPN and DV 21A is filed with the court. Where the person is to appear within 3 business days of service of the notice and in any case before the date set for the respondent's date of appearance on the notice;

OPM Issue 113 Public Edition

(xii) distribute the completed documentation in accordance with the instructions printed on the notice;

(xiii) on returning to the station ensure the grounds to support the issuing of a PPN are recorded in QPRIME prior to the termination of shift;

(xiv) complete all fields in the PPN but to keep the contact details of the aggrieved confidential; and

(xv) ensure a QPRIME occurrence is created prior to terminating the shift.

Officers are to serve a PPN in accordance with s. 9.6: 'Service of DV documents' of this chapter.

Explanation of PPN

When an officer issues a PPN, they must:

(i) explain:

(a) to:

- a respondent served, or told about the PPN and the conditions;
- an aggrieved or parent of a child given a copy of the PPN;

(b) the PPN;

(c) the grounds for reasonably believing DV has been committed; and

(d) the reasons for imposing the conditions in the PPN;

(ii) take reasonable steps to ensure they understand the nature and consequences of the PPN;

(iii) explain:

(a) the purpose and effect of the PPN, including, for example, that:

- the PPN may be enforceable in other states and New Zealand;
- the PPN may have on any weapons licence held by the respondent or as a body's representative under the *Weapons Act* (WA);
- any WA exemption is removed despite s. 2: 'Application of Act' of the WA; and

(b) the duration of the PPN;

(c) the conditions of the PPN, including the behaviour the respondent is prohibited from engaging in under the conditions; and

(d) the type of behaviour that constitutes DV, as described on the reverse of the PPN;

(e) the consequences of the respondent contravening the PPN;

(f) that the aggrieved cannot consent to the respondent contravening the PPN;

(g) that the PPN is taken to be an application for a DVO made by police;

(h) the date, time and location of the Magistrates Court, where the application will be heard as stated on the PPN;

(h) the right of the respondent and aggrieved to obtain legal advice before attending court,

see s. 110: 'Explanation' of the DFVPA.

OPM Issue 113 Public Edition

9.3.5 Taking a respondent into custody under the DFVPA

ORDER

An officer:

(i) who receives a report of DV and upon investigation:

(a) reasonably suspects a respondent has committed DV; and

(b) there is a danger of causing personal injury; or

(c) property is in danger of being damaged;

(ii) is to if appropriate, take the respondent into custody:

- serve a PPN; or
- make an application for a DVO,

with appropriate release conditions on the respondent;

(iii) is to inform the aggrieved and any named persons at the earliest opportunity of any:

(a) action taken; and

(b) the result of any inquiries/applications where appropriate; and

(iv) consult with the aggrieved in relation to any safety concerns if the respondent returns to the premises.

See s. 116: 'Police officer may take person into custody' of the DFVPA.

Service of DV application on respondent

ORDER

Where a respondent has been taken into custody for the making of a DVO, the DV01 and QP 0937: 'Release from custody conditions' are to be served upon the release of the respondent.

Officer to fully explain documents served upon the respondent

If a prescribed police officer grants the defendant bail, the officer serving any of the above mentioned documents is to fully explain them and inform the respondent the PPN release conditions under the DFVPA will continue in force until:

(i) the court makes a DVO (see s. 9.1.2: 'Definitions for DFV' of this chapter) with the same conditions as the release conditions; or

(ii) the order is served on the respondent or otherwise becomes enforceable (see s. 9.6: 'Service of DV documents' of this chapter); or

(iii) the court adjourns the application and a DVO is not issued or the court dismisses the application, (see s. 125(5): 'When police officer must release person on conditions' of the DFVPA).

An officer who serves a respondent with a document for DV purposes is to ensure a DV21: 'Affidavit of personal service' or a DV21A: 'Statement of police service' (available in QPRIME) is completed in accordance with s. 9.6 of this chapter.

Custody of a child as a respondent

ORDER

Where a child is taken into custody as a respondent, in accordance with s. 126: 'Particular safeguards for detention of child' of the DFVPA, the officer is to:

(i) take the child into custody only as a last resort, and for the least time justified in the circumstances;

(ii) hold the child in custody separately from any adults; and

(iii) notify:

(a) a parent of the child, unless a parent cannot be found after making all reasonable inquiries; and

(b) the Chief Executive (Child Safety) if the child is in the custody or under the guardianship of the Department of Families, Seniors, Disability Services and Child Safety.

Detention period

The respondent may be detained for no longer than 4 hours or until the following occurs:

(i) if it is reasonably practicable to bring the person before a court whilst in custody, to appear and be held until:

(a) a DVO is made by the court and served on the respondent by a releasing officer;

(b) the hearing of a DVO application is adjourned; or

(c) the application is dismissed;

(ii) an application for a DVO is completed and release conditions are served on the respondent (see s. 9.3.6: 'Application for a DVO' of this chapter); or

(iii) a TPO is obtained after application by an officer and served on the respondent (see s. 9.3.7: 'Application for a temporary protection order (TPO)' of this chapter).

See s. 119: 'Detention time period' of the DFVPA.

Extension of detention period

When a respondent is in custody and:

(i) a DVO is made by a court;

(ii) a TPO is issued on an officer's application;

(iii) an application for a DVO is made; or

(iv) a PPN is to be issued,

the detention period may extend to a maximum of:

OPM Issue 113 Public Edition

(i) 8 hours from when the person is first taken into custody if an officer reasonably believes the person is intoxicated (see s. 119(2)(b): 'Detention period limited' of the DFVPA); or

(ii) 4 hours initially from when a person is taken into custody if an officer reasonably believes:

(a) it is necessary to make arrangements to provide for the safety of the aggrieved or a child. The respondent may be held until the arrangements have been completed; or

(b) the respondent's behaviour is so aggressive or threatening it presents a continuing danger of personal injury or property damage. The respondent may be held until the danger of injury or damage has ceased.

An officer may seek to extend the 4 hours detention period for a maximum of a further 4 hours upon application to a magistrate (see s. 121: 'Police officer may apply for extension of detention period' of the DFVPA).

The applicant officer or releasing officer responsible for the custody of the respondent, is to ensure the custody report in QPRIME reflects the continuing grounds for the detention of the respondent.

ORDER

An officer intending to apply for an extension of the detention period to the magistrate is to complete and submit a DV 06: 'Application to extend detention period' (available in QPRIME) to a magistrate prior to the expiry of the initial detention period (see s. 121 of the DFVPA).

An application can be made by phone, fax, radio or email outside business hours or when a special circumstance exists such as an application made by an officer in a remote area.

Custody register to be updated upon application for an extension of the detention period

Where an officer is applying for an extension of the detention period the:

(i) watch-house manager;

(ii) most senior officer on duty at the station or establishment; or

(iii) applicant officer,

is to ensure the respondent's QPRIME custody report is updated to record:

(i) the grounds supporting the application for extension to the detention period; and

(ii) the date and time the application was made and the results of the application.

An application for an extension of the detention period may be made at the same time a DVO is made.

Custody register to be updated upon release of a respondent

Upon the release of a respondent, the custody register is to be updated to record the date and time:

(i) the arrangements to safeguard the aggrieved were completed;

(ii) the officer reasonably believed the person was capable of understanding the nature and effect of a protection order application and release conditions or DVO under the DFVPA; or

(iii) the officer reasonably believed the person's behaviour no longer presented a continuing danger of personal injury or property damage; and

(iv) the respondent was released from police custody.

Release of respondent for treatment or due to intoxication

A respondent may be released from custody to receive treatment or recover from intoxication. When a person is released from custody in this manner an officer is not required to comply with:

(i) s. 101A: 'Police officer may issue police protection notice';

(ii) s. 118: 'Police officer must apply for protection order';

(iii) s. 124: 'Release of person from custody'; or

(iv) s. 125: 'When police officer must release person on conditions',

of the DFVPA.

However, if there is sufficient evidence, officers should:

(i) complete and serve a PPN; or

(ii) make application for a DVO by DV 01: 'Application for a protection order',

for the protection of the aggrieved, children and any associated persons.

The officer should serve, or arrange for service of PPN, or DV 01 on the respondent as soon as practicable.

OPM Issue 113 Public Edition

Respondent transported for treatment

Section 127: 'Person may be taken to place for treatment' of the DFVPA provides a respondent taken into custody under the DFVPA may be transported to another place for the purpose of receiving any treatment necessary for the respondent's welfare.

If the officer reasonably believes treatment will not be completed prior to the expiry of any detention period, the respondent is to be released from custody at the place where the treatment will be completed. If the respondent is not intoxicated, a PPN may be served upon the respondent upon their release.

When the place providing the treatment to the respondent indicates the treatment will not be completed prior to the expiry of the detention period under the DFVPA, the officer should obtain a notation in their official police notebook/diary from the person providing care for the respondent.

The officer who takes and releases the respondent at the treatment place is to:

(i) complete a QPRIME custody report entry as appropriate;

(ii) serve or arrange for service of an application for a protection order, or PPN on the respondent; and

(iii) pass any relevant information regarding the respondent onto the person providing care.

Intoxicated respondent taken to a place of safety

Section 128: 'When intoxicated person may be taken to a place of safety' of the DFVPA provides if a respondent is intoxicated, and at any time whilst in custody DFVPA an officer reasonable believes it is more appropriate for the person to be taken to a place of safety, the officer is to, at the earliest reasonable opportunity, release the person at the place of safety.

These provisions do not apply in cases where the officer is satisfied a person at a place of safety is:

(i) unable to provide care for the person; or

(ii) the person's behaviour may pose a risk of harm, including, but not limited to DV or associated DV, to other persons at the place of safety.

A person taken to a place of safety is not compelled to stay at the place (see s. 128(5) of the DFVPA).

Requirements of an officer releasing a respondent at a place of safety

The officer who takes and releases the respondent at the place of safety is to:

(i) complete a QPRIME custody report entry as appropriate;

(ii) serve or arrange for service of:

(a) PPN; or

(b) DV 01,

on the respondent when the respondent is capable of understanding the nature and effect of an application, notice or order;

(iii) pass any relevant information regarding the respondent onto the person providing care for the respondent;

(iv) obtain a signed undertaking on a DV 23 from the person apparently in possession, or in charge of the place;

(v) give anything taken from the respondent to:

(a) if the place of safety is the respondent's home—to a person at the home who is an adult member of the respondent's family;

(b) if the place of safety is the home of a friend or relative—to the friend or relative, for safe keeping while the respondent is at the place; or

(c) otherwise—to the person apparently in possession or in charge of the place of safety, for safe keeping while the respondent is at the place;

(vi) obtain a signed QP 0034: 'Indemnity receipt' from the person receiving the respondent's property; and

(vii) upload the DV 23 and QP 0034 into the relevant QPRIME occurrence and file at the releasing officer's station or establishment.

Places of safety (see s. 128(9) of the DFVPA) operated by the Government or external organisations may be available in some localities. Where such facilities are available, the OIC of a station or establishment should ensure an appropriate list of places is maintained and available to officers under their control.

Watch-house/holding cell procedures—search and release

ORDER

When a respondent is taken into custody for the purposes of making a DV 01 or a PPN, the officer:

OPM Issue 113 Public Edition

(i) if not the applicant officer, transporting the respondent to a watch-house or station is to record the respondent on the watch-house or station's 'whiteboard' and commence a custody record in QPRIME in accordance with the QPRIME user guide;

(ii) is to create a 'Domestic Violence—Application Police' occurrence and commence a custody entry: and

(a) complete the enforcement register entries as required (see s. 2.1.2: 'Registers required to be kept' of this Manual);

(b) complete a DVO or application for a protection order (see ss. 9.3.4: 'Police protection notice (PPN)' and 9.3.6: 'Application for a DVO' of this chapter);

(c) advise the watch-house manager or the most senior officer on duty at a station of the relevant QPRIME occurrence number as soon as practicable.

The watch-house manager or the most senior officer on duty in a station with a holding cell is to ensure the above particulars are entered in QPRIME as soon as possible after the person is taken to the watch-house/holding cell.

The releasing officer is to ensure a PPN is generated through the relevant QPRIME Custody Report and served upon the respondent prior to their release from custody.

Person may be searched when in custody

When a person is delivered into the custody of a watch-house manager or the most senior officer on duty at a station (see s. 117: 'Person must be taken to holding cell or watch-house' of the DFVPA), officers may search and re-search the person and take and retain anything in accordance with s. 443: 'Police officer may search person in custody' of the PPRA while the person is in custody (see s. 16.10: 'Search of persons' of this Manual).

Release conditions

When releasing a person taken into custody under the DFVPA, in accordance with s. 125: 'When police officer must release person on conditions' of the Act, the release conditions that are to be applied by the releasing officer are contained in s. 106: 'Standard conditions' of the DFVPA and QP 0937: 'Release from Custody Condition' (available in QPRIME);

The releasing officer is to seek advice from the investigating officer when determining release conditions, including whether to exclude the respondent from any premises.

Aggrieved should be advised prior to respondent's release

For any DV related matter, the releasing officer should, where practicable, advise the aggrieved of the release of the respondent at or before the time of the respondent's release from custody.

Where a hearing date for the application is more than 5 business days (one week, excluding weekend days or public holidays, see s. 38(2): 'Reckoning of time' of the *Acts Interpretation Act*) after the date the respondent was released on release conditions, the applicant officer is to apply for a TPO under s. 129: 'When police officer may apply for a temporary protection order' of the DFVPA from a magistrate (see s. 9.3.7: 'Application for a temporary protection order (TPO)' of this chapter).

OPM Issue 113 Public Edition

9.3.6 Application for a DVO

An application for a protection order is to be made when:

(i) the respondent is being released from custody on release conditions;

(ii) the officer is applying for a TPO;

(iii) it is not appropriate to issue a PPD or PPN; or

(iv) it is necessary to make a cross order application for the protection of both parties.

ORDER

Officers making application to a court for a DVO are to prepare or cause to be prepared, documents required by the police prosecutor (see ss. 9.9.2: 'Documents required by police prosecutor' and 9.1.1: 'Confidentiality of an aggrieved, named persons and respondent to be protected' of this chapter).

Preparation of documents for an application

When preparing documents for a DV 01 officers should:

(i) fully record the grounds to support the issue of a DVO, and any conditions, against the respondent;

(ii) direct the respondent to appear at a time, date and court at which DV applications are being heard;

(iii) time permitting, confer with the relevant police prosecution corps and confirm the mention date is suitable;

(iv) serve a copy of the application on the respondent, with a QP 0937: 'Release from custody conditions' if the respondent was taken into custody under s. 116: 'Police officer may take person into custody' of the DVFPA;

(v) complete a DV 21A: 'Statement of police service' and endorse the signed copy of the DV 01 and QP 0937 as 'Exhibit A';

(vi) ensure a signed copy of the application and the DV 21A is filed with the court where the person is to appear within 3 days of service of the application and in any case before the date set for the respondent's date of appearance; and

(vii) ensure a copy of the respondent's criminal history and DV history is filed with the court under ss. 36A: 'Court must be given respondent's criminal history and domestic violence history' and 90A: 'Court must be given respondent's criminal history and domestic violence history' of the DFVPA.

Officer to advise the aggrieved and named persons after the application or order is granted

Officers should advise the aggrieved and any other named person of the conditions in an application or order as soon as practicable after the application or order is granted.

The aggrieved is to be provided with a copy of the application and a notice of the time and place the application is to be heard.

Separate QPRIME occurrence in a cross-order application

If an officer dealing with a matter where:

(i) DV is identified after conducting a holistic investigation;

(ii) the aggrieved is a named person in a DVO; and

(iii) exceptional circumstances exist, requiring a cross order application naming the aggrieved as a respondent,

the officer making the cross-order application is to commence a separate QPRIME occurrence for the aggrieved.

See ss. 9.3.11: 'Cross-orders' and 9.1.1: 'Confidentiality of an aggrieved, named persons and respondent to be protected' of this chapter.

PPN including named persons

A PPN may also include:

(i) a child of the aggrieved or a child who usually lives with the aggrieved; (see ss. 101B: 'Naming persons in police protection notice' of the DVFPA and 9.8: 'Children exposed to DFV' of this chapter);

(ii) a relative of the aggrieved (see s. 101B of the DVFPA); and

(iii) an associate of the aggrieved (see ss. 24(3): 'Who can a domestic violence order protect' and 52: 'Naming relative or associate of aggrieved' of the DVFPA),

as a named person in the order (see s. 24 of the DVFPA).

Officers submitting a PPN naming relatives, children or associates of the aggrieved protected by a DVO are to include sufficient information to demonstrate the naming of the:

(i) person is necessary or desirable to protect them from associated DV; or

(ii) child (including an unborn child) of the aggrieved is necessary or desirable to protect the child from:

(a) associated DV; or

(b) being exposed to DV committed by the respondent.

PPN involving several respondents

Where multiple respondents have been involved in the same or substantially the same acts of DV against an aggrieved, the PPN should be collated and presented to the court for hearing at the same time. A single QPRIME occurrence is to be created with additional QPS DFV reports where more than one respondent is involved.

ORDER

An officer issuing and serving a PPN on several respondents is to complete a PPN for each respondent.

9.3.7 Application for a temporary protection order (TPO)

An application for a TPO should be made when:

(i) additional conditions, in addition to the mandatory, cool-down, no-contact, ouster or return conditions available on a PPD or PPN, are necessary to protect the aggrieved from DV;

(ii) there are existing cross orders in place;

(iii) court is more than 5 business days in the future (see s. 129(2)(c): 'When police officer may apply for temporary protection order' of the DFVPA; or

OPM Issue 113 Public Edition

(iv) the officer knows or reasonably believes an additional condition being sought is inconsistent with a family law order but is necessary for the protection of a person named in an order (see s. 107D: 'Relationship between police protection notice and family law order' of the DFVPA).

If a TPO is made, the applicant officer is to prepare a DV 02', through the relevant QPRIME occurrence, in the terms conveyed by the issuing magistrate.

An officer is to personally serve a copy of the DV 01 and DV 02' on the respondent as soon as practicable after the order is made.

The officer who served the documents on the respondent is to complete a DV 21: 'Affidavit of personal service' or DV 21A: 'Statement of police service' (as applicable in accordance with s. 9.6: 'Service of DV documents' of this chapter) and ensure it is returned to the court where the matter is to be heard, with the DV 01 and DV 02 marked as exhibits.

Officers are to ensure:

(i) the DV 01 is filed at the court where the application is to be heard as soon as practicable after the TPO is made;

(ii) a copy of the DV 02 and a copy of the DV 01 are given to the aggrieved as soon as is practicable; and

(iii) prior to the return date shown on the DV 02, the relevant police prosecutor is provided with the documents required for the hearing of an application for a protection order (see s. 9.9.2: 'Documents required by police prosecutor' of this chapter).

ORDER

Officers seeking the issue of a TPO (see s. 129 of the DFVPA) are to complete a DV 01 in accordance with s. 9.3.6: 'Application for a DVO' of this chapter.

The particulars of the application are to be provided by telephone, fax, radio, email or other similar facility to a magistrate, who will decide whether to issue a TPO and reply to the officer by telephone, fax, radio, email or other similar facility.

9.3.8 Application to vary a DVO (increase conditions)

Officers investigating DFV should apply for a variation of a DVO, while an order is in force, if:

(i) the officer becomes aware for the need of further conditions to be placed upon the respondent (see s. 86: 'Application for variation' of the DFVPA); and

(ii) sufficient evidence exists to prove the variation and conditions are necessary or desirable.

The variation sought may relate to any aspect of the DVO including:

(i) adding, removing or varying conditions of the DVO;

(ii) varying the duration of the DVO; or

(iii) adding or removing of named persons in the DVO.

OPM Issue 113 Public Edition

Varying a DVO (interstate and registered foreign orders)

Officers should make an application for a variation of a nationally recognised interstate order or registered foreign (New Zealand) order (see s. 176I: 'Application for variation of recognised interstate order' of the DFVPA) on behalf of the aggrieved or named person, if the officer believes:

(i) either:

(a) varying the DVO would enhance the safety, protection and wellbeing of the aggrieved or named persons; or

(b) the PMINOP has not been identified (see s. 22A: 'Who is the *person most in need of protection* in a relevant relationship' of the DFVPA);

(ii) there is sufficient reason for doing so; and

(iii) the respondent was properly notified under the DFVPA (see s. 176D: 'Recognised interstate order may be enforced' of the DVFPA).

Varying a DVO (increase conditions)

When an officer investigating DFV determines an existing DVO needs additional conditions for the aggrieved or named person, the officer should:

(i) ensure the order is a current nationally recognised DVO;

(ii) locate the relevant QPRIME occurrence or where required create a new QPRIME occurrence;

(iii) for a Queensland DVO, complete a DV 04 and save a copy into the relevant QPRIME occurrence;

(iv) for an interstate or foreign DVO compete a DV 04A and save a copy into the relevant QPRIME occurrence with the type of Domestic Violence – Interstate Variation/Declaration;

(v) provide to the court, evidence to support the grounds for a variation to the DVO including, a statement or DV 25: 'Affidavit' from the aggrieved, if available;

(vi) select a suitable date, time and place for the hearing of the application;

(vii) complete any other relevant statements/affidavits outlining the circumstances which necessitate the variation of the order (affidavits are to be filed at the court in accordance with r. 37: 'Filing affidavit' of the Domestic and Family Violence Protection Rules (DFVPR);

(viii) complete the first page of a QP 0931: 'Domestic Violence Application Information Sheet' (see s. 9.9.2: 'Documents required by police prosecutor' of this chapter);

(ix) ensure all documents are filed with the court where the application is to be heard;

(x) give or cause the aggrieved and any affected named persons to be given a copy of the application to vary a DVO;

(xi) complete a QP 1210: 'Statement of document provision' and upload into the relevant QPRIME occurrence;

(xii) personally serve, or cause to be served, a copy of the application and notification of hearing on the respondent; and

(xiii) complete a DV 21A: 'Statement of police service' as required and upload into the relevant QPRIME occurrence;

(xiv) ensure confidentiality of all parties (see s. 9.1.1: 'Confidentiality of an aggrieved, named persons and respondent to be protected' of this chapter); and

(xv) offer a Police Referral (see ss. 9.2.6: 'Initial DFV investigative action' and 9.3.16: 'DFV referral agencies' of this chapter)

Varying an order (removing conditions)

When an officer receives a request to remove conditions from a DVO, the officer should:

(i) ensure the order is a current nationally recognised DVO;

(ii) undertake a protective needs assessment of the aggrieved or named person utilising the DV-PAF (see s. 9.2.10: 'Domestic Violence Protective Assessment Framework (DV-PAF)' of this chapter);

(iii) ensure the variation is not due to threats, intimidation or coercion made by the respondent or another party;

(iv) consider whether the variation may adversely affect the safety, protection or wellbeing of the aggrieved or any named person (see s. 92: 'Considerations of court when variation may adversely affect aggrieved or named person' of the DFVPA);

(v) locate the relevant QPRIME occurrence or where required create a new QPRIME occurrence;

(vi) for a Queensland DVO complete a DV 04 and save a copy into the relevant QPRIME occurrence;

(vii) for an interstate or foreign DVO compete a DV 04A and save a copy into the relevant QPRIME occurrence with the type of Domestic Violence – Interstate Variation/Declaration;

(viii) provide to the court evidence to support the grounds for a variation to the DVO (including a statement or DV 25 from the aggrieved, if available);

(ix) select a suitable date, time and place for the hearing of the application;

(x) complete any other relevant statements/affidavits outlining the circumstances which necessitate the variation of the order (affidavits are to be filed at the court in accordance with r. 37 of the DFVPR);

(xi) ensure all documents are filed with the court where the application is to be heard;

(xii) complete the first page of a QP 0931 (see s. 9.9.2 of this chapter);

(xiii) give or cause the aggrieved and any affected named persons to be given a copy of the application to vary a DVO;

(xiv) complete a QP 1210 and upload into the relevant QPRIME occurrence;

(xv) personally serve, or cause to be served, a copy of the application and notification of hearing on the respondent;

(xvi) complete a DV 21A as required and upload into the relevant QPRIME occurrence; and

(xvii) ensure confidentiality of all parties (see s. 9.1.1 of this chapter).

If the officer is satisfied that a variation of the order is still required, the officer should:

OPM Issue 113 Public Edition

(i) assist the aggrieved by applying for a variation of a DVO pursuant to this chapter; or

(ii) direct the aggrieved to the nearest court or support agency for assistance in varying the current DVO, but only where the officer has conducted an investigation and is not satisfied there is sufficient evidence to prove the variation application.

If the order is not a recognised interstate order, the officer should submit a DV 35: 'Application for declaration of a DVO to be a recognised interstate order'.

Varying a DVO (to end date a DVO)

At any stage, where an officer is provided material relating to an application for a DVO or DVO, which upon review determines the PMINOP has not been appropriately identified, the officer is to review the material and consider it in the context of the identification of the person most in need of protection (see s. 22A: 'Who is the *person most in need of protection* in a relevant relationship' of the DFVPA).

Sufficient reasons supported by evidence must exist to substantiate an application to vary an existing order (by ending the duration) against the relevant party and mitigate any risk to any named person (see s. 92: 'Considerations of court when variation may adversely affect aggrieved or named person' of the DFVPA).

Any variation of an existing order that may adversely affect the safety, protection or wellbeing of the aggrieved or any named person, officers are to include sufficient evidence of a change of circumstance that would allow a Magistrates Court to rule appropriately (see s. 41G: 'Deciding cross applications' of the DFVPA).

See also Gender-Centred Review User Guide.

No provisions to revoke a DVO

Officers should be aware there is no provision under the DVFPA to revoke a DVO only vary the conditions, duration or named persons in the order (see s. 86 of the DFVPA).

TPO in relation to an application to vary a DVO

Where a court adjourns a hearing of an application to vary a DVO, the court may:

(i) make a TPO against a respondent; and

(ii) suspend the existing DVO,

until the court makes a decision on the application for the variation.

The suspension of the existing DVO and the commencement of the TPO starts when:

(i) the respondent is served with a copy of the TPO; or

(ii) an officer has told the respondent of the TPO, including the conditions of the order (see s. 177: 'Contravention of domestic violence order' of the DFVPA).

See s. 9.6: 'Service of DV documents' of this chapter.

Revival of an existing DVO

An existing DVO is revived (i.e. the suspension ends and it is enforceable against the respondent as if it had never been suspended) and a TPO ends when the:

(i) court varies the existing DVO; and

(a) if the respondent is present in court when the court varies the order; or

(b) if the respondent is not present in court when:

- the respondent is served with a copy of the varied existing DVO; or
- an officer has told the respondent of the DVO, including the conditions of the order in accordance with s. 177 of the DFVPA);

(ii) court refuses to vary the existing DVO and:

(a) if the respondent is present in court when the refusal happens; or

(b) an officer tells the respondent about the refusal in any way; or

(iii) application for the variation to the existing DVO is withdrawn and:

(a) if the respondent is present in court when the withdrawal is made; or

(b) an officer tells the respondent about the withdrawal in any way,

in accordance with s. 9.6 of this chapter).

See also s. 48: 'Temporary protection order in relation to application for variation' of the DFVPA and r. 19: 'Obligation to inform police commissioner if suspended domestic violence order is to be revived' of the DFVPR.

OPM Issue 113 Public Edition

Member to accept documents on behalf of the Commissioner

Where the suspended DVO is revived due to a refusal or withdrawal of an application to vary a DVO, the court will provide a DV 28: 'End of Suspension and Revival of DV Order' and a copy of the DVO being revived. Where a member receives these documents from a court, the member is to:

(i) accept them on behalf of the Commissioner (see Delegation D 18.18);

(ii) ensure QPRIME is updated and the documents uploaded into the relevant occurrence; and

(iii) ensure a QPRIME task is created and assigned as necessary to enable the respondent to be served or informed.

Officers are to advise a respondent about the refusal or withdrawal of application to vary a DVO and the subsequent revival of the suspended DVO by:

(i) personally serving the copy of the order and the DV28 on the respondent where possible; and

(ii) completing a DV 25,

in accordance with s. 9.6 of this chapter.

Officer should attempt personal service before telling the respondent in another way

Officers should only tell the respondent about the refusal or withdrawal of the application to vary a DVO and the subsequent revival of the suspended DVO in another way after attempting personal service (see s. 48(7) of the DFVPA and subsection 'Where personal service cannot be completed in a timely manner' in s. 9.6 of this chapter).

Members are to ensure the relevant QPRIME occurrence is updated to reflect when an existing DVO is revived.

9.3.9 Respondent continues to commit DFV before court order is issued

ORDER

If a private DV 01 has been served upon a respondent and the respondent continues to commit further DFV before the application is heard by a court, the investigating officer is to:

(i) if justified, take the respondent into custody (see s. 9.3.5: 'Taking a respondent into custody under the DFVPA' of this chapter);

(ii) where there is sufficient evidence, take appropriate action to protect the aggrieved from further DFV (e.g. issue a PPN or apply for a TPO); and

(iii) consider any additional conditions to protect the aggrieved from further DFV (see s. 106A: 'Other conditions' of the DFVPA).

Previous history and circumstances of DFV can be used to support a fresh application

All circumstances of previous DFV reports can be used to support a fresh application for a DVO.

Nationally recognised DVOs and DFV-related history can be referenced (without naming another aggrieved) in an application to assist in determining if a DVO is necessary or desirable.

Officers are to note the requirement for a copy of the respondent's criminal history and DV history to be filed with the court under ss. 36A: 'Court must be given respondent's criminal history and domestic violence history' and 90A: 'Court must be given respondent's criminal history and domestic violence history' of the DFVPA.

9.3.10 Where the order has been issued but is not yet served

Officers are to ensure DV applications and orders issued by the courts are served as soon as reasonably practicable (see s. 9.6.4: 'Service of DV documents' of this chapter).

If a respondent has not been served with a copy of, or told of the existence of, a DVO and is alleged to have committed further DFV, the officer investigating the report of further DFV is to:

(i) personally serve the order upon the respondent; or

(ii) if a copy of the order is not readily available:

(a) make arrangements for the personal service of the order on the respondent (see s. 134A: 'Power to give direction' of the DFVPA; or

(b) tell the respondent of the order and its conditions (see subtitle 'Service of documents on the respondent' of s. 9.6 of this chapter) and record the notification in a supplementary report to the relevant QPRIME occurrence; and

(iii) conduct a holistic investigation of the report of further DFV to establish if:

(a) further DFV has been committed and whether any additional conditions are necessary or desirable to protect the aggrieved and any named person; and

OPM Issue 113 Public Edition

(b) there is sufficient evidence to commence proceedings for any associated criminal offences; and

(iv) where appropriate:

(a) prepare a DV 04 to apply for the variation of the current order to include any additional conditions or named persons; and

(b) commence proceedings for any associated criminal offences.

Direction to move or remain

In accordance with Part 4, Division 5: 'Power to direct person to remain, or move to and remain, at a place' of the DFVPA, an officer may, give a direction to a respondent in order to:

(i) serve a previously issued application or DVO on the respondent;

(ii) where the officer does not have possession of the order, tell the respondent about the order and its conditions; or

(iii) issue and serve a PPD or PPN on the respondent.

The direction may be to:

(i) remain at an appropriate place at the current location; or

(ii) where it is contrary to the interests of a person (including the respondent) to remain at the current location, to go to another appropriate location (e.g. station, court house), which is a reasonable distance from the current location.

Whenever practicable, the aggrieved should be told of the direction given to the respondent.

When giving a direction to move or remain, the officer is to comply with s. 134A: 'Power to give direction' of the DFVPA.

Section 134B: 'Limits on direction' of the DFVPA provides the limitations of time the person may be directed to remain.

If a person fails to comply with a direction, whenever practicable the officer should:

(i) repeat the direction to the respondent; and

(ii) give the respondent a reasonable opportunity to comply with the direction (see s. 134C: 'Offence warning' of the DFVPA).

ORDER

An officer who gives a respondent a direction to remain or move to another location under s. 134A of the DFVPA is to:

(i) remain in the presence of the respondent whilst the respondent moves to and remains at the nominated location (see s. 134E: 'Responsibilities of police officer in relation to direction' of the DFVPA) and is not to:

(a) question the respondent in relation to any other offence;

(b) generally search a respondent, unless the officer is investigating another offence with a search provision; and

(ii) create a QPRIME custody report and record the reason for giving the direction.

OPM Issue 113 Public Edition

9.3.11 Cross-orders

An application for a cross-order is an application for a DVO which names a person, who is an aggrieved in an existing application or DVO, as a respondent (see s. 41A: 'Application of particular provisions' of the DFVPA).

Officers investigating reports of DFV are to identify the PMINOP and take appropriate action to protect the PMINOP from further DFV. If, after conducting a holistic investigation, an officer believes it is necessary or desirable to protect a person who is named as a respondent in an existing application or DVO, the officer may apply for a cross-order outlining to the court the exceptional circumstances (see s. 41G: 'Deciding cross applications' of the DFVPA).

ORDER

Officers are not to issue a PPD or PPN to apply for a cross-order where an application or DVO already exists between the involved persons.

If the identified PMINOP is an existing respondent in a PPD, that if:

(i) a TPO or protection order is made and becomes enforceable on an application by an officer; or

(ii) a PPN or release conditions are issued,

the existing PPD will then no longer be in force and the previously identified PMINOP left without protection. Where this situation exists, officers are to ensure they fully brief the approving supervising police officer of the situation and consequences.

Cross-order application options

Where an application or DVO naming the involved persons is already in existence, the options for making a cross-application include:

(i) completing a DV 01 (see s. 32: 'Application for protection order' of the DFVPA);

(ii) where detaining the respondent, who is also a named aggrieved, is justified, completing a DV 01 with release conditions; or

(iii) where there may be delays in the application being heard and decided by a court, completing a DV 01 and applying for a TPO.

Where an officer makes a cross-order application, the officer is to create a separate QPRIME occurrence for the aggrieved named in the application.

9.3.12 DFV as a result of the serious injury or death of a child

ORDER

Where an officer is investigating the serious injury or death of a child by their parent/guardians and there is supporting evidence the incident was a DFV related incident (see s. 8(3)(e): 'Meaning of *domestic violence*' of the DFVPA), the officer is to make application for a DVO against the relevant person who has harmed the child.

Where the officer cannot identify which parent/guardian was responsible for causing the child's injury or death, the officer is to:

(i) make cross-order applications (see s. 9.3.11: 'Cross-orders' of this chapter); or

(ii) apply for a variation of any current DVOs in place,

and, where the incident involves the serious injury of a child, include the injured child as a named person against each respondent.

9.3.13 Police action to be taken where applying for a DVO or issuing a PPD is not appropriate

Supervisor authorisation to record incident as a 'Domestic Violence—No DV' or 'Domestic Violence—Other Action' occurrence

An officer, who determines it is not appropriate to apply for a DVO or issue a PPD because:

(i) there is insufficient evidence to support an application;

(ii) a DVO is not considered necessary or desirable; or

(iii) DFV has not occurred,

is to contact a supervising police officer (see s. 9.1.2: 'Definitions of DFV' of this chapter) and brief them on the investigation to obtain authorisation to record the incident as a 'Domestic Violence—No DV' or 'Domestic Violence—Other Action' occurrence. The investigating officer is to obtain this verbal authorisation prior to leaving the job address unless exceptional circumstances exist.

Supervising officers, prior to authorising an incident to be recorded as a 'Domestic Violence—Other Action' or 'Domestic Violence—No DV' are to ensure:

(i) a holistic investigation has been undertaken; and

(ii) that protection in the form of a DVO or PPD is not necessary or desirable.

To do so the supervising officer is to, where practicable:

(i) attend the address; and

(ii) overview the investigation.

After authorisation is obtained, the investigating officer is to create the relevant QPRIME DV occurrence and link the authorising officer approving the 'Domestic Violence—No DV' or 'Domestic Violence—Other Action' occurrence and record the reason for the approved action being taken prior to terminating duty (see s. 100(4)-(5) 'Police officer must investigate domestic violence' of the DFVPA).

Officers are to offer a Police Referral to a person experiencing DFV and a respondent who has committed DFV (see s. 9.3.16: 'DFV referral agencies' of this chapter).

Therefore, where a matter is finalised as:

(i) DV other action—officers are to offer the involved persons a Police Referral; or

(ii) No DV—officers should offer an involved person a Police Referral if the person may benefit from a referral. The referral should appropriately reflect the needs of the person and is not to be completed for the 'domestic violence aggrieved' or 'domestic violence respondent' referral categories when 'No DV' has been recorded,

OPM Issue 113 Public Edition

see also s. 6.3.14: 'Police Referrals' of this Manual.

Where there is insufficient evidence to support a police application for a DVO (DV—Other Action)

Where a relevant relationship exists and, at the conclusion of a holistic investigation, no action is to be taken because:

(i) there is insufficient evidence to support a police application; or

(ii) it is not necessary or desirable to take any action to protect a person from domestic violence,

the investigating officer is to:

(i) contact a supervising police officer to:

(a) brief them on the investigation; and

(b) obtain authorisation to record the incident as a 'Domestic Violence—Other Action' occurrence,

prior to:

(a) advising the involved persons there is insufficient evidence to support a police application; and

(b) prior to leaving the location (unless exceptional circumstances exist);

(ii) advise the involved persons of the process for making a private application, including that they may attend a courthouse to make a private application for a DVO;

(iii) offer the involved persons a Police Referral;

(iv) create a 'Domestic Violence—Other Action' occurrence in QPRIME, ensuring it reflects the information provided to the authorising officer during the verbal briefing, including the reason why no action is recommended; and

(v) once satisfied that the relevant information upon which the DV Other Action was authorised is recorded in the 'Domestic Violence—Other Action' occurrence, they are to assign a QPRIME task to the supervising police officer to seek approval to finalise the occurrence (noting QLITE generated DV other action occurrences will automatically create the follow up/authorisation task).

Prior to providing approval to finalise a 'Domestic Violence—Other Action' occurrence, the authorising officer is to review the information recorded by the investigating officer in QPRIME to ensure:

(i) the information aligns with the information provided to them as part of the verbal briefing;

(ii) that a holistic investigation has been undertaken; and

(iii) the reasons for not applying for a DVO are in the best interest of all persons involved.

Where DV has not occurred (No DV)

Where alleged DFV has been reported to police and, at the conclusion of a holistic investigation, an officer determines DFV has not occurred, the officer is to:

(i) contact a supervising police officer, brief them on the investigation, seek their authorisation to record and finalise the incident as a 'Domestic Violence—No DV' occurrence. This authorisation must be obtained before the investigating officer leaves the location unless exceptional circumstances exist; and

(ii) once authorisation is obtained, the investigating officer is to create a 'Domestic Violence—No DV' occurrence in QPRIME articulating why DFV is determined to have not occurred.

Once the 'No DV' occurrence has been recorded in QPRIME, and the authorising officer linked to the occurrence, no further QPRIME tasking is required.

Where one party of the relationship claims that a relevant relationship exists, officers are to treat the relationship and investigation as if a relevant relationship does exist, unless proven otherwise.

Where a supervising police officer's approval is granted, the investigating officer is to specify to police communications the revised job activity code (e.g. 832—DV Relationship—No DV) for the incident.

Where a relevant relationship does not exist

Where alleged DFV has been reported to police (see s. 9.2.1: 'Procedures on receipt of an initial DFV report' of this chapter) and, at the conclusion of an investigation, it is determined that a relevant relationship doesn't exist between the involved persons (see s. 13: 'Meaning of *relevant relationship*' of the DFVPA) the investigating officer is to specify to police communications the appropriate revised job code (e.g. 313, 504) for the incident.

Supervisor approval and the creation of a DV occurrence in QPRIME is not required.

Where matters involve a family relationship and one or both of the persons is under 18 years of age

When officers responding to a report of DFV have identified that the only type of relevant relationship that exists between the 2 persons is a family relationship and one or both of the persons is under 18 years, an officer's obligation to

OPM Issue 113 Public Edition

investigate the complaint, report or circumstance of DV, or make written record ends (see s. 100(5A): 'Police officer must investigate domestic violence' of the DFVPA).

In these circumstances officers are not required to make a written record via a DV Occurrence in QPRIME, however this does not limit an officer's responsibilities to investigate the matter, or take action, under another Act, including the Criminal Code, *Child Protection Act* or the *Youth Justice Act* (see s. 100(7): 'Police officer must investigate domestic violence' of the DFVPA).

See also s. 9.8: 'Children involved in or exposed to DFV' of this chapter.

9.3.14 Completion of QPRIME custody and search reports

Entry of a place etc. under s. 609 of the PPRA

Officers who enter a place to investigate DV under s. 609: 'Entry of a place to prevent offence, injury or domestic violence' of the PPRA are to complete a register entry into QPRIME (see s. 2.1.2: 'Registers required to be kept' of this Manual).

Taking a person into custody under s. 116 of the DFVPA

When officers take a person into custody under s. 116: 'Police officer may take person into custody' of the DFVPA, they are to enter the detention into a custody register (see s. 9.3.5: 'Watch-house/holding cell procedures—search and release' of this chapter).

ORDER

Officers who take a respondent into custody under s. 116 of the DFVPA are to record a Custody Report (Full) against the person.

Officer directing to remain or move to complete a custody report

ORDER

An officer who directs a person to remain at or move to another place under s. 134A: 'Powers to give direction' of the DFVPA is to record a Custody Report against the person prior to the termination of the shift.

See s. 9.6.16: 'Power to give a direction to remain or move to another location' of this chapter.

9.3.15 Recording DV offence on a person's criminal history

Where an officer commences a proceeding for an offence against an Act other than the DFVPA which is also a DV offence, the officer is to include as ancillary wording in the charge that the offence is also a DV offence.

Where a defendant is found guilty, regardless of whether the conviction is recorded or not, if the court is satisfied the offence is also a DV offence, the court will order the matter be recorded on the person's history as a DV offence.

Where a court orders a matter be recorded on the person's criminal history as a DV offence, or convicts an offender of an offence against Part 7: 'Offences' of the DVFPA, prosecutors may apply to the court for an order that any previous offences identified as a DV offence be recorded as a DV offence on the person's history (see s. 12A: 'Convictions for offences relating to domestic violence' of the *Penalties and Sentences Act*).

Identifying and recording previous DV offences on a person's criminal history

Districts should develop local instructions, identifying high risk or recidivist DFV respondents and make an application for an order to have all relevant previous convictions recorded as DV offences.

When commencing a proceeding against a person for a DV offence, officers should review the respondent's previous criminal history, and where it is identified there are DV offences, officers should complete documentation and provide evidence (e.g. previous court brief (QP9), witness statements etc.) to apply for the person's previous history to be recorded as a DV offence.

Where it is identified a previous conviction may also be defined as a DV offence, other than an offence under the DFVPA, but is not recorded as a DV offence on a defendant's criminal history, officers are to:

(i) complete a Form 80: 'Application by Queensland Police Service for an order that previous offences were domestic violence offences'; and

(ii) prepare a Form 81: 'Order of court that a previous offence is a domestic violence offence';

(iii) attach any documentation and evidence (e.g. previous court brief (QP9), witness statements etc.) supporting the application to the Form 80, including a QP 1035: 'Form 80 Annexure' where practicable;

(iv) where possible, serve a copy of the Form 80 and supporting documentation on the defendant or the defendant's legal representative at least 3 days before the court appearance and endorse a copy regarding service;

(v) attach the above to the court brief (QP9) for the current charge; and

(vi) attach all completed documents to the relevant QPRIME occurrence.

OPM Issue 113 Public Edition

Where it is not practicable to serve the Form 80 and supporting documentation on the defendant or the defendant's legal representative prior to the defendant's court appearance, the documentation should still be attached to the court brief (QP9) for the prosecutor to serve on the defendant or the defendant's legal representative at court.

9.3.16 DFV referral agencies

The Service recognises an integrated approach to DFV across government and the community is necessary for the effective application of legislation. Members should be aware of the vital roles carried out by government and non-government agencies in addressing DFV.

An officer who reasonably believes:

(i) a person is experiencing DFV; or

(ii) a respondent has committed DFV against another person,

is to offer the person a Police Referral.

Officers can refer the person to a specialist DFV service provider without their consent (see s. 169F: 'Police officer may refer person to specialist DFV service provider' of the DFVPA). Section 169F of the DFVPA does not extend to other referral agencies. Officers can only refer a person without consent to a specialist DFV service provider where the officer reasonably believes the person:

(i) fears or is experiencing DFV and there is a threat to the person's life or safety because of the DFV; or

(ii) has committed DFV against another person.

Before referring a person without their consent, officers are to consider whether a non-consent referral is likely to adversely affect the safety of the person or another person (see Police Referrals SharePoint page and s. 169B: 'Principles for sharing information' of the DFVPA).

ORDER

The Department of Families, Seniors, Disability Services and Child Safety is to be advised if a child requires support or protection as a result of experiencing DFV (see 'Role of other agencies in relation to child harm' of s. 7.3.1: 'Initial action for reports of child harm' of this Manual). There is no authority under the *Child Protection Act* to refer a child to a non-government agency for support or counselling.

Police Referrals completed where a PMINOP has not been appropriately identified

If an officer reasonably suspects the PMINOP has not been appropriately identified in a police-initiated application or DVO, and a referral has been made, the officer is to follow the steps contained in the referral guide located in the Police Referrals SharePoint page to recall the referral.

Employee Wellbeing

Members of the Service and their immediate families involved in DFV matters are encouraged to seek support through Employee Relations, Workforce Management and Wellbeing Division (see 'Supporting Members affected by Domestic and Family Violence Policy' on the HR Policies and Procedures SharePoint page).

Officers dealing with DFV incidents involving members of the Service or their immediate families should advise both parties of the assistance provided by the respective region or command's human services officer.

9.3.17 Recorded statements

The taking, use and admissibility of a recorded statement (see s. 3.14.2: 'Definitions' of this Manual) from a complainant by a trained officer in relation to a DV offence is provided for in Part 6A: 'Evidence related to domestic relationships and domestic violence' of the *Evidence Act* (EA).

The taking of electronically recorded statements is only authorised as detailed in Part 6A of the EA and is not to be used for any other matter unless authorised by other statutory provisions (see s. 2.13.1: 'Introduction' of this Manual).

ORDER

Only officers who have successfully completed approved training in the taking of video recorded evidence-in chief (VREC) statements (see Video Recorded Evidence-in-Chief SharePoint page for approved training requirements and exemption) are authorised to take a recorded statement.

Authorised officers who are investigating a DV offence who have:

(i) informed the complainant of the matters contained in s. 103F: 'When recorded statement is made with informed consent' of the EA; and

(ii) obtained an indication from the complainant that they understand the matters and consent to the making of the recorded statement,

are to take a recorded statement.

OPM Issue 113 Public Edition

Recorded statements are to be videorecorded unless exceptional circumstances exists (see s. 103H: Admissibility of recorded statements generally' of the EA).

Transcripts of recorded statements

When preparing a brief of evidence for court, the officer who obtained the recorded statement in accordance with the requirements of Part 6A of the EA is to produce a transcript of the recorded statement. The officer is to complete the transcript on a QP 1277: 'Transcript of Police Video Recorded Evidence statement' and verify the transcript is accurate and reflects what was said and the speaker in the recording. A copy of the verified QP 1277 is to be attached to each copy of the brief of evidence.

Disclosure of recorded statements

A recorded statement to be used in a relevant proceeding is not to be given to the accused person (see ss. 590AD: 'Definitions' and 590AOB: 'Disclosure of recorded statement' of the CC).

However, written notice must be provided to the accused or their legal representative outlining that the prosecution intends to rely upon the recorded statement in evidence. A copy of the recorded statement can be provided to a lawyer acting for the accused under s. 590AOB(4) of the CC if the recorded statement is accompanied by a written notice (QP 1207B: 'Notice of Evidence Act Part 6A recorded statement in a domestic violence proceeding for represented defendant'). See also s. 3.14.4: 'Mandatory disclosure' of this Manual.

For an accused with no legal representation, a QP 1207A: 'Notice of Evidence Act Part 6A recorded statement in a domestic violence proceeding for unrepresented defendant' is to be provided to the defendant.

Editing or altering of recorded statements

Officers can edit or alter recorded statements in certain circumstances outlined in s. 103O(1): 'Editing or otherwise altering recorded statements' of the EA. Editing or altering a recorded statement can only be done:

(i) with the consent of the parties involved in the recorded statement; or

(ii) if the editing or alteration is required to avoid disclosing material that is not required or not permitted to be disclosed to the defendant (i.e. avoid disclosing sensitive evidence, victim or witness contact details or other information that is not required to be disclosed to the defendant); or

(iii) to comply with the direction of the court.

Officers editing or altering a recorded statement are to:

(i) complete a QP 1207C: 'Notice of editing or altering of a recorded statement'; and

(ii) provide a copy of the notice for the defendant or the defendant's legal representative, via the prosecutor; and

(iii) provide a copy to the prosecutor if the editing or alteration was completed by an officer other than the prosecutor for the matter.

OPM Issue 113 Public Edition

9.3.18 Surrender of weapons and weapons licences after being named as a respondent in a TPO, PPD, PPN or release conditions

When a respondent is named in a DVO, TPO, PPD, PPN or release conditions the respondent is to immediately surrender any weapons licence or weapons in the respondent possession, after being given, served, issued, present in court when made or present when issued and explained as appropriate see ss. 27A: 'Effect of temporary protection order, police protection notice or release conditions on licence' and 28A: 'Revocation or suspension of licence and related matters after protection order is made or police protection direction issued' of the *Weapons Act* (WA);

If a DVO (including TPO, PPD, PPN) or release conditions is served on the respondent at any other place or in any way other than by personal service, arrangements are to be made for any weapons licences and any weapons in the respondent's possession to be delivered to an officer as soon as practicable and no later than one day after the day the order is served (see s. 29B: 'Arrangements for surrender of suspended or revoked licences and weapons' of the WA).

Any action taken in relation to the surrender of a weapons licence or weapon, the officer is to update the relevant QPRIME occurrence by adding the information to a supplementary report.

Officers who make arrangements for a respondent to surrender a weapons licence or weapon/s should take any appropriate action against a respondent who fails to surrender: any weapons licences, or weapons within the time allowed (see s. 27A of the WA).

Where a weapon has been 'otherwise surrendered' in accordance with s. 29B of the WA, a copy of the dealers Form 10 'Notice of Transactions involving a weapon' is to be properly endorsed, uploaded into the relevant QPRIME occurrence and then returned to the respondent.

An officer who receives a weapons licence from a respondent is to retain the licence at the station.

ORDER

Officers who seize a weapon or weapons from a DV incident are to issue a QPB32A: 'Field property receipt' and enter the property into the relevant QPRIME occurrence. All weapons seized are to only be stored with a licenced firearms dealer/armourer or station (see s. 622: 'Receipt for seized property' of the PPRA).

Disposal of weapons

A weapon seized or otherwise coming into the possession of an officer in the course of performing the officer's duty and that has not been returned to the owner or another person entitled to possess it within 3 months of the date it was seized is forfeited to the State and is to be disposed of in accordance with s. 4.6.10: 'Disposal of weapons and weapon related things' of this Manual unless a longer period is directed by the Commissioner. Officers are to consider that if a PPD is revoked by a PPD reviewing officer or set aside by a Court Review that it is deemed to have never been issued (see ss. 100Y(5): 'Decision on review' and 100ZD(3): 'Decision of court about police protection direction' of the DFVPA). However, this would have no effect if another DVO, PPD, PPN or release conditions were subsequently in effect with the person named as the respondent, as the 3-month period relates to the date of seizure, not the date of being named.

Officers should consider the definition of 'possession' contained in s. 79: 'Definition of div 8' of the DFVPA when the respondent nominates another person to have possession of a weapon or other thing.

ORDER

An officer is not to return a surrendered weapon seized under ss. 27A or 28A of the WA unless formally advised by Weapon Licensing.

Special case (protection order not determined within 3 months)

Where a protection order in respect to a respondent is not determined within a period of 3 months after a weapon has been:

(i) seized from a respondent under the provisions of ss. 27A or 28A of the WA; or

(ii) surrendered under the provisions of s. 29B of the WA upon the service of or being named in a DVO, TPO, PPD, PPN or release conditions,

an application should be made and forwarded through the normal chain of command to the Commissioner, requesting the weapon or other thing not be forfeited to the State until the application is determined by a court.

9.3.19 Concise grounds for a PPD, PPN or DV 01

Having completed a holistic investigation, an officer who issues a PPD or PPN or makes an application for a protection order (DV 01) are to complete the grounds as concisely as the circumstances permit ensuring the information recorded is sufficient to articulate and justify:

(a) that a relevant relationship exists;

(b) if there are conflicting allegations of DFV or indications both parties are committing DFV, the details and why the aggrieved is identified as the PMINOP (see ss. 4(2)(e): 'Principles for administering Act', 22A: 'Who is the *person most in need of protection* in a relevant relationship' and 100C(1)(i): 'Circumstances when police officer must not issue direction' of the DFVPA) or if the officer is not able to identify the PMINOP;

(c) why the officer believes that DV had been committed by the respondent, outlining DV matters in the context of the relationship as a whole;

(d) why it is necessary or desirable to protect the aggrieved and any relative, associate or child including any unnamed child(ren) (if any); and

(e) why any additional conditions (i.e. ouster, no contact) were imposed (PPD) or are sought (DV 01, PPN).

The grounds need to be sufficient to justify the matters required to be proven for the issuing of the PPD, or application for a protection order and should not be so concise as to remove the ability to clearly understand the DV perpetrated either in this relationship or in previous relationships, including those matters where a protection order was not sought (DV—Other Action).

9.4 Electronic monitoring (DVO condition)—Caboolture and Townsville pilot

Part 3, Division 5, Subdivision 3: 'Monitoring device conditions' of the DFVPA provides for a pilot to facilitate a framework to allow courts to impose a monitoring device condition in certain circumstances when making a DVO.

Electronic monitoring of DFV perpetrators is intended to support victim-survivors and named persons protection, hold perpetrators to account and enable police to respond to electronic monitoring alerts. These conditions are not intended to keep victim-survivors safe on their own but complement existing integrated safety planning.

Monitoring device conditions are also intended to deter respondents from contravening DVO conditions related to contact and proximity with the aggrieved or name persons.

OPM Issue 113 Public Edition

The electronic monitoring trial in the pilot locations allows the Magistrates Court to make or vary a monitoring device condition where:

(i) the respondent and the aggrieved live in the Townsville and Caboolture Magistrates Court districts at the time the condition is made (any court can vary the conditions);

(ii) whether the respondent is:

(a) in the custody of the Service or Queensland Corrective Services;

(b) subject to a community-based order or parole order; or

(c) not in custody; and

(iii) the application is a private or police application.

Definitions

For the purposes of the section the following definitions and abbreviations apply:

Court

means, for an application for EMD condition, the Caboolture and Townsville Magistrates Court (see s. 1B: 'Courts that can impose monitoring device condition—Act, s 66B' of the Domestic and Family Violence Protection Regulation).

EMD

means an electronic monitoring device.

Victim-survivor safety device

means a safety device given to an adult victim for identifying risks to their safety from a respondent with an EMD condition (see s. 66A: Definitions for subdivision' of the DFVPA).

9.4.1 Court ordered DVO condition to wear an electronic monitoring device

A prescribed court may impose a condition for an adult respondent on a DVO to wear EMD where the conditions of s. 66B: 'Court may impose monitoring device condition' of the DFVPA are met.

Officers to make application to the court for an EMD condition

Officers investigating DFV are to request the court impose an EMD condition, where the conditions of s. 66B of the DFVPA exist, namely the respondent:

(i) is an adult;

(ii) has:

(a) been convicted of or is charged with:

- a DV offence; or
- an indictable offence involving violence against another person; or

(b) a history of charges for DV offences made against them; and

(iii) is not required to wear an EMD for another purpose.

Officers making application for an EMD condition on a DVO application are to:

(i) ensure they address the matters the court must consider, when determining if the respondent is suitable for an EMD condition, namely:

(a) the personal circumstances of the respondent including:

- the geographical area where the respondent lives; and
- the respondent's living arrangements;

(b) the respondent's ability to charge the EMD; and

(c) the views and wishes of the aggrieved or any named person regarding the EMD condition on the respondent;

(ii) request the court impose:

(a) an ouster condition (if applicable); and

(b) a condition prohibiting the respondent from approaching the aggrieved or named person;

(iii) set out the grounds on either a:

OPM Issue 113 Public Edition

(a) DV 01: 'Application for a protection order';

(b) DV 04: 'Application to vary a domestic violence order'; or

(c) DV 04A: 'Application to vary a recognised interstate order'; and

(iv) make a Police Referral for the respondent and aggrieved to a specialist DFV service provider (see ss. 9.3.16: 'DFV referral agencies' of this chapter and 6.3.14: 'Police Referrals' of this Manual).

Where an officer has the made an application for an EMD condition and the respondent is:

(i) in custody at a watch-house; or

(ii) held in a correctional facility at the time,

and the police prosecutor is to request the court consider an EMD condition for or to vary a DVO. The details of the condition will be specified by the court and does not need to be specified by the police prosecutor.

9.4.2 Action on imposing an electronic monitoring DVO condition

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

9.4.3 Electronic monitoring device alerts

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

9.4.4 Police communications centre responsibilities when an alert has been generated and imminent risk to another person

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

9.4.5 First response officers

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

9.4.6 Respondent held in a watch-house wearing an electronic monitoring device

Where a respondent is fitted with an electronic monitoring device (EMD) and held in custody for less than 24 hours, the watch-house keeper is to advise the monitoring centre via email (see SMCD).

Releasing the respondent

Prior to the release of a respondent from custody, the watch-house keeper is to:

(i) ensure the EMD is fully charged; and

(ii) confirm with the monitoring centre that the EMD is functioning correctly.

Respondent held in a watch-house who is remanded or transferred to a correctional facility

Where the respondent is remanded or transferred to a correctional facility and is fitted with an EMD, the watch-house keeper is to:

(i) email a completed QP 1086B: 'Electronic monitoring equipment remove/exchange document' to the monitoring centre (as detailed in the QP 1086B);

(ii) confirm with the monitoring centre the EMD alerts have been suspended;

(iii) remove the EMD;

(iv) issue to the respondent a QPB 32A: 'Field property receipt' (see s. 4.2.1: 'Property receipt' of this Manual); and

(v) return all equipment to the monitoring centre.

If the EMD has been ordered to be refitted, the EMD is to be refitted in accordance with the QP 1088B: 'Electronic tracking checklist'.

Variation to a respondent's DVO EMD condition

For the pilot, EMDs can only be lawfully removed if the EMD condition is expired by the Court.

OPM Issue 113 Public Edition

9.4.7 Electronic monitoring device removal

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

9.4.8 Actions on court varied DVO

Respondent is in custody

Where a respondent is in custody:

(i) the prosecutor is to ensure the varied DVO is given to the watch-house manager prior to the release of the respondent, and

(ii) the watch-house manager upon receiving the varied DVO, is to ensure:

(a) if the respondent was not present in court, that the varied DVO has been served on the respondent and appropriate service requirements have been completed (i.e. DV21A);

(b) an amended QP 1085B and varied undertaking is uploaded into the occurrence; and

(c) the QP 1085B is emailed to the monitoring centre (as detailed in the QP 1085B).

9.4.9 Actions on electronic monitoring device fault

Where an electronic monitoring device (EMD) or any other associated equipment fails or is suspected of not operating correctly, the respondent may be directed to a relevant Queensland Corrective Services community corrections office (Monday–Friday between 9:00am–4:00pm) and outside of hours to a watch-house to have the EMD assessed for replacement.

ORDER

Where a respondent reattends a watch-house to have an EMD assessed, the fitting officer is to:

(i) assess if a fault exists;

(ii) if appropriate, remove the EMD and/or associated failed equipment;

(iii) upload a completed QP 1086B: 'Electronic monitoring equipment remove/exchange document' into the relevant QPRIME custody report;

(iv) fit the replacement EMD (see subsection 'Fitting an electronic monitoring device' of s. 9.4.2: 'Action on imposing an electronic monitoring DV condition' of this chapter);

(v) ensure the monitoring centre has cleared the fault; and

(vi) email the completed QP 1086B to the monitoring centre (as detailed in the QP 1086B).

Respondent to be kept in custody

Where a respondent attends a watch-house, as directed due to an EMD failure, the respondent is to be kept in custody until the monitoring centre confirms the EMD is fully operational. Any faulty equipment is to be returned to the monitoring centre.

9.4.10 Officers requiring electronic monitoring data for court

Use of EMD data

Evidence derived from the use of:

(i) an EMD is only admissible in a proceeding for:

(i) a DV offence;

(ii) a proceeding for a criminal offence that is not a DV offence in which the court considers it is in the interests of justice to admit the evidence.

(ii) a safety device is admissible in a proceeding for a DV offence;

(iii) EMD and safety device is not admissible for other offence, not detailed above,

(see s. 66G: 'Restriction on disclosure in proceedings' of the DFVPA).

Requesting EMD and safety device data for court

An officer requesting EMD data for an offence is to:

(i) forward a request by email to:

(a) the monitoring provider at QDV@buddi.com; and

(b) the Service EMU unit at QPSElectronicmonitoringunit@police.qld.gov.au;

OPM Issue 113 Public Edition

(ii) ensure the email contains:

(a) respondents details;

(b) requesting officer's details;

(c) the offence under investigation relating to the EMD;

(d) a brief summary of the allegations;

(e) time and date of required mapping and report information; and

(f) determine if a victim survivor device has been issued to the aggrieved and if so, any data available relevant to the request.

The information subject to the request will be returned to the requesting officer via email.

Retention and storage of data

Electronic monitoring data generated from an EMD imposed by a DVO condition, or a victim-survivor safety device is only to be shared and used to assess, respond or refer as enabled by Part 5A: 'Information sharing' of the DFVPA and does not require an additional authorising environment.

Where a requesting officer receives data from the monitoring provider which relates to the aggrieved's historical locations, the officer is to ensure the personal and sensitive information is collected and stored to the extent necessary to facilitate the investigation.

Information is to be stored securely via QPRIME or IMAC.

9.4.11 Travel advice from a respondent wearing an electronic monitoring device

If a respondent provides a written notice prior to travelling, this should include:

(i) date and times of travel;

(ii) flight details;

(iii) carrier and flight details; and

(iv) return details.

This information may be provided to the monitoring centre or the Department of Families, Seniors, Disability Services and Child Safety. If notified, the relevant district domestic, family violence and vulnerable persons unit managing the respondent, is to ensure QPRIME is updated.

OPM Issue 113 Public Edition

9.5 Assisting persons involved in DV

9.5.1 Transport assistance to an aggrieved

In situations where:

(i) an aggrieved wishes to leave their place of residence in order to escape DV; or

(ii) it is necessary or desirable to protect the aggrieved from DV,

officers should, initially, contact their local DV support and referral agencies to obtain transport assistance for the aggrieved and any children in the care of the aggrieved. Alternatively, the statewide domestic violence telephone service is available 24 hours a day to assist with accommodation and transport arrangements.

Request for transport by the aggrieved

Officers may, subject to operational requirements, transport an aggrieved and any children in the aggrieved's care to a place of safety in cases where:

(i) transport assistance cannot be arranged within a reasonable time through local agencies or the statewide DV telephone service; and

(ii) the aggrieved or children in the aggrieved's care would be exposed to danger or other potentially harmful consequences unless they were transported to a place of safety.

Where the respondent has been taken into custody under s. 116: 'Police officer may take person into custody' of the DFVPA, the respondent may have their detention period extended (see subsection 'Detention period' of s. 9.3.5: 'Taking a respondent into custody under the DFVPA' of this chapter).

Officers should seek permission before providing transport assistance

Before providing transport assistance, officers should, where practicable, seek permission from a supervising officer (see s. 9.1.2: 'Definitions for DFV' of this chapter). If a supervising officer cannot be contacted, officers are to notify their OIC as soon as practicable after providing transport assistance.

Officers who transport an aggrieved and any children in the aggrieved's care should comply with s. 14.25.3: 'Radio and communication procedures generally' of this Manual.

In cases where alternative transport is arranged for an aggrieved and any children in the aggrieved's care, officers should remain with the aggrieved and children for such time as necessary or desirable to protect the aggrieved or children from DV.

The senior officer providing transport assistance under this section is to record full particulars of any transport assistance provided, or instances where assistance is offered and declined, including the names and addresses of parties concerned, in the officer's ITAS 'Activity log' (see ITAS User Guide) or official police notebook.

9.5.2 Transport and accommodation assistance to a respondent

There is no obligation upon the Service to:

(i) transport, arrange transport or pay for any transport;

(ii) arrange temporary accommodation; or

(iii) provide accommodation free of charge,

for an adult respondent involved in DV, notwithstanding the requirements of s. 108: 'Police officer must consider accommodation needs' of the DFVPA when a PPN is issued.

Where a PPN which includes a cool-down or ouster condition is served on an adult respondent (see s. 9.3.4: 'Police protection notice (PPN)' of this chapter), in accordance with s. 108 of the DFVPA, the officer is to consider the accommodation needs of the respondent and take any reasonable steps necessary (see s. 108(2)(b) of the Act) to ensure the respondent has access to temporary accommodation.

Respondent request transport or arrange transport to a place

Officers may (subject to operational requirements), at the request of the respondent, transport or arrange transport for a respondent to a place if such action would:

(i) reduce the likelihood of further DV involving the respondent;

(ii) improve the safety of any aggrieved; or

(iii) address the accommodation needs of the respondent e.g. a respondent who is prohibited from returning to their normal residence by release from custody conditions or cool-down condition may be transported to a nearby relative's house.

Action officers should take before using a Service motor vehicle to transport a respondent

Before using a Service motor vehicle to transport a respondent in accordance with this policy, officers should, where practicable contact:

(i) support or referral agencies which may be able to assist with transport or accommodation for the respondent; or

(ii) a friend, or relative of the respondent to assist with accommodation and transport arrangements; and

(iii) seek permission from a supervising officer (see s. 9.1.2: 'Definitions for DFV' of this chapter). If a supervising officer cannot be contacted, officers are to notify their OIC as soon as practicable after providing transport assistance.

Officers who transport an aggrieved including any children should comply with s. 14.25.3: 'Radio and communication procedures generally' of this Manual, by recording the vehicle odometer at the commencement and conclusion of the journey.

The senior officer providing transport assistance under this section is to record full particulars of any transport assistance provided, including the names and addresses of parties concerned, in the officer's ITAS 'Activity log' or official police notebook.

Providing transport assistance is not to be used as a substitute for taking a respondent into custody

Provision of transport assistance in accordance with this policy is not to be used as a substitute for taking a respondent into custody in accordance with s. 116 of the DFVPA where such a detention would be justified.

OPM Issue 113 Public Edition

Transport and accommodation assistance to a respondent child

ORDER

Where an officer has served a PPN which includes a cool-down or ouster condition to a respondent child, the officer is to:

(i) arrange temporary accommodation for the respondent child; and

(ii) transport, or arrange transport for the respondent child to the accommodation,

in accordance with s. 108(3) of the DFVPA.

There is no obligation upon the Service to provide accommodation free of charge to a respondent child (see s. 108(4)(b) of the DFVPA).

Reasonable steps should be taken to arrange transport of a respondent child

Where an officer commences a proceeding against a respondent child by:

(i) application for a DVO, including after release from custody under s. 118: 'Police officer must apply for protection order' of the DFVPA; or

(ii) issue of a PPN, including when a cool-down or ouster condition is not included,

and it is necessary or desirable for the protection of an aggrieved from DV or for the safety and welfare of a respondent child, reasonable steps should be taken to arrange transport for a respondent child to suitable accommodation.

9.5.3 Assisting persons involved in DV to retrieve property

Officers may receive requests to assist persons involved in DV to retrieve property belonging to the person from premises occupied by other persons involved in the domestic violence situation.

These situations may include circumstances where an aggrieved has left personal property in a premises occupied by a respondent or where a respondent has left personal property in a premises occupied by an aggrieved.

Court imposed condition for the return of property

Section 59: 'Conditions relating to the recovery of personal property' of the DFVPA allows a court to impose a condition requiring the respondent to:

(i) return the aggrieved's personal property; or

(ii) provide access to recover the aggrieved's personal property; or

(iii) do any act necessary or desirable to facilitate action to retrieve personal property.

The court may also require:

(i) an officer to supervise the access or recovery of the property; or

(ii) the respondent to remain a stated distance from the premises during a stated period of time whilst the aggrieved accesses or recovers the stated property.

In cases where a respondent does not have a return condition under s. 65 of the DFVPA, officers should advise the respondent to seek legal advice about how to retrieve property.

Recovery of personal property from a premises

An officer may also issue and serve a PPD or PPN and impose an ouster and return condition allowing the respondent to recover personal property.

Where a return condition is imposed by either a PPD, PPN or by a court, the conditions may state:

(i) when the respondent may return to the premises and how long the respondent may remain at the premises without contravening the PPD, PPN or DVO; and

(ii) whether an officer is to supervise the recovery and removal of the stated property.

A return condition does not permit the respondent to recover or remove personal property required to meet the daily needs of any person who continues to live at the premises stated in the ouster (see s. 107C: 'Return condition' of the DFVPA).

Duties of an officer receiving a request to assist in retrieving property

Members receiving requests from persons involved in DV to assist in retrieving property are to:

(i) ensure the request is recorded, prioritised and actioned in accordance with ss. 1.6.1: 'Recording initial demand' and 14.24: 'Priority codes' of this Manual; and

(ii) confirm in QPRIME whether a current DVO is in place which includes a condition authorising access to a premises to retrieve property.

OPM Issue 113 Public Edition

Officers assisting persons to retrieve property should ensure:

(i) DV;

(ii) breaches of the peace (see s. 13.4.10: 'Breaches of the peace' of this Manual); or

(iii) other offences,

do not occur while the person is retrieving property. Where appropriate, officers should use the powers provided by ss. 50: 'Dealing with breach of the peace', 52: 'Prevention of offences—general' and 609: 'Entry of place to prevent offence, injury or domestic violence' of the PPRA to ensure the safety of persons and property.

ORDER

When attending a premises to retrieve personal property officers are not to:

(i) assist a person to forcibly enter any premises to retrieve property;

(ii) assist a respondent to retrieve property from premises which the respondent is prohibited from entering by the conditions of a DVO or release from custody conditions;

(iii) become involved in the actual removal of property; or

(iv) attempt to determine the ownership of items which a person seeks to retrieve,

Disputed property in a DV situation

If there is a dispute over ownership of any property, officers should advise persons not to remove the property.

Officers should advise persons attempting to remove jointly owned property without the consent of all other joint owners their actions may constitute an offence (see s. 396: 'Stealing by persons having an interest in the thing stolen' of the CC).

Property a person subject to a DV situation should be allowed to retrieve

Officers should ensure a person is allowed to retrieve:

(i) any of the person's personal items and clothing; and

(ii) personal items and clothes of any children in the care of the person;

(iii) other items which are not of disputed ownership; and

(iv) items which all other joint owners consent to the removal of.

Officers should advise the aggrieved when recovering property

Where a DVO includes a condition under s. 59 of the DFVPA which allows the aggrieved access or to remove property but access or removal of the property is denied by the respondent, officers should:

(i) advise the aggrieved:

(a) police will not force entry on their behalf; and

(b) if the aggrieved causes damage to the respondent's property or a third party in attempting to access or remove property, the aggrieved may be liable to prosecution (see s. 458(2): 'Unlawful Acts' of the CC);

(ii) where possible, warn the respondent of the consequences of failing to comply with the DVO and attempt to seek their cooperation in allowing access to or removal of property; and

(iii) take any necessary action to investigate and prosecute any contravention of the relevant DVO committed by the respondent by not:

(a) allowing the aggrieved to access or remove the aggrieved's property;

(b) leaving the premises for the period of time or distance stated in the order; or

(c) complying with any other condition of the order.

Where the aggrieved does not have a DVO attempting to recover property

In cases where an aggrieved does not have a DVO which has as a condition under s. 59 of the DFVPA and recovery or access to the property by the aggrieved has been prevented by the respondent, officers should:

(i) advise the aggrieved to obtain a variation to the existing DVO requiring the respondent to return property or allow access or recovery of the aggrieved's property; or

(ii) if a DVO has not been issued:

(a) conduct an investigation to determine whether there are sufficient grounds to support a police application for a DVO (see s. 9.2.6: 'Initial DFV investigative action' of this chapter) including a condition under s. 59 of the DFVPA if appropriate; or

OPM Issue 113 Public Edition

(b) if there is insufficient evidence to support a police application for a DVO advise the involved parties about appropriate support agencies or referrals, where available (see ss. 9.3.13: 'Police action to be taken where applying for a DVO is not appropriate' and 9.3.16: 'DFV referral agencies' of this chapter).

9.6 Service of DV documents

Officers are to prioritise the service of documents issued under the DFVPA (**DV documents**). Service of DV documents directly affects the safety of an aggrieved and named persons by allowing conditions to be enforced.

ORDER

Where service of DV documents on a respondent is required, officers are to:

(i) ensure a copy is served on the respondent as soon as reasonably practicable;

(ii) after service and complete proof of service documentation;

(iii) file the proof of service and copy of the served documents with the relevant court as soon as practicable (including a PPD only where this is subject to a Court Review but not otherwise); and

(iv) update the relevant QPRIME occurrence to record service, including uploading a copy of any proof of service documentation, prior to the termination of the officer's shift.

Where service cannot be affected by the next court date (if applicable, i.e. PPDs have no court date), the officer attempting to serve the documents should:

(i) record all actions taken to attempt to effect service in the relevant QPRIME occurrence; and

(ii) consider whether it would be appropriate to apply for a TPO to ensure the aggrieved and any named persons are afforded protection (see ss. 40: 'Hearing of application—before respondent is served' of the DFVPA and 9.3.7: 'Application for a temporary protection order (TPO)' of this chapter).

9.6.1 Method of service

Officers may generally serve DV documents via the following methods of service:



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Where the respondent is a child, see also s. 9.8.6: 'Service of DV documents on children' of this chapter.

Service of DV documents is to be tasked through QPRIME. The documents should be uploaded into the relevant QPRIME occurrence prior to sending the task for service. Tasks should be sent through the relevant OIC.

A PPD and a PPN must be personally served on a respondent, even if it has already taken effect because an officer has used the tell provisions and told a respondent about the PPD or PPN and its conditions (For a PPD see ss. 100O: 'Service of direction and grounds on respondent' and 100R: 'Duration' of the DFVPA and for PPN see ss. 109: 'Service of notice on respondent' and 113: 'Duration' of the DFVPA).

9.6.2 Determining method of service

Officers are to consider the 'Service risk considerations' below and all relevant facts and circumstances to determine which method of service is appropriate in the circumstances.

9.6.3 Service risk considerations

When deciding which method of service is appropriate, officers should consider the following risk factors:

(i) whether the DVO imposes mandatory conditions only or additional conditions which afford the aggrieved and named persons further protection;

(ii) the seriousness of the offending behaviour and urgency for the DVO to be served;

(iii) the type of emotional response the existence or conditions of the DVO are likely to elicit from the respondent, and any further actions the respondent may take as a result;

(iv) the vulnerability of the victim and whether use of tell provisions may expose the victim to a greater risk of harm;

(v) the results of QPRIME checks, including the respondent's propensity for violence based on flags/cautions and previous history and the need to seize weapons;

(vi) current case management and focussed deterrence strategies; and

(vii) where an originating prescribed document (see s. 13.31: 'Electronic service of prescribed (and related) documents' of this Manual) has been served on a person by electronic service methods, and officers are seeking the electronic service of a related document, consideration is to be given to the statutory limitations for electronic service legislation—for example, *Mental Health Act* detentions and the cessation of consent to receive electronic communications (see s. 13.31.4: 'Suitability assessment to eServe prescribed (and related) documents' of this Manual).

9.6.4 Tell provisions

When an officer tells a respondent about a DVO, including the conditions of the order, the DVO becomes enforceable and it may be served by ordinary service (e.g. by post, fax, email, as otherwise directed by the court).

See ss. 177(3) and (4): 'Contravention of domestic violence order', 177A(3) and (4): 'Contravention of a police protection direction' and 184(5): 'Service of order on respondent' of the DFVPA and r. 15: 'How ordinary service is performed' of the Domestic and Family Violence Protection Rules (DFVPR).

When deciding whether to use the tell provisions, an officer is to ensure:

(i) the above 'Service risk considerations' have been considered and use of the tell provisions is appropriate in the circumstances;

(ii) current and reliable contact details of the respondent are available (including postal address for service); and

(iii) a relevant witnessing person (e.g. Justice of the Peace) can be accessed to complete the DV 25.

When using the tell provisions, an officer is to:

(i) verify the identity of the respondent (see the Tell Provisions Script Guide);

(ii) tell the respondent about the DVO and all conditions imposed by the order;

(iii) verify with the respondent that he or she understands the conditions imposed by the order;

(iv) record the use of the tell provisions in the relevant QPRIME occurrence, including sufficient details to complete a DV 25;

(v) post a copy of the DVO to the respondent's address or serve via alternative authorised means (see r. 15 of the DFVPR); and

(vi) complete a DV 25.

For phone interactions, the conversation is to be electronically recorded. N.B. if the respondent hangs up before being told about the order and the conditions, the order or a condition may not be enforceable (see s. 177(4) of the DFVPA).

For email, SMS or social media interactions, the use of tell provisions should be confirmed by a response from the respondent. A copy of the response should be uploaded to the relevant QPRIME occurrence.

OPM Issue 113 Public Edition

9.6.5 Personal service

Where an officer personally serves a DV document, the officer is to:

(i) verify the identity of the person is the same as the person intended to be served;

(ii) give a copy of the document to the person;

(ii) tell the person what the document is and explain the document;

(iii) verify the person understands the conditions stated in the document; and

(iv) complete a DV 21A unless the document includes a statement of police service and affirmation of service and is served prior to transfer to court (e.g. a PPN and PPN Grounds).

Where a respondent refuses to take a copy of the document, the officer may serve it by putting it down in the respondent's presence, telling the respondent what it is and explaining the document (See s. 134A: 'Power to give direction' of the DFVPA).

9.6.6 Electronic Service of DFV prescribed (and related) documents

Chapter 23, Part 2: 'Electronic service of documents' of the PPRA provides officers the option to electronically serve prescribed (and related) documents on a person through approved electronic service methods (see s. 13.31.1: 'Authorised prescribed document' of this Manual). Several documents are classified as 'prescribed documents'. For DFV documents these include:

(i) DV 01: 'Application for a protection order' or copy;

(ii) DV 04: 'Application to vary a domestic violence order' or copy;

(iii) PPD;

(iv) PPD Grounds;

(vi) PPN;

(v) PPN Grounds;

(vii) QP 0937: 'Release from custody conditions' or copy;

(viii) DFV temporary protection order or copy;

(ix) DFV domestic violence order or a copy;

(x) DFV varied order or copy;

(xi) DFV intervention order, or copy; and

(xii) DFV notice of proceedings.

Electronic service (eServe) of prescribed documents, is subjected to electronic service safeguards which must be met by the officer. In summary these safeguards require officers to:

(i) establish eligibility and suitability of the person who is subjected to electronically receive the documents;

(ii) explain consent to the person who is to receive the prescribed and related documents electronically;

(iii) offer and obtain from the person their freely given eServe consent while under BWC recording; and

(iv) record the explanation of consent, the consent response and the persons nominated unique electronic address in QPRIME.

ORDER

Officers are to familiarise themselves with the legislated provisions which applies to the electronic service of prescribed documents on a person as pursuant to s. 13.31: 'Electronic service of prescribed (and related) documents' of this Manual.

9.6.7 Affirmation of statement of police service

ORDER

When an officer has personally served a DV document on a respondent and is completing the statement of police service, the officer is to affirm service before:

(i) the OIC of a station, establishment or watch-house;

(ii) if an OIC is not available, an officer of the rank of sergeant or above; or

(iii) if a sergeant or above is not available, an officer who is more senior in rank to the officer who is completing the statement of service (i.e. minimum rank of senior constable),

in accordance with r. 14A: 'Affirming statement of police service' of the DFVPR.

OPM Issue 113 Public Edition

9.6.8 Affidavit of service

Where an officer has served a document on a respondent, other than by personal service, the officer is to complete a DV 25. The DV 25 must detail:

(i) when the respondent was told about the document;

(ii) how the respondent was identified; and

(iii) how the content of the order was explained.

9.6.9 Service of a PPD or PPN and Grounds

PPD

A PPD must be personally served on a respondent, even if it has already taken effect because an officer has used the tell provisions and told a respondent about the PPD and its conditions (see ss. 100O: 'Service of direction and grounds on respondent' and 100R: 'Duration' of the DFVPA).

PPN

A PPN must be personally served on a respondent, even if it has already taken effect because an officer has used the tell provisions and told a respondent about the PPN and its conditions. The court may make a TPO on the first court date if the PPN has not been served.

See ss. 109: 'Service of notice on respondent', 113: 'Duration' and 40: 'Hearing of application—before respondent is served' of the DFVPA.

Where a PPN:

(i) is personally served and the statement of service completed prior to being transferred to court, a DV21A is not required;

(ii) has been personally served, a PPN Grounds may be served in any way in accordance with s. 111(4): 'Filing' of the DFVPA; and

(iii) has not been personally served prior to being transferred to court, a DV 21A is to be completed and filed once:

(a) the PPN and PPN Grounds has been personally served; or

(b) if a TPO has been made prior to service being affected, the PPN Grounds and TPO have been personally served.

9.6.10 Service of court orders

Where the respondent was present in court when a DVO was made, personal service of the order on the respondent is deemed to have occurred (see r. 12: 'How personal service is performed' of the DFVPR).

Where an officer commences a DV proceeding by personally serving a:

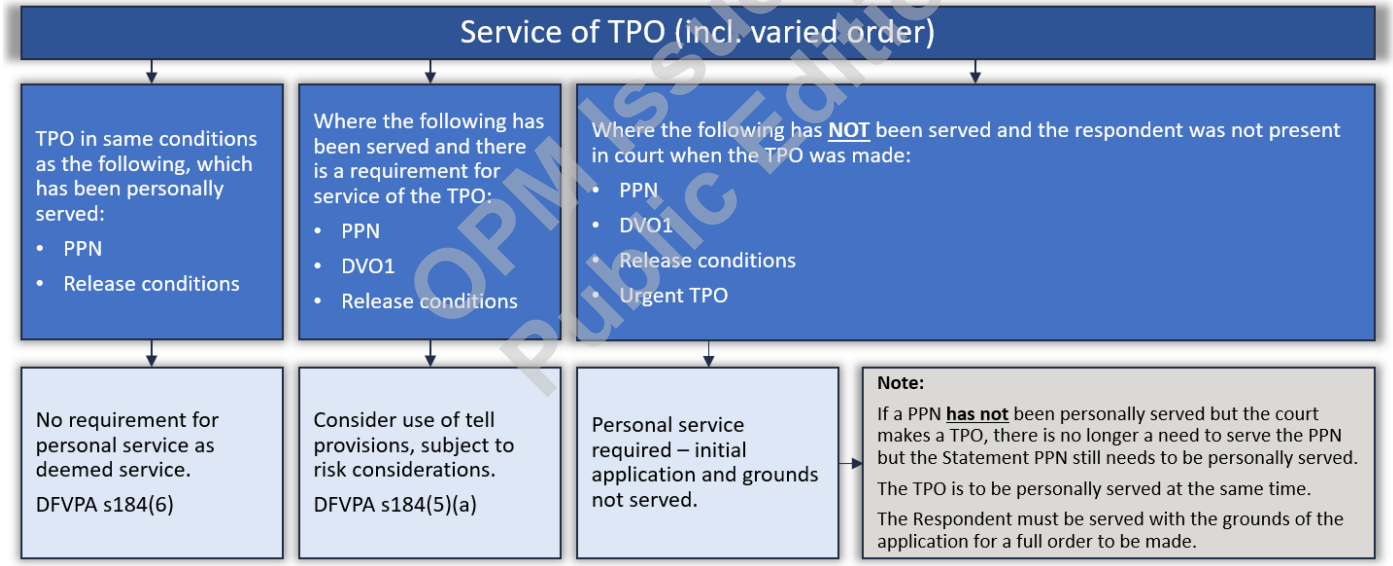
(i) PPN; or

(ii) DV01 and Release conditions (see s. 124: 'Release of person from custody' of the DFVPA),

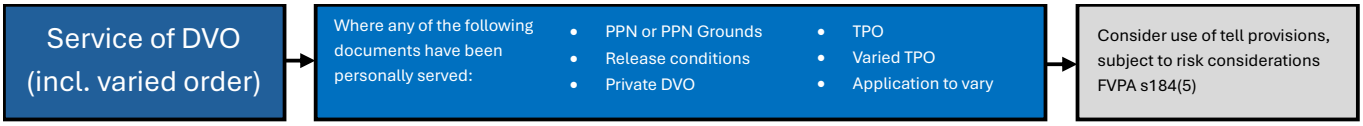
and a court makes a TPO with the same conditions as the PPN (the cool-down condition is not taken into account) or release conditions, the TPO is taken to be served on the respondent when the order is made (see s. 184(5) of the DFVPA).

The diagrams below provide guidance on the method of service that should be adopted in the circumstances for court orders.

Officers should use the tell provisions where it is appropriate to do so unless personal service can be affected in an efficient and timely manner.



NB: the above diagram does not account for all factual circumstances where a TPO may be required to be served.



9.6.11 Release from custody

Where an officer is releasing a respondent taken into custody for a DFV investigation, the officer may serve the following documents on the respondent:

(i) a PPN and PPN Grounds (see s. 101A: 'When police officer must issue police protection notice' of the DFVPA);

(ii) a DV 01 (see s. 118: 'Police officer must apply for protection order' of the DFVPA);

(iii) a DVO if an order has been made by the court; or

(iv) a DV 01 and Release conditions (see s. 125: 'When police officer must release person on conditions of the DFVPA).

OPM Issue 113 Public Edition

9.6.12 Documents to be fully explained

When an officer is serving DV documents on a respondent, the officer is to fully explain the documents and any conditions imposed. Where the document being served is a PPN or release conditions, the officer is to tell the respondent the conditions set out in the document will continue in force until the court:

(i) makes a TPO in the same conditions; or

(ii) makes a DVO, or a TPO in different conditions, and the order is served on the respondent or otherwise becomes enforceable; or

(iii) adjourns the application without making a DVO or the court dismisses the application.

Officers should provide timely advice to the aggrieved as to whether document service has occurred.

9.6.13 QPRIME checks prior to serving documents

Before attempting to serve DV documents on a respondent, officers should check QPRIME to determine if:

(i) the respondent is a wanted person or a person of interest;

(ii) the respondent holds a weapons licence or may be in possession of any weapons; and

(iii) there is any information available relevant to the safety of officers serving the documents.

9.6.14 Service of unserved documents

When an officer locates a respondent named in unserved DV documents, the officer is to advise the respondent of the existence of the documents and explain the conditions imposed to the respondent.

If the officer is not in possession of a copy of the documents when the respondent is located, the officer should:

(i) arrange for:

(a) a copy of the documents to be sent electronically to the officer, so the officer can show the documents to the respondent; or

(b) arrange for another officer to tell the respondent about the documents over a radio, telephone or other communication device; and

(ii) make suitable arrangements for the respondent to receive a copy of the documents.

See ss. 134A of the DFVPA and 9.6.15: 'Giving documents to the aggrieved' of this chapter.

The officer is to update the relevant QPRIME occurrence with the action taken to serve the order, prior to the termination of the officer's shift.

OPM Issue 113 Public Edition

9.6.15 Giving documents to the aggrieved

ORDER

Where an officer is making an application for a DVO, variation to a DVO or issuing a PPD or PPN, the officer is to give or arrange for a copy of the application to be given to the aggrieved (N.B. this does not need to be via personal service). Once a copy of the application is given to the aggrieved, officers are to complete QP 1210: 'Statement of document provision'. Failure to give a copy to the aggrieved does not invalidate the application. Where the aggrieved is a child, a parent must also be given a copy of the application. For a PPD or PPN see ss. 9.3.3: 'Police protection direction (PPD)' and 9.3.4:'Police protection notice (PPN)' of this chapter for additional requirements. See also the following sections of the DFVPA:

(i) 35: 'Copy of application must be given to aggrieved';

(ii) 88: 'Service of application';

(iii) 89: 'Copy of application must be given to aggrieved';

(iv) 100Q: 'Explanation';

(v) 109A: Giving copy of notice to aggrieved';

(vi) 110: 'Explanation';

(vii) 188: 'Giving of document to child'.

While it is a requirement to include a copy of the respondent's criminal and DV history to the court, the histories do not form part of the application and are not to be attached to the aggrieved's copy (see s. 9.3.6: 'Application for a DVO' of this chapter).

Any information provided to the aggrieved is to have any other aggrieved's personal information removed.

9.6.16 Power to give a direction to remain or move to another location

Service of an order, direction, notice or application

Where an officer reasonably suspects a person is named as a respondent in a:

(i) DV 01: 'Application for a protection order' not been served on the person; or

(ii) DVO, PPD or PPN not been served on the person,

the officer may direct the respondent to remain at an appropriate place to allow the officer to:

(iii) if the officer has a copy of the documents in their possession:

(a) serve a copy of the DV 01; or

(b) serve a copy of the DVO, PPD or PPN and explain the conditions imposed by the order, direction or notice; or

(iv) if the officer does not have a copy of the DVO, PPD, PPN or DV 01 in their possession, arrange for:

(a) electronic service of the documents (see s. 13.31: 'Electronic service of prescribed (and related) documents' of this Manual); or

(b) the respondent to be told about the application or order, direction or notice and the conditions imposed in accordance with subsection 'Where personal service cannot be completed in a timely manner's' of this chapter.

The officer in the presence of the respondent:

(i) is considered to have 'told' the respondent of the order, direction or notice and the conditions;

(ii) is to update the relevant QPRIME occurrence; and

(iii) is to make suitable arrangements for the respondent to receive a paper copy of the order, direction or notice by ordinary service.

It is to be noted by officers under s. 134A: 'Power to give direction' of the DFVPA, a respondent, in the officer presences, cannot be directed to:

(i) remain at an appropriate place until a paper copy of the DVO, PPD, PPN or DV 01 is delivered; or

(ii) attend a station or establishment for the specific purpose of collecting a paper copy of the DVO, PPD PPN or DV 01.

QPRIME custody report is to be created if respondent directed to remain

Where a person is directed to remain at a place, the officer making the direction is to ensure a custody report is created in the relevant DV QPRIME occurrence prior to the termination of the shift.

The officer is to update the relevant QPRIME occurrence with the details:

(i) of the date and time, the respondent was directed to remain, and time required to remain in a custody report in the person's entity; and

(ii) regarding the service of the DVO, PPD, PPN, or DV 01.

Search of a person subject to a direction

An officer should not routinely search a respondent who is subject to a direction under s. 134A of the DFVPA, unless justified.

Officer to remain in the presence of a person

The officer giving the direction is to remain in the presence of the person while the person under the direction moves to another location (see s. 134A of the DFVPA).

Officer directing a person to remain at an appropriate place

Section 134B: 'Limits on direction' of the DFVPA allows an officer to direct a person to remain at an appropriate place for:

(i) one hour; or

(ii) a longer reasonable time, having regard to the particular circumstances but not more than 2 hours (for example when investigating a current incident).

An officer who gives a direction to a person is to:

(i) warn the person it is offence not to comply with the direction (unless they can provide a reasonable excuse); and

(ii) tell the person it is an offence and they can be arrested for not complying with the direction.

OPM Issue 113 Public Edition

Before taking any action against a person, the officer should:

(i) give the person a reasonable opportunity to comply with the direction; and

(ii) if the person fails to comply with the direction;

(iii) repeat the warning (if practicable); and

(iv) give the person further opportunity to comply with the direction,

(see s. 134C: 'Offence warning' of the DFVPA).

Not to cause unreasonable delay in serving a DVO, PPD or PPN

ORDER

Officers are not to unreasonably delay the service of a DVO, DV 01 or issuing and serving of a PPD or PPN, after giving a respondent a direction to remain at an appropriate place.

Where a person is directed to remain at a place, the officer making the direction is to ensure a custody report is created in the relevant domestic violence QPRIME occurrence prior to the termination of the shift (see s. 134A of the DFVPA).

Updating relevant QPRIME occurrence

The officer is to update the relevant QPRIME occurrence with the details:

(i) of the date and time the respondent was directed to remain and time required to remain in a custody report in the person's entity; and

(ii) regarding the service of the DVO, PPD, PPN or DV 01.

9.6.17 DVO, PPD or PPN unable to be served

Members who have exhausted all reasonable attempts and are unable to personally serve a DVO, PPD or PPN on a respondent, who resides in Queensland are to:

(i) update the relevant QPRIME occurrence and record why the DVO, PPD or PPN was not served;

(ii) ensure a copy of the DVO, PPD or PPN is uploaded into the occurrence;

(iii) complete and upload to the occurrence a DV 38: 'Application for substituted service';

(iv) complete and upload to the occurrence a DV 39: 'Affidavit of attempted personal service' in accordance with s. 184A: 'Substituted service' of the DFVPA; and

(v) notify the relevant prosecution corps by email, attaching the relevant DV 38 and DV 39, requesting an application for substituted service be made.

OPM Issue 113 Public Edition

Respondent resides outside Queensland

If the member is unable to serve a DVO due to the respondent residing:

(i) in another Australian state or territory, or New Zealand, the member is to complete and submit the National DVO request form located on the National Domestic Violence Order Scheme (NDVOS) page on the Service Intranet; or

(ii) where attempts to serve a respondent through NDVOS have been unsuccessful, members are to make an application for substituted service following steps (i) to (v) above.

Respondent resides outside Australian or New Zealand jurisdiction

Where it can be substantiated that the respondent resides overseas, and not in an Australian state, territory, or New Zealand, members are to make an application for substituted service following steps (i) to (v) above.

Receiving a notification of substituted service order

A member receiving a notification for a 'substituted service order' from the courts is to ensure:

(i) a copy of the substituted service order is uploaded into QPRIME;

(ii) facilitate the substituted service in accordance with the court order;

(iii) complete the declaration of substituted service; and

(iv) upload any record relating to the service in QPRIME (i.e. email/call records/service through apps/message logs/interstate registered post etc).

9.6.18 Relevant document service on prisoners by QCS (Brisbane Correctional Centre Trial)

Queensland Corrective Service (QCS) officers may serve relevant DV documents on prisoners in specific circumstances, a role previously limited to police, if the following circumstances are met:

(i) the prisoner is detained at a QCS facility; and

(ii) the QCS facility is approved by the QCS chief executive, as a facility approved for service of documents.

See ss. 348A: 'Approved corrective service facilities' and 348B: 'Personal service of documents in particular circumstances' of the *Corrective Services Act* (CSA).

From 16 February 2026, a 6-month trial commenced for relevant DV document service on QCS prisoners by QCS, at Brisbane Correctional Centre (BCC), Wacol. The BCC has been approved by the QCS Commissioner as an approved site and published the approval on the Queensland Government publications portal. To maintain appropriate governance during the BCC trial, all requests for DV document service for any prisoner detained at BCC should be tasked to Mount Ommaney Station [via QPRIME ORG Unit 0314].

ORDER

Where DV document service is required for a person reasonably believed to be detained at the BCC correctional facility, the member may send a QPRIME document service task to Mount Ommaney Station [ORG Unit 0314]. Members are not to task QPRIME BCC ORG Unit. The exception for direct BCC tasking, is reserved for members attached to the Police Information Centre (PIC) or members attached to Mount Ommaney Station.

Relevant documents approved for QCS service at BCC facility

A Memorandum of Understanding (MoU) between the Service and QCS specifies the approved relevant DV documents available to be served on BCC prisoners by trained QCS officers for the duration of the trial. These documents are, the:

(i) DV01: 'Application for a protection order';

(ii) DV04: 'Application to vary a domestic violence order';

(iii) DV04A: 'Application to vary a recognised interstate order';

(iv) Police Protection Notice (PPN), including PPN grounds;

(v) DV03: 'Protection Order';

(vi) DV02: 'Temporary protection order';

(vii) DV05: 'Variation to temporary protection order;

(viii) DV08: 'Intervention order';

(ix) DV20: 'Notice of adjournment';

(x) Temporary variation of a protection order; and

(xi) relevant criminal and DV history.

OPM Issue 113 Public Edition

Documents received by QCS that are not listed as a relevant document in the MoU, for the purposes of the trial, will not be served and will be returned to the originating ORG Unit.

Statement of service—Corrective Services

The Domestic and Family Violence Protection Rules provide QCS officers with the ability to complete a DV21B: 'Corrective Services—Statement of Service', this DV21B statement models the DV21A: 'Statement of Police Service'. The DV21B is available on the Queensland Courts website.

Upon completing personal service of the relevant DV document, a QCS officer will:

(i) complete the DV21B;

(ii) forward a copy of the DV21B electronically to the relevant court; and

(iii) upload the DV21B in QPRIME to the relevant occurrence, completing the relevant fields to reflect service of the document.

ORDER

Where an officer requires a copy of the DV21B for a prosecution matter, the officer is to obtain a copy of the document through a review of the relevant occurrence. In the event a DV21B cannot be located on the relevant occurrence, the officer is to email CustodialDeliveryTeam@corrections.qld.gov.au and request QCS to upload the completed QCS statement of service to the relevant occurrence.

Evidentiary Certificate—Corrective Services

QCS officers have the ability to produce an evidentiary certificate for proof of service (see s. 351(3): 'Evidentiary aids' of the CSA). This evidentiary certificate should be relied upon, in the first instance where proof of service is contested.

Where an evidentiary certificate (or further information) from QCS is required, members are to submit an information request to QCS by emailing CustodialDeliveryTeam@corrections.qld.gov.au.

The information request is to contain:

(i) the officers full name and rank;

(ii) the officer's contact details (e.g. email address, telephone number, station address);

(iii) the relevant QPRIME occurrence number;

(iv) the reason and purpose for the request; and

(v) nomination of the documents/information sought from QCS.

Once the relevant information (e.g. evidentiary certificate) has been received, if not already completed in QPRIME by the assisting QCS member, officers are to upload a copy of the QCS evidentiary certificate to the relevant case file and provide the original certificate to the relevant police prosecution corps.

The validity of the evidentiary certificate may be contested. In such cases, members can consult the relevant prosecutor and the Custodial Delivery Team (CustodialDeliveryTeam@corrections.qld.gov.au) to obtain additional proof of service exhibits. If available, the QCS officer may have utilised BWC recording during the service of DV documents. The cloud-based storage platform used by QCS is Evidence.com. Where available and reasons for the access are justified, a link may be provided to the requesting Service member and prosecutor for inclusion in the full brief of evidence—accompanied by a completed QP 0880: 'Section 95 certificate' (see s. 3.8.17: 'Computer records (Evidence Act)' of this Manual).

9.7 Interstate (National Domestic Violence Order Scheme) and registered foreign (New Zealand) orders

All DVOs issued on or after 25 November 2017 by any Australian court are recognised under the National Domestic Violence Order Scheme (NDVOS) and are enforceable (see s. 176A: 'Interstate and foreign DVOs are recognised interstate orders' of the DFVPA). A foreign (New Zealand) order is to be registered in an Australian court by submitting a DV 14A: 'Application to register New Zealand order in Queensland' before it becomes enforceable in Queensland. PPDs may not be enforceable in all states and territories immediately upon implementation as further legislative amendments are required in other states and territories for this to take effect.

9.7.1 Declaring an order under the National Domestic Violence Order Scheme

Where an officer identifies a DVO has not been declared under the NDVOS, the officer should consider the following:

(i) the risk indicators identifying the likelihood of continuation of domestic violence occurring;

(ii) if the parties involved require case management;

(iii) if the parties reside near state border areas; or

(iv) parties who have orders that are not due to expire for several years such as a 5 year order,

before submitting a DV 35: 'Application for declaration for a DVO to be recognised interstate order' to the court.

9.7.2 Officers are to comply with the Victims of Crime Assistance Act

An officer submitting a DV 35 is to make a reasonable attempt to advise and keep the aggrieved informed of the court process (see s. 2.12.1: 'Victims' Commissioner and Sexual Violence Review Board Act and Victims of Crime Assistance Act' of this Manual). Officers are to complete:

(i) a QP 0932: 'Domestic Violence Confidential details form'; and

(ii) a QP 0931: 'Domestic violence application information sheet',

(see s. 9.1.1: 'Confidentiality of an aggrieved, named persons and respondent to be protected' of this chapter).

9.7.3 Enforcing a nationally recognised interstate order/registered foreign order

ORDER

An officer investigating a domestic violence incident is to enforce:

(i) a nationally recognised interstate DVO; or

(ii) registered foreign (New Zealand) order,

as if the order was issued in a Queensland court.

An officer attending a DV incident where the aggrieved presents an unregistered foreign (New Zealand) order, is to investigate the incident in accordance with the DFVPA.

OPM Issue 113 Public Edition

9.7.4 Officer to complete a domestic violence request form

Where an officer is taking action in relation to DV and the National Criminal Intelligence System (NCIS) in QPRIME indicates there is a current nationally recognised interstate order, the officer should complete a DV request form located on the National Domestic Violence Order Scheme (NDVOS) SharePoint page to obtain a copy of the interstate order.

9.7.5 Investigating an undeclared interstate or unregistered foreign (New Zealand) domestic violence order

An officer investigating a domestic violence incident where the aggrieved has an undeclared interstate (NDVOS) or unregistered foreign (New Zealand) DVO should:

(i) determine if a proceeding can be commenced under another Act (see s. 9.3.1: 'Commencing proceedings for statutory offences' of this chapter); and

(ii) investigate the report of domestic violence and if appropriate, issue and serve a PPN or DV 01: 'Application for a protection order'.

Where there are insufficient grounds to proceed with a PPN or DV 01 officers should:

(i) complete and submit a DV 35 to the court; or

(ii) in the case of a foreign (New Zealand) order complete and submit a DV 14A: 'Application to register New Zealand order in Queensland', at the nearest court,

(see s. 9.2.6: 'Initial DFV investigative action' of this chapter).

9.8 Children involved in or exposed to DFV

Definitions

For the purposes of this section:

Child

means an individual under the age of 18 years (see s. 8: 'Who is a *child*' of the *Child Protection Act* (CPA)) who is a biological, adopted, step child, or in the care or custody of:

(i) an aggrieved; or

(ii) a respondent.

Domestic violence incident

see s. 8: 'Meaning of *domestic violence*' of the DFVPA.

Family relationship

see s. 19: 'Meaning of *family relationship* and *relative*' of the DFVPA.

Harm

means as defined in s. 9: 'What is *harm*' of the CPA.

Parent

see s. 16: 'Meaning of *parent*' of the DFVPA.

9.8.1 A child may be an aggrieved or a respondent in intimate partner or informal care relationships only

Officers responding to DFV where an investigation identifies a relevant family relationship and one of the persons (or both) is under 18 years of age, should note that a child may only be named as an aggrieved or respondent if the relationship is an intimate personal relationship or an informal care relationship. A child cannot be named as an aggrieved or respondent in a family relationship, however, can be included as a named person. See s. 9.8.7: 'Police action regarding DFV involving a child in a family relationship' of this chapter.

ORDER

An officer is required to investigate and take appropriate action against another Act if required, for example the Criminal Code, *Child Protection Act* or *Youth Justice Act,* including the making of child harm referrals.

Aggrieved or respondent child is at risk of harm or parent not able to protect them from harm

Where the first person or the second person is a child and during investigations into the DV, it becomes apparent to the investigating officer the child:

(i) has suffered, or is at risk of suffering harm; and

OPM Issue 113 Public Edition

(ii) does not have a parent sufficiently capable protecting them from harm,

in addition to making inquiries into the report of DV, the officer should report the matter in accordance with s. 7.3.1: 'Initial action for reports of child harm' of this Manual and s. 9.8.4: 'Other action to protect children exposed to DV' of this chapter.

Respondent child being questioned by an officer

Officers who question a child as a respondent are to comply with s. 6.3.3: 'Interviewing persons with an impairment of the mind, vulnerability, disability or cultural need' and Chapter 5: 'Children' of this Manual.

When a child is taken into custody officers should comply with the provisions of ss. 5.9.6: 'Parent and other notification requirements' and 16.17.2: 'Arrest of children' of this Manual.

9.8.2 Including the names of children in a DVO

Section 53: 'Naming child' of the DFVPA provides a child of the aggrieved, or a child who usually lives with the aggrieved may be included as a 'named person' in a DVO if the court is satisfied it is necessary or desirable to protect the child from:

(i) associated DV; or

(ii) being exposed to DV committed by the respondent.

When a court is hearing an application for a DVO or a variation to a DVO and information before the court discloses the existence of:

(i) a child of the aggrieved; or

(ii) a child who usually lives with the aggrieved,

the court must consider whether the child should be named in a DVO (see s. 54: 'When court must consider naming child' of the DFVPA).

Officer to include sufficient information to assist the court

Officers investigating a DV incident where a child of the aggrieved or a child who usually lives with the aggrieved is involved are to include sufficient information to assist the court in deciding whether the child is in need of a DVO under the DFVPA.

9.8.3 Children who are the victims of a criminal offence

An officer making inquiries in relation to a report of DV who reasonably suspects a child is the victim of a criminal offence involving physical, sexual or emotional abuse (e.g. the offence of torture) or neglect, is to:

(i) report the matter in accordance with s. 7.3.1: 'Initial action for complaints of child harm' of this Manual; and

(ii) if the child is at immediate risk of harm, take such action as is necessary and authorised in accordance with the subsection 'Children at immediate risk of harm' of s. 7.3.1 of this Manual.

Where a child suffers an injury or death as a part of DV, see s. 9.3.12: 'DFV as a result of the injury or death of a child' of this chapter.

9.8.4 Other action to protect children exposed to DV

An officer investigating a report of DV should take actions to address or mitigate their serious concerns for a child's wellbeing (see 'Definitions' of s. 7.1: 'Introduction' of this Manual). When responding to DV (see s. 9.8: 'Children exposed to domestic violence' of this chapter) officers should where appropriate:

(i) include the child as a named person on a PPD, PPN or application/variation of a DVO (see s. 9.3.6: 'Application for a DVO' of this chapter);

(ii) include a 'no contact' and residential ouster clauses on an application/variation of a DVO to protect the aggrieved and child;

(iii) remove the aggrieved and child to a place of safety;

(iv) remove the respondent from the residence;

(v) refer the family to a DV support service;

(vi) take other actions to address or mitigate the serious concerns for the wellbeing of the child.

Child victims of criminal offence involving harm

Where an officer is investigating a report of DV and ascertains one or more children usually lives with either the respondent or aggrieved and the:

(i) child/children appear to be the victim of a criminal offence involving harm to a child; or

OPM Issue 113 Public Edition

(ii) an officer still has serious concerns for the wellbeing of a child despite taking appropriate action to address or mitigate their serious concerns for a child's wellbeing,

the officer is to:

(i) create an appropriate DV occurrence in QPRIME, e.g. Domestic Violence—Application Police, Domestic Violence—(Breach of DFVPA); and

(ii) enter a Child Harm Report occurrence into the 'Incident/Count' stats tab of the DV occurrence,

to create a multi-classed DV occurrence, including the child harm template (see subsection 'Additional child harm reporting responsibilities' of this section). Each child is to be named, regardless of whether or not they witnessed, or were otherwise present at, the DV incident.

Crime manager receives a DV occurrence with a child harm report occurrence

A crime manager who receives a DV occurrence multi-classed with a Child Harm Report occurrence is to review the occurrence in accordance with s. 7.3.2: 'Responsibility for reviewing child harm reports' of this Manual.

The DV occurrence multi-classed with a Child Harm Report occurrence is to contain the information contained in subsections 'Additional child harm reporting responsibilities' and 'Non-criminal child harm report' of s. 7.3.1: 'Initial action for reports of child harm' of this Manual and the 'Child harm template' in the occurrence report.

Condition of order to limit contact between parent and child

Section 62: 'Condition limiting contact between parent and child' of the DFVPA provides a court may impose a condition on the respondent which would prevent or limit contact between the respondent and a child of the respondent and only to the extent necessary for the child's safety, protection and wellbeing.

An officer who considers contact between the respondent and a child needs to be restricted or prohibited, is to include in the application sufficient information to demonstrate the condition/s are necessary or desirable in the best interests of the child (see s. 53: 'Naming child' of the DFVPA).

A child of the aggrieved or a child who usually lives with the aggrieved who needs this type of protection is to be included as a named person in the DVO.

OPM Issue 113 Public Edition

9.8.5 Children's evidence in DV proceedings

Except in the case of a child who is an aggrieved or respondent in the relevant proceedings, officers are not, unless a court orders otherwise, to:

(i) call a child as a witness in a proceeding under the DFVPA;

(ii) ask a child to remain in a court during such proceedings;

(iii) ask a child to swear an affidavit for such proceedings; or

(iv) ask a child to produce a stated document or other thing during such proceedings (see s. 148: 'Child can not be compelled to give evidence' of the DFVPA).

Where a court may grant leave to give evidence

A court may grant leave for a child to be called to give evidence if the child:

(i) is at least 12 years old; and

(ii) is represented by a lawyer; and

(iii) agrees to give evidence.

The court must also have regard to the desirability of protecting children from the unnecessary exposure to the court system and the likely harm to the child and to family relationships if the child gives evidence.

A child to give evidence as a protected witness

A child who is to give evidence in a DV hearing is a 'protected witness' under s. 150: 'Protected witnesses' of the DFVPA. Whilst the child is giving evidence the court must consider ordering:

(i) the child give evidence outside the courtroom; and

(a) the evidence be transmitted to the courtroom by an audio visual link; or

(b) an audio-visual recording of the evidence is made and replayed in the courtroom;

(ii) a screen, one-way glass or other thing be placed so the child cannot see the respondent; or

(iii) the respondent be held in a room apart from the courtroom and the evidence be transmitted by an audio visual link,

in addition to any other safeguards mentioned in s. 150(2) of the DFVPA.

A child giving evidence not to be cross examined by the respondent

A child who is giving evidence in a hearing cannot be cross examined by the respondent in person in accordance with s. 151(3): 'Restriction on cross-examination in person' of the DFVPA.

Cases where an officer should obtain an unsworn affidavit from a child

In cases where a child, other than the respondent or the aggrieved in the particular proceedings, is a witness to DV, and the evidence of the child is significant and cannot be obtained from another source, officers should obtain an unsworn affidavit from the child. The child's affidavit should be clearly marked with the notation 'child's affidavit', attached to the relevant file and forwarded to the prosecutor.

Prosecutors receiving an affidavit from a child should assess the information contained in the affidavit and, if the information is considered critical to the conduct of the matter, request the presiding magistrate make an order permitting the child to be called as a witness or to be asked to swear the affidavit.

9.8.6 Service of DV documents on children

Officers who are responsible for giving or serving a document to a child are to also give a copy of the document to a parent of the child (see s. 16: 'Meaning of *parent*' of the DFVPA); or if the child is under the custody or guardianship of the Chief Executive (Child Protection) under the *Child Protection Act*, to the Chief Executive (Child Protection), Department of Families, Seniors, Disability Services and Child Safety.

Officers serving a document on a child at or near a child's school

Officers are to only serve or give a document to a child, of any age, at or in the vicinity of the child's school if:

(i) it is not reasonably practicable to affect the service of the document at another place;

(ii) the officer has consulted their supervising commissioned officer; and

(iii) the principal of the relevant school has been notified of the officer's intention to serve a document on a child at or in the vicinity of the school.

Officers should advise the principal they have the authority under s. 19: 'General power to enter to make inquiries, investigations or serve documents' of the PPRA to enter a place to serve a document. The principal should be consulted on the least disruptive and most discreet method of serving the document on the child. The principal should not be told the nature of the document to be served in order to protect the privacy of the child concerned.

After serving or giving documents to a child, the serving officer is to:

(i) complete a DV 21: 'Affidavit of Service' or DV 21A: 'Statement of police service' as applicable (see s. 9.6: 'Service of DV documents' of this chapter) and return the endorsed copies to the relevant court; and

(ii) update the relevant QPRIME occurrence to record the document service.

After giving a copy of the documents to a parent of the child, or the Chief Executive (Child Protection) as applicable, the officer giving the documents is to update the relevant QPRIME occurrence to record the document service.

When a parent of a child cannot be located

If a parent of a child cannot be located or a special circumstance exist, a court may dispense with the requirement to give a copy of a document to the parent of a child (see s. 188: 'Giving of document to child' of the DFVPA).

An officer who:

(i) cannot locate a parent to give the document to after making all reasonable inquiries;

(ii) has established the child is estranged from their parents;

(iii) considers there is an unacceptable risk of harm to the child if a parent received a copy of the document, or

(iv) considers there are any other special circumstances for giving dispensation,

is to seek the dispensation of the court by making application to a magistrate through the relevant police prosecution corps.

9.8.7 Police action regarding DFV involving a child in a family relationship

When officers responding to a report of DV involving a child under 18 years in a family relationship only, the officer's obligation to investigate the complaint as DV or to record a DV occurrence in QPRIME record ends (see s. 100(5A): 'Police officer must investigate domestic violence' of the DFVPA). Supervisor approval is not required where a DV occurrence entry is not made in QPRIME under these circumstances. However, another relevant QPRIME occurrence may still be required to be entered (see s. 1.11: 'QPRIME occurrences' of this Manual).

Officers are obligated to investigate allegations of offences committed against or by the child under other relevant Acts, such as the Criminal Code, *Child Protection Act* or *Youth Justice Act*, and to take necessary action (see Chapters 5: 'Children' and 7: 'Child Harm' and s. 9.8.4: 'Other action to protect children exposed to DV' of this Manual).

OPM Issue 113 Public Edition

Police referrals should be offered in accordance with s. 6.3.14: 'Police referrals' of this Manual.

Attending officers are to advise police communications of a revised job code, based on the outcome of their investigation. Supervisor approval is not required for revised job coding under these circumstances.

Officers are reminded of their requirement to record enforcement acts under s. 2.1.2: 'Registers required to be kept' of this Manual in the relevant occurrence.

9.9 DV court related matters

9.9.1 Police prosecutor's role in private applications

Provision of Service information to the court

Section 146 of the DFVPA: 'Right of appearance and representation' provides that a police officer or service legal officer may appear in any proceeding under the Act.

Where a court is hearing a private application for a DVO or an application to vary a DVO and has cause to suspect the Service has information pertaining to the application that may assist the court in the proper administration of justice, the court may request assistance of a police prosecutor to provide that information.

The assistance of a police prosecutor may be limited in the event an application for a Court Review is on foot with an accompanying private application for a protection order. The police prosecutor will represent the issuing officer of the PPD who is legislatively recognised as the applicant for a protection order.

A police prosecutor requested by a court to provide Service information pertaining to a private application is to:

(i) request the court to provide:

(a) identifying details of the parties;

(b) any details of the application considered necessary to assist in searching for relevant information; and

(c) the nature of the information sought;

(ii) conduct the necessary QPRIME checks; and

(iii) provide the court with information relevant to the proceedings.

Information relevant to the proceedings may include criminal history records and details of prior DV occurrences. However, only criminal history entries/occurrences that are relevant to the proceedings should be provided.

Generally, hardcopy or electronic documents of this nature should not be provided to the court, unless irrelevant entries are first redacted.

Police prosecutors to assist an aggrieved in private applications

Police prosecutors are to assist an aggrieved who has made a private application for a protection order or an application to vary a protection order when requested. The assistance may not be provided where the aggrieved seeks a protection order that is subject to Court Review and is accompanied by an application for a protection order.

In assisting an aggrieved who has made a private application, the police prosecutor should discuss with the aggrieved whether it is necessary or desirable to name any relatives or associates of the aggrieved (including children) in the protection order.

Police prosecutor representation of an aggrieved in private applications

Section 147: 'Representation of aggrieved' of the DFVPA provides that a police officer or service legal officer may appear and act on behalf of an aggrieved in a proceeding for any private application under the Act.

Police prosecutors are to appear on behalf of an aggrieved who has made a private application for a protection order or a private application to vary a protection order when requested. However, a police prosecutor should not appear in respect of an application if:

(i) the prosecutor reasonably believes the application:

(a) is malicious, deliberately false, frivolous or vexatious;

(b) does not show a relevant relationship as defined in s. 13: 'Meaning of *relevant relationship*' of the DFVPA exists; or

(c) does not include an act of DV as defined in s. 8: 'Meaning of *domestic violence*' of the DFVPA;

(ii) the aggrieved has adequate legal representation;

(iii) Legal Aid Queensland is representing the aggrieved; or

OPM Issue 113 Public Edition

(iv) a PPD has been issued and an application for Court Review has been lodged along with an application for a protection order.

When a police prosecutor receives a request to appear on behalf of an aggrieved who is making a private application set for hearing, the prosecutor should contact the OIC of the station in which the aggrieved resides to arrange for the preparation of a brief of evidence for hearing as if the application was made by an officer. The brief may include statements or affidavits.

Where a copy of the brief of evidence is sought by the aggrieved or their legal representative, the police prosecutor should provide a copy of the:

(i) statements and affidavits; and

(ii) relevant documents attached to the brief.

Where sought by the aggrieved or their legal representative, other documents such as:

(i) criminal histories of any person; and

(ii) other police-generated documentation, e.g. reverse call charge records, telephone records,

should only be produced by the relevant authority to the court upon subpoena.

Details of all particulars provided should be recorded by the prosecutor on the relevant prosecution file (see s. 3.10.11: 'Property in witnesses' of this Manual).

ORDER

OIC's are to ensure a brief of evidence requested by police prosecutors is prepared in accordance with ss. 9.2.4: 'DFV investigative powers under the PPRA' of this chapter and 3.8: 'Preparation and submission of briefs of evidence' of this Manual.

9.9.2 Documents required by police prosecutor

Whenever possible, officers should ensure the application for a DVO or variation of a DVO and associated documentation is inspected by a:

(i) shift supervisor;

(ii) brief checker; or

(iii) DDO,

prior to submission to the relevant police prosecution corps (see s. 3.7.5: 'Checking of court briefs' of this Manual).

ORDER

Officers making application to a court for a DVO or a variation to a DVO (see s. 9.3.8: 'Application to vary a domestic violence orders (increase conditions)' of this chapter) are to prepare the following documents for each respondent in the relevant QPRIME occurrence and initiate the 'DV Application Notification Task Workflow' to the relevant police prosecutions corps prior to the first court appearance:

(i) a QP 0931: 'Domestic violence application—information sheet';

(ii) as appropriate, a:

(a) PPN;

(b) PPN Grounds;

(c) DV 01: 'Application for a protection order';

(d) DV 04: 'Application to vary a domestic violence order';

(e) DV 04A: 'Application to vary a recognised interstate order'; and

(f) QP 1210: 'Statement of document provision' (Aggrieved);

(iii) a completed DV 21A: 'Statement of police service'.

Officers who release a respondent from custody on release conditions are to ensure:

(i) details of the QP 0937: 'Release from custody conditions', including service details, are updated within the relevant QPRIME occurrence for each respondent released prior to the first court appearance; and

(ii) a completed DV 21A,

is attached to the station copy of the QP 0937.

Where original or signed documents are required by the police prosecutor, these are to be forwarded in accordance with regional or district instructions.

OPM Issue 113 Public Edition

Interpreters

Where the aggrieved or respondent in a PPD, PPN or police application for a DVO is unable to:

(i) adequately understand due to illiteracy;

(ii) communicate in the English language because of cultural differences; or

(iii) understand due to a physical disability,

the applicant officer should arrange for an accredited on-site interpreter to attend the first mention of the application in court in accordance with s. 6.3.7: 'Interpreters' of this Manual.

9.9.3 Responsibilities of police prosecutors (police and private applications)

Information which could affect the safety of officers should, as soon as possible be added into QPRIME.

ORDER

A police prosecutor in a DV matter, where any of the following has resulted:

(i) a DVO;

(ii) a variation of a DVO; or

(iii) the withdrawal or dismissal of a DVO; or

(iv) an application for an order,

is to ensure any decisions, orders or modifications, made by the court are entered in QPRIME prior to terminating rostered duty.

If the entry is unable to be completed prior to the prosecutor terminating duty, it is the responsibility of the OIC of the station or establishment where the respondent lives or was last known to live to make arrangements for entry to immediately be made (see s. 9.2.6: 'Initial DFV investigative action' of this chapter).

9.9.4 Role of prosecutor in cross applications

Cross applications occur when a person named as the respondent in an application for a DVO which is before the court (the **'original application'**) makes an application for a DVO (the **'cross application'**) against the person named as the aggrieved in the original application.

The DFVPA provides where cross applications for DVOs naming both the aggrieved and respondent have been lodged at:

(i) the same court, and the court is aware of them, the court must hear the applications together unless the court considers it necessary to hear the applications separately for the safety, protection or wellbeing of the original aggrieved; or

(ii) a different court, the court may direct either application to be moved to the other court and heard together. Where a court decides it is necessary for the applications to be heard separately, the court must give reasons for the decision.

When the respondent makes a cross application, which is not served on the aggrieved at least one business day before the date of the hearing of the original application, the court is to:

(i) adjourn the hearing of the cross application to another date, unless the aggrieved named in the original application consents to the court hearing the cross application before hearing the original application or together with the original application; and

(ii) consider making a temporary protection order. However, the court may issue a TPO only if satisfied the order is necessary or desirable to protect the aggrieved or another person named in the cross application,

(see s. 49: 'Temporary protection order in relation to particular adjourned applications' of the DFVPA).

Officers investigating reports of DFV should not submit cross applications for protection orders. Officers are to identify and assist the person in most need of protection and take appropriate action to protect the aggrieved from further domestic violence (see s. 4(2)(e): 'Principles for administering Act' of the DFVPA).

Officers are prohibited from issuing a PPD or PPN where another notice is in force naming the respondent and aggrieved as the opposite party (see s. 103: 'Cross-notice not permitted' of the DFVPA).

A cross application for a DVO may be made by an officer after an investigation is conducted in accordance with s. 9.2.6: 'Initial DFV investigative action' of this chapter including the protective assessment where it is necessary or desirable to protect the aggrieved named in the police application, who is also named as the respondent in any other application.

Police prosecutor to assist the aggrieved in a cross application

Where a cross application is to be heard before hearing the original application or together with the original application, the police prosecutor should continue to assist the original aggrieved for the duration of the hearing.

OPM Issue 113 Public Edition

Subject to s. 9.9.1: 'Police prosecutor's role in private applications' of this chapter, police prosecutors may assist an aggrieved who was named as the respondent in a previous application.

9.9.5 Role of prosecutor in tenancy applications

Prosecutors should not become involved in making tenancy applications under s. 141: 'Procedures applicable to tenancy applications before Magistrates Court' of the DFVPA.

Prosecutors who are advised by an aggrieved or a respondent a tenancy application is to be sought in the Magistrates Court dealing with an application for a DVO should advise the person:

(i) the prosecutor is not able to assist in making the application; and

(ii) to seek advice from a legal representative, court staff or a tenancy advice service about making such an application.

9.9.6 Role of prosecutor under s. 68R of the Family Law Act

In proceedings to make or vary a DVO, a court having jurisdiction may revive, vary, discharge or suspend:

(i) a parenting order;

(ii) a recovery order;

(iii) an injunction granted;

(iv) an undertaking given to, and accepted by, a court exercising jurisdiction under the *Family Law Act* (Cwlth) (FLA);

(v) a registered parenting plan; or

(vi) a recognisance entered into under an order under the FLA,

related to a person to spending time with a child (see s. 68R: 'Power of court making a family violence order to revive, vary, discharge or suspend an existing order, injunction or arrangement under this Act' of the FLA for full details).

The court may do so of its own initiative or on application by any person.

Prosecutors should take a proactive role in making submissions to amend family law orders (FLO) under s. 68R of the FLA when necessary, to ensure the effectiveness of the conditions contained on a DVO. Where the application for a DVO is a police application and an application under s. 68R is made by the Service, the police prosecutor (see SMD) will have standing to be heard on the application. Where an application for a DVO is a private application and a police prosecutor is representing the aggrieved under s. 147: 'Representation of aggrieved' of the DFVPA, they may represent the aggrieved on an application made under s. 68R with leave of the court.

This approach aligns with the duty under s. 78: 'Court must consider family law order' of the DFVPA to consider FLO and ensures that the DVO provides adequate protection, without being undermined by conflicting a FLO. Prosecutors, however, should ensure that the court does not diminish the standard of protection given by a DVO for the purpose of facilitating consistency with a FLO.

OPM Issue 113 Public Edition

9.9.7 Preparation of briefs of evidence

Definitions

For the purposes of this section:

Media exhibit

means a plan, photograph, video or audio recording or model.

Model

includes a model or image generated by a computer.

Proceedings under the DFVPA are civil proceedings and are conducted in compliance with the Domestic and Family Violence Protection Rules (DFVPR).

The Uniform Civil Procedure Rules (UCPR) only apply to an appeal under the DFVPA (see s. 9.9.8: 'Appeals under the DFVPA' of this chapter). Proceedings for contraventions of the DFVPA are criminal proceedings conducted under the *Justices Act*.

ORDER

Officers are to comply with any direction made by the court under r. 22: 'Directions that may be issued by DFVP court for proceeding' of the DFVPR.

Briefs of evidence for:

(i) contested protection order application hearings; and

(ii) contraventions of:

(a) a DVO; or

(b) release conditions,

are to be prepared in compliance with s. 3.8: 'Preparation and submission of briefs of evidence' of this Manual, except as provided in this section.

Further provisions for briefs of evidence for contested DVO application hearings

For full briefs of evidence for contested protection order application hearings, the applicant officer is to prepare:

(i) a brief of evidence (including the original affidavits and the media exhibits), marked 'Court Original';

(ii) one copy of the brief of evidence which does not contain copies of media exhibits, marked 'Respondent Copy';

(iii) an additional copy of the brief of evidence which does not contain copies of media exhibits for each additional respondent if there is more than one respondent to the application; and

(iv) one copy of the brief of evidence (including the media exhibits), marked 'Prosecutions Copy'.

Applicant officers are to:

(i) have the brief of evidence checked in accordance with s. 3.8 of this Manual;

(ii) file, or arrange the filing, of:

(a) the brief of evidence (excluding any media exhibits) with the court (see rr. 37: 'Filing affidavit' and 9: 'How document is to be filed' of the DFVPR); and

(b) any media exhibits with the court, at least 14 days before the hearing starts, ensuring they are in a format capable of being played or viewed in the court (see r. 34: 'Tendering media exhibit at hearing' of the DFVPR),

in accordance with the DFVPR and local procedures;

(iii) if the media exhibits are not of a sensitive nature, once filed, give a DV 30: 'Notice of filing of media exhibit' to all other parties at least 7 days before the hearing commences. The notice should be given to the other parties in person. If a person cannot reasonably be found, officers may use an alternative method of service;

(iv) complete a DV 25: 'Affidavit' outlining the details of service and attach a copy of the DV 30 marked as an exhibit to the affidavit;

(v) comply with any directions given by the court regarding whether and how a document or a class of documents are to be disclosed to a party in the proceeding (r. 22(m) of the DFVPR); and

(vi) supply a copy of the complete brief of evidence marked 'Prosecutions Copy', including:

(a) media exhibits;

(b) any completed DV 25 and DV 30 forms; and

(c) information as to the status of filing and serving of relevant documents,

to the prosecutor as soon as practicable, and in any event prior to the date of hearing the application.

If the applicant officer has reason to believe sexual assault privilege (see s. 590APA: 'Protected counselling communications' of the CC) may apply in the making of an application for a DVO, the officer is to comply with s. 3.14.4: 'Sexual assault counselling privilege' of this Manual.

Where an officer believes a media exhibit should not be made available to other parties in the hearing (e.g. the exhibit contains images of injuries to the aggrieved's genitals), the officer is to:

(i) advise the prosecutor so an application can be made to the court for an order under r. 34 of the DFVPR to be issued; and

(ii) file the media exhibit with the court in accordance with this section.

Where the court orders the media exhibit be placed in a sealed container, a DV 30 does not need to be given to the other parties for that exhibit.

Under r. 22(m) of the DFVPR, the court may issue a direction document or a class of documents to be disclosed to a party in the proceeding, and how disclosure is to occur. Officers are to comply with directions given under this rule. Where a court has not issued a direction regarding the service of the respondent's copy of the brief of evidence (which does not contain copies of media exhibits), officers are to serve a copy on each respondent.

Where an officer serves a copy of the brief of evidence on a respondent after having already supplied the complete brief of evidence to the prosecutor, the officer is to advise prosecutions via an entry in the relevant case diary log in QPRIME.

OPM Issue 113 Public Edition

ORDER

The OIC of a station is to ensure the applicant officer or if the applicant officer is not available, another officer, comply with the requirements of this subsection. When an officer is serving briefs of evidence, the officer is to ensure the aggrieved and named persons contact details are kept confidential (see s. 9.1.1: 'Confidentiality of an aggrieved, named persons and respondent to be protected' of this chapter).

Evidentiary certificates

Section 189(3): 'Evidentiary provision' of the DFVPA provides an evidentiary certificate may be issued to prove, in relation to:

(i) a PPD or PPN, at a stated date and time a stated:

(a) officer issued a stated protection notice;

(b) officer was a supervising officer under ss. 100K: 'Approval of supervising police officer required' or 102: 'Approval of supervising police officer required' of the DFVPA; and

(c) supervising officer approved the issuing of a stated PPD or PPN;

(ii) the release of a respondent on release conditions a stated:

(a) officer was a releasing officer under s. 125: 'When police officer must release person on conditions' of the DFVPA; and

(b) releasing officer released the stated respondent from custody on stated release conditions.

The power to issue a QP 0938: 'Certificate' under the hand of the Commissioner, has been delegated to the following officers:

(i) a commissioned officer; or

(ii) the OIC of a station, establishment or unit,

who has not been involved in the relevant DV occurrence as:

(i) the officer who issued PPD or PPN on the respondent;

(ii) the officer who was a supervising officer approving the issuing of a PPD or PPN; or

(iii) the releasing officer where a respondent has been taken into custody,

and is of a higher rank than the supervising officer where a PPD or PPN is issued to a respondent (see Delegation D 130.1).

When a criminal proceeding is commenced where the prosecution will rely on the evidence contained in the certificate (e.g. contravention of a PPD, PPN, DVO or release conditions), a copy of the QP 0938 is to be provided to the defendant or the defendant's legal representative at least 20 business days prior to the hearing date.

Under s. 189(5) of the DFVPA, the defence is to be given at least 15 business days' notice before the hearing date they intend to challenge a matter stated in the certificate.

The investigating officer should complete a QP 0938 including all relevant information can be stated on the certificate under s. 189(3) of the DFVPA. The investigating officer should forward the completed QP 0938 to the relevant delegated officer for signing through their chain of command.

A copy of the signed QP 0938 should be uploaded into the relevant QPRIME occurrence prior to submission of the completed brief of evidence for checking by a shift supervisor or brief checker (see s. 3.7.5: 'Checking of court briefs' of this Manual).

Certificate evidence—for a hearing of a nationally recognised interstate order

An officer upon receiving notification a breach of a nationally recognised interstate order is being contested should as soon a reasonably practicable forward an email via the Domestic and Family Violence and Vulnerable person's website requesting a copy of a Certificate of Notification stating the respondent was properly notified under s. 176U: 'Certificate evidence—notification' of the DFVPA.

Where a breach of a nationally recognised interstate order is set down for hearing and a certificate is required stating:

(i) the making of a local order was properly notified; or

(ii) a variation to a DVO has been properly notified,

under s. 176U of the DFVPA, officers are to as soon as reasonably practicable forward an email requesting a copy of the issuing/service state's Certificate of Notification via the Domestic and Family Violence and Vulnerable Person's on the Service intranet (see Delegation D 130.2).

OPM Issue 113 Public Edition

Subpoena of production or to give evidence or both

Where an application for a protection order is to be determined by a hearing, all prosecution witnesses are to be subpoenaed to attend by a DV 22: 'Subpoena'.

Officers are to also consider whether subpoenas are necessary in order to require a person to produce a document or thing.

The investigating officer is to:

(i) prepare a DV 22A: 'Request for subpoena' and DV 22 for each civilian witness who will be appearing on behalf of the prosecution;

(ii) take the completed request for subpoena(s) and subpoena(s) to the Magistrates Court hearing the application for registration and signing in accordance with local procedures; and

(iii) serve, or arrange for the service of, the subpoenas on the witnesses.

Officers are to serve subpoenas in person where practicable. If the person cannot reasonably be found, officers may use an alternative method of service. The court may issue a direction regarding how and when a subpoena is to be served (see r. 22 of the DFVPR). Officers are to comply with any direction made by the court in accordance with r. 22(p) of the DFVPR.

After service of a subpoena, the serving officer is to:

(i) complete and return a DV 25 outlining the details of service with a copy of the document served marked as an exhibit, to the court where the matter is being heard; and

(ii) provide a copy to the prosecutor for inclusion with the brief of evidence.

Rule 45: 'Inspecting subpoenaed documents' of the DFVPR outlines an officer may apply to the court for an order to enable the officer to inspect and copy a subpoenaed document. The DV 32: 'Application to inspect and copy subpoenaed documents' is to be completed if r. 45 applies.

Evidence under the DFVPR and DFVPA

Officers should refer to the DFVPR and the DFVPA regarding evidence in proceedings.

Rule 22 of the DFVPR provides the court may issue a direction requiring evidence given by a person be given by affidavit, taking into consideration r. 23: 'Matters relevant to making order or issuing direction'. Officers are to comply with a direction made by the court under r. 22.

Section 145: 'Evidence' of the DFVPA provides a court is not bound by the rules of evidence, or any practices or procedures applying to courts of record and may inform itself in any way it considers appropriate. Rule 33: 'Evidence in other proceedings' of the DFVPR provides a party may rely on evidence used in an earlier proceeding if relevant and the court gives permission.

Rule 47: 'Accessing documents from registry' of the DFVPR outlines a person may seek a copy of any part of the record or any document used or tendered in a proceeding in accordance with s. 160: 'Prohibition on obtaining copies of documents for proceeding' of the DFVPA. For this purpose, form DV 34: 'Request to inspect and copy document'.

OPM Issue 113 Public Edition

9.9.8 Appeals under the DFVPA

Appeals under the DFVPA may be made by persons who wish to contest a decision of a court to:

(i) make a DVO;

(ii) vary, or refuse to vary, a DVO (including a variation of the conditions imposed by the order);

(iii) refuse to make a protection order or temporary protection order; or

(iv) to set aside a PPD.

Section 165: 'How to start appeal' of the DFVPA provides a copy of the notice of appeal is to be given to the Commissioner while s. 167: 'Police commissioner has right of appearance' of the DFVPA provides the Commissioner has a right to appear and be heard before the appellate court on an appeal to the court under the DFVPA.

Appeals by police officers

Officers who consider it is appropriate to lodge an appeal in regard to an order or decision of a court are to comply with s. 3.11.2: 'Appeals by the prosecution' of this Manual to the extent it is consistent with the nature of the appeal.

Officers in charge of regions or commands are to forward all correspondence requesting the lodgement of an appeal to QPS Legal Services, Office of the General Counsel. Appeals under the DFVPA are not to be referred to the Office of the Director of Public Prosecutions.

Initiating an appeal in regard to an order or decision of a court should only be considered in cases where an officer was the applicant for the DVO in respect of which the decision was made. Such cases include instances where an officer considers the:

(i) refusal to grant a DVO on the application of an officer (this does not include a private application which was assisted by a police prosecutor); or

(ii) variation of a protection order initially granted on a police application,

should be appealed.

Appeals by persons other than police officers

An OIC of a station who receives a copy of a 'Notice of Appeal (District Court)' (Uniform Civil Procedure Rules (UCPR) Form 96) from a person contesting an order or decision of a court is to:

(i) accept the service of the documents on behalf of the Commissioner (see s. 9.10.4: 'Authorisation to receive documents' of this chapter and Delegation D 18.17); and

(ii) if the applicant in the original application was:

(a) an officer, forward the notice to the applicant officer for further attention; or

(b) not an officer, forward the notice to the OIC of the station which the aggrieved resides for further attention.

Receiving a notice of appeal

Officers who receive a UCPR Form 96 for further attention (the reporting officers):

(i) should check Service intelligence sources (e.g. QPRIME, patrol logs and previous domestic violence applications) to establish whether there are grounds for serious concern about the safety of an aggrieved or named person. It is not necessary to conduct interviews with the parties of the appeal to establish whether such grounds exist;

(ii) are to ensure a report is prepared which:

(a) outlines any serious concerns about the safety of an aggrieved or named person should the appeal be successful;

(b) comments on the specific grounds of appeal stated in the UCPR Form 96;

(c) recommends whether or not the Commissioner should be heard at the appeal; and

(d) includes a copy of any police application relevant to the appeal (e.g. original DV 01: 'Application for a Protection Order' and any original statements or affidavits); and

(iii) are to forward the report to their district officer through their chain of command.

District officers receiving such reports are to provide a firm recommendation on whether the Commissioner should be heard in the appeal and forward the file to their chain of command.

Officers in charge of regions or commands receiving reports relating to UCPR Form 96 should consult with the Director, QPS Legal Services where necessary, to determine whether the Commissioner should be heard in the appeal. If it is decided the Commissioner should be heard, the file should be forwarded to the Director, QPS Legal Services.

The Director, QPS Legal Services will make any necessary arrangements for the Commissioner to be heard in the appeal.

Officers are to promptly comply with any request made by QPS Legal Services for statements or affidavits to be prepared for the appeal.

Reporting officers and district officers should not recommend that the Commissioner be heard at an appeal unless the officer has grounds for serious concerns for the safety of an aggrieved or named person are likely to be jeopardised by a successful appeal.

9.9.9 Consultation with Community Justice Groups

Community Justice Groups (CJG):

(i) operate in various communities across the State supporting First Nations peoples; and

(ii) provide a community-based response to local issues by working cooperatively with other government agencies and community organisations.

Where a CJG is operating in a Magistrates Court district and available, the OIC of the relevant prosecution corps should request to meet with the CJG, for the purposes of consulting at least twice a year, to:

(i) receive advice from the CJG on local cultural issues that may impact on the prosecution of DFV matters; and

(ii) enhance member awareness in relation, generally, to the cultural appropriateness of the proposed length and conditions of DFV orders.

The OIC of the relevant prosecution corps is to ensure written records of any meetings with CJGs are made.

OPM Issue 113 Public Edition

9.9.10 Intervention orders

When making or varying a DVO, a court may make an intervention order (see s. 69: 'Court may make intervention order' of the DFVPA).

An intervention order requires the respondent to:

(i) complete an intervention program; or

(ii) receive counselling from an approved provider to assist with harmful behaviour relating to DV.

During an intervention order a number of approved notices will be provided to the court and the Commissioner by the approved provider.

ORDER

The OIC of the relevant station or the OIC of the police prosecutions corps appearing in the court where the order was issued is to receive the order on behalf of the Commissioner (see Delegation D 18.17).

Approved notices are to be entered into the relevant QPRIME DV occurrence

Approved notices received on behalf of the Commissioner are to be entered in the relevant QPRIME DV occurrence by the relevant station or police prosecutions corps receiving the notice.

Whilst no offence is committed if a respondent contravenes an intervention order, officers making application for a future DVO involving the respondent should include details of previous voluntary intervention orders and the outcome of those orders.

9.9.11 Service to appear and make representations at a variation of an order

If an officer initiates a DV 01: 'Application for a protection order', the Service may appear and make representations at any applications to vary the conditions contained in the order which would reduce the safety, protection and wellbeing of the aggrieved or named persons.

9.9.12 Withdrawal of DVO applications

The DFVPA was enacted to protect the aggrieved, children and named persons from DV. The withdrawal of a PPN or DV 01 may wrongly imply to both the aggrieved and the respondent that DV is acceptable behaviour within the community. Officers are not to withdraw a PPN or DV 01 unless compelling reasons exist. These reasons may include:

(i) continued non-service of the relevant documents on the respondent and applying for a substitute service order is not possible due to no further alternative service methods being identified or available and no further DV has occurred;

(ii) a DVO is no longer necessary or desirable to protect the aggrieved and named persons from DV;

(iii) there is insufficient evidence; or

(iv) following receipt of information relating to a PPN or DV 01 that the PMINOP has not been appropriately identified, and an investigation reveals protection is no longer required.

OPM Issue 113 Public Edition

An application to withdraw a PPN or DV 01 by an officer should not be made merely because the aggrieved requests the matter be withdrawn.

When considering withdrawing an application for a DVO, the officer authorised to approve the withdrawal should consider all circumstances including whether:

(i) there is sufficient evidence to support the application;

(ii) the PMINOP has not been appropriately identified;

(iii) a DVO is necessary or desirable to protect the aggrieved or named person from DV;

(iv) a DV 01 for an order has been made in lieu of a contravention of a nationally recognised interstate or registered foreign (New Zealand) DVO. In these circumstances it may be appropriate to withdraw the DV 01 and proceed with the contravention of the nationally recognised interstate or registered foreign (New Zealand) DVO; or

(v) 2 concurrent DV 01 exist and it is appropriate to withdraw one of the applications.

Approval required to withdraw an application for DVO

ORDER

Police prosecutors who intend to request the withdrawal of a DV 01 should, where practicable, first consult with the officer who made the initial application.

Officers who have made an application for a DVO, or police prosecutors prosecuting DV matters are not to withdraw a PPN or DV 01 without first obtaining approval from:

(i) a commissioned officer;

(ii) the OIC of the relevant, police prosecution corps (PPC);

(iii) a senior sergeant principal prosecutor or PO5 attached to the relevant PPC; or

(iv) in the case of an application for a DVO against a member of the Service, an officer of the rank of assistant commissioner or above.

Procedures to withdraw a DVO

If a police-initiated application for a DVO has been made and the court is yet to finalise a DVO, the officer is to:

(i) complete a QP 0626A: 'Request for Authority to Withdraw Protection Order application' in the relevant QPRIME occurrence outlining the circumstances and justification for the withdrawal and submit to the member's OIC;

(ii) obtain approval to withdraw the application from an authorising officer via the QP 0626A;

(iii) submit a QPRIME task to the relevant PPC to notify that a request to withdraw the application is pending; and

(iv) where the withdrawal is due to the PMINOP not appropriately identified, immediately review Police Referrals (see subsection 'Police Referrals completed where a PMINOP has not been appropriately identified' of s. 9.3.16: 'DFV referral agencies' of this chapter).

Withdrawal of a DVO by an applicant other than a police officer

An applicant may withdraw a DV 01 orally during a proceeding or in writing to the relevant court by a DV 27: 'Application to Withdraw'. Where a court receives a DV 27, the court will send a copy to the OIC of the station nearest the place where the respondent was last known to live.

The OIC of a station receiving a copy of the DV 27 is to ensure a:

(i) copy is personally served on the other parties in the proceeding (such as the respondent); and

(ii) DV 21A: 'Statement of police service' is completed for each copy served, ensuring the served document is marked as 'Exhibit A' and the endorsed copies are returned to the relevant court (see s. 9.6: 'Service of DV documents' of this chapter and s. 50: 'Withdrawal of DFVP application' of the Domestic and Family Violence Protection Rules).

Procedures when a DVO application is withdrawn

ORDER

When a PPN or DV 01 has been withdrawn, the officer seeking the withdrawal is to:

(i) as soon as reasonably practicable, advise all involved parties;

(ii) offer the aggrieved and respondent a police referral (see s. 9.3.16: 'DFV referrals agencies' of this chapter); and

(iii) ensure the relevant QPRIME occurrence is updated and finalised.

OPM Issue 113 Public Edition

9.9.13 Diversion orders scheme (Brisbane Magistrates Court only)

A diversion orders scheme allows for the making of an order (a diversion order) in a Magistrates Court in relation to an eligible adult defendant charged with an offence of contravening a DVO or PPN (see s. 135A: 'Definitions' of the DFVPA). The diversion orders scheme enables a court-based diversion pathway for DFV offenders.

The diversion orders scheme is currently only being implemented for offences committed within the Brisbane Magistrates Court jurisdiction (Roma and George Street) only.

Eligibility

Eligibility and suitability of a defendant to participate in the diversion order scheme is established by the court (see ss. 135C: 'Eligibility criteria for participation in scheme' and 135F: 'Assessment of suitability of defendant' of the DFVPA).

Evidence obtained during suitability assessment of defendant

During the diversion order scheme assessment process;

(i) information that is derived from the defendant's acceptance of this scheme; and

(ii) admissions made for the purpose of preparing a suitability assessment report,

must not be used in the proceedings for an offence, as per ss. 135D: 'Evidence relating to requirement to accept responsibility relating to alleged offence' and 135H: 'Immunity from prosecution' of the DFVPA.

Diversion order

On a diversion order being made, a 'diversion order flag' will be generated and applied against the defendant's QPRIME entry.

Officers conducting any new investigations on a defendant that has an existing diversion order flag involving any:

(i) DV contravention offences;

(ii) DV related criminal offences;

(iii) DV investigations, including police applications or private applications involving the defendant regardless of who the aggrieved is; and

(iv) interstate DVO or applications,

are to notify Brisbane Prosecutions Office by email BPPDV@police.qld.gov.au outlining the details of the new investigation.

When notifying Brisbane Prosecutions Office, officers are to provide sufficient detail around any new investigations to allow the court to properly exercise its supervisory function and assess if the diversion order should be revoked.

On a diversion order being made, the court may adjourn the proceedings and grant bail to the defendant. Once the defendant has completed the diversion program, the court will dismiss the charge.

9.10 QPRIME DV occurrences

ORDER

When an officer is making an application for a protection order (DV01) or issuing a PPD or PPN, the officer is to create a domestic violence occurrence in QPRIME and complete all required documentation. Where a handwritten PPD or PPN Grounds has been completed and issued officers are to ensure the grounds are completed within QPRIME by the end of their shift.

9.10.1 Responsibilities of an OIC to ensure DV entries are entered into QPRIME

The OIC of a station or establishment has overall responsibility for ensuring all DFV entries are entered into QPRIME within the required time frames.

Officers should use QPRIME to record relevant details including:

(i) all DFV investigations;

(ii) the service of any orders;

(iii) whether or not the respondent was present in court at the time the order was issued;

(iv) information requests;

(v) signed copy of statement of police service or signed affidavits of document service;

(vi) signed copy of application to vary;

(vii) signed copy of PPN application; and

(viii) and DFV related inquiries made by officers in the relevant OELs or case management occurrence.

The OIC of a station or establishment is to ensure:

(i) regular checks are conducted by the station DFV liaison officer, to ensure officers at their station or establishment are complying with the requirements of this section; and

(ii) all:

(a) nationally recognised interstate orders;

(b) registered foreign (New Zealand) orders;

(c) private applications for DVO and any other orders (see s. 9.9.3: ‘Responsibilities of police prosecutors (police and private applications)’ of this chapter); and

(d) intervention orders,

received from a court, are entered into QPRIME.

If a member enters a DVO or application into QPRIME, the OIC is to check to ensure the entry has been made correctly.

9.10.2 Responsibilities of an officer taking action against a respondent for offences under the DFVPA

Officers investigating an offence under the provisions of the DFVPA, are to ensure the matter is recorded in QPRIME by Policelink operators.

OPM Issue 113 Public Edition

9.10.3 Responsibilities of releasing officers prior to releasing respondents from custody

ORDER

Before a respondent is released from custody, the releasing officer (see s. 9.1.2: 'Definitions for DFV' of this chapter) is to ensure the release or PPN conditions are entered onto the relevant QPRIME occurrence.

9.10.4 Authorisation to receive documents

The DFVPA requires courts to deliver copies of documents to the Service. In accordance with:

(i) s. 33: 'Fixing of date, time and place for hearing' (application for a DVO); and

(ii) s. 87: 'Fixing of date, time and place for hearing' (application for a variation of a DVO),

The court is to deliver a copy of the relevant documents to the OIC of the station nearest the place where the respondent lives or was last known to live.

The Domestic and Family Violence Protection Rules (DFVPR) requires courts to deliver copies of documents to the Service.

In accordance with:

(i) r. 10: 'Change of address for service or email to be filed in DFVP court registry'; and

(ii) r. 19: 'Obligation to inform police commissioner if suspended domestic violence order is to be revived',

of the DFVPR, the court is to deliver a copy of the relevant documents to the OIC of the station nearest the place where the respondent lives or was last known to live.

An OIC of:

(i) a station or establishment; or

(ii) the police prosecution corps appearing at the magistrate's court where the matter is being heard,

have been authorised to accept delivery of documents to be given to the Commissioner for the purposes of the DFVPA and DFVPR (see Delegations D 18.17 and D 18.18).

9.10.5 Responsibilities of OIC of stations or establishments receiving DFV documents

ORDER

An OIC of a station or establishment receiving domestic violence documents are to ensure they are entered in QPRIME on the same day as the documents are received.

9.10.6 Police Information Centre management of DFV documents

All courts in Queensland electronically deliver documents related to the outcome of DFV matters (including private applications) to the Police Information Centre (PIC) for entry into QPRIME.

Many of the DFV documents delivered to PIC do not require service because the respondent was present in court when the order was made, or the document type does not require police service. Where documents require service, PIC will prioritise the management of these documents.

ORDER

When PIC receives a DFV document from the courts and the document:

(i) requires police service, the Manager, PIC is to ensure the document is uploaded to the relevant QPRIME occurrence and a QPRIME task for service is sent on the same day the document is received; or

(ii) does not require police service, the Manager, PIC is to ensure the document is uploaded to the relevant QPRIME occurrence as soon as reasonably practicable, but within 24hrs of the document being received.

9.11 Proceedings initiated against members of the Service

A **member** means as per the SMD:

(i) a police officer;

(ii) a recruit; or

(iii) a staff member, including a staff member who possesses weapons as part of the performance of their duty.

OPM Issue 113 Public Edition

9.11.1 Responsibilities of members who initiate or become aware of DV proceedings against a member of the Service

ORDER

An officer investigating a DV incident involving another member of the Service is to fully investigate the allegations and if appropriate take action under the DFVPA. Where the aggrieved or respondent is an officer, a PPD is not to be issued (see s. 100C(1)(a)(ii): 'Circumstances when police officer must not issue direction' of the DFVPA).

Where evidence is available to support criminal charges, the investigating officer is to proceed in accordance with the Complaint Resolution Guidelines available on the ESC SharePoint page.

Officer to notify OIC of member's region or command where member becomes a respondent

An officer who takes a member (the **subject member**) into custody under s. 116: 'Police officer may take person into custody' of the DFVPA or issues a PPN against another member (the **subject member**) is to, as soon as reasonably practicable, notify:

(i) the OIC of the subject member's region/command/division; and

(ii) a DDO/RDO in accordance with their reporting obligations under s. 6A.1: 'Duty concerning misconduct and other grounds for disciplinary action' of the PSAA and the Complaint Resolution Guidelines available from the ESC SharePoint page.

Private application where a member of the service is named as a respondent

A member prosecuting a private application in which another member is the respondent is to, as soon as reasonably practicable, notify:

(i) the OIC of the member's region/command/division; and

(ii) a DDO/RDO in accordance with their reporting obligations under s. 6A.1 of the PSAA and the Complaint Resolution Guidelines available on the ESC SharePoint page.

Executive briefing note requirement when a member initiates or becomes aware of domestic violence proceedings against a member of the Service

In addition to submitting a QP 0466 complaint, the actioning district is responsible for submitting an executive briefing note (EBN) to the AC ESC to request consideration of stand down or suspension action. This may also require advice from the owning region or command where a member is not based within the area where the matter occurred. The EBN is to be transmitted via the normal briefing arrangements (see the Complaint Resolution Guidelines on the ESC SharePoint page).

9.11.2 Responsibilities of members who have DV proceedings initiated against them

Members (see s. 9.1.2: 'Definitions for DFV' of this chapter) who are named as a respondent in a DVO, PPD, PPN or taken into custody under the provisions of s. 116: 'Police officer may take person into custody' of the DFVPA are to:

(i) notify their OIC of the circumstances surrounding the seizure, order, release from custody, notice or application;

(ii) surrender any personal issue Service firearm and OC spray to the OIC of their station or establishment or surrender any weapons to the OIC of their region or command (if the OIC is a staff member, the weapons will be surrendered to an officer nominated by the OIC of the station or establishment or executive officer);

(iii) surrender any other weapon or weapons licence as required under s. 27A: 'Effect of temporary protection order, police protection notice or release conditions on licence' of the *Weapons Act*;

(iv) notify and surrender any authority under the *Explosives Act* (i.e. licence, permit) to access, use or possess explosives to the Chief Inspector of Explosives (see s. 43: 'Notification requirements for all authority holders' of the Explosives Regulation and s. 13.22.1: 'Issuing, suspension or cancellation of authorities' of this Manual); and

(v) if the member is a first-year constable, notify the OIC, First Year Constable Section, Recruiting and Development Command of the circumstances surrounding the application, DVO or release from custody conditions.

Member to surrender authority to access, use and/or possess explosives

Members surrendering their authority to access, use or possess explosives are to surrender any explosives in their possession. In the case of Service issued explosives, arrangements to surrender the explosives are to be made with the OIC, Explosive Ordnance Response Team. Personally obtained explosives are to be surrendered to the Chief Inspector of Explosives, Resources Safety and Health Queensland.

9.11.3 Possession of weapons by members who are subject to DV proceedings

A member who is a respondent in:

(i) a DVO, PPD or PPN (see s. 9.1.2: 'Definitions for DFV' of this chapter); or

OPM Issue 113 Public Edition

(ii) release conditions,

is prohibited from possessing weapons or weapons licence (see ss. 27A: 'Effect of temporary protection order, police protection notice or release conditions on licence' and 28A: 'Revocation or suspension of licence and related matters after protection order or police protection direction is made' of the *Weapons Act* (WA).

A member named as a respondent in a DVO, PPD or PPN (see s. 9.1.2 of this chapter) or subject to release conditions is not permitted to possess firearms, OC spray, protective body armour or other weapons as defined in the Weapons Categories Regulation. However, members are permitted to possess batons and handcuffs in the performance of their duty (see s. 67: 'Possessing and acquiring restricted items' of the WA).

Member to report to OIC of the region or command

Members are to furnish a report to the OIC of the region or command if they become aware they are a respondent in a DVO, PPD, PPN, release conditions or application for a DVO. The report is to address:

(i) the circumstances surrounding the DVO, PPD, PPN, release conditions or application;

(ii) particulars of the duration and conditions of the DVO, PPD, PPN, release conditions or application;

(iii) the effect the DVO, PPD, PPN, release conditions or application, may have on the effectiveness of the member in carrying out assigned duties;

(iv) the date, time and place the member's firearm(s), personal issue OC spray and any weapons licence and/or explosives authority were surrendered, and the present location of these items; and

a copy of the DVO, PPD, PPN, release conditions or application is to be included as an attachment.

Obligations of an OIC of a member subject to an application or DVO or PPD

ORDER

An OIC who is notified a member (the subject member) is a respondent in an application for a DVO or PPD is to:

(i) advise the OIC of the region or command of:

(a) the name, rank or job title and station or establishment of the subject member;

(b) the circumstances of the matter; and

(c) any circumstances which may justify the continued possession of firearms, OC spray, protective body armour or other weapons by the member where legislation does not prohibit such possession (e.g. an unfinalised application for a DVO where no DVOs or release conditions are current),

(ii) ensure the subject member does not have possession of weapons (see s. 79: 'Definition for div 8' of the DFVPA) in the course of the member's duties, until further advised by the OIC of the region or command; and

(iii) ensure, if the subject member is authorised to access, use and/or possess explosives under the EA, the OIC of Explosive Ordnance Response Team (EORT) is notified, as soon as practicable, via internal email at 'EORT Ops'.

OPM Issue 113 Public Edition

OIC of the region or command to ensure the member does not have possession of a weapon

ORDER

The OIC of the region or command is to ensure any weapon seized from the subject member (see s. 27A of the WA) does not come into the possession of the respondent member (see s. 79 of the DFVPA) in the course of the member's duties.

Officer may be considered inappropriate to possess explosives

An officer who is authorised to access, use or possess explosives and are respondents in:

(i) a DVO;

(ii) an application for a DVO; or

(iii) subject to release conditions,

may be considered inappropriate to possess any explosives or an authority in accordance with ss. 15: 'Inquiries about person's appropriateness' and 23: 'Grounds for suspension or cancellation' of the *Explosives Act* (EA) (see s. 13.22.1: 'Issuing, suspension or cancellation of authorities' of this Manual).

Member holder of an authority under the Explosives Act

Additionally, in the case of a member who is the holder of an authority under the EA to access, use or possess explosives, the OIC of a region or command is to ensure the member complies with ss. 9.11.2: 'Responsibilities of members who have DV proceedings initiated against them' and 13.22.1: 'Issuing, suspension or cancellation of authorities' of this Manual.

The OIC of a region or command may make a request to the deputy commissioner

The OIC of a region or command may make a request on behalf of a member (subject to a DV application) to the deputy commissioner (DC) to lawfully retain possession of weapons when on duty if the following conditions exist:

(i) the application was a private application and did not allege any acts of violence or threats;

(ii) the private application remains unfinalised;

(iii) the member has not been detained under s. 116: 'Police officer may take person into custody' of the DVFPA; and

(iv) a PPD or PPN has not been issued; and

(v) the member is not required to surrender any other weapon or weapons licence as required under s. 27A of the WA.

(vi) suitable conditions can be imposed not putting the aggrieved in danger.

The decision for the member (subject to the application) to retain possession of weapons remains with the DC.

Action taken upon expiry of any order

ORDER

Upon expiry of any order or at the conclusion of any proceedings not resulting in the issue of an order and before returning a member's weapons to the member the OIC of the region or command is to be satisfied this action would not place the aggrieved or other persons in any danger.

The officers district officer is to be adequately briefed by their OIC on the members DV application, DVO, PPD or PPN prior being transferred or seconded to another region or command.

9.12 PPD reviews

9.12.1 Police Review of a PPD

Application for a Police Review of a PPD

An application for Police Review may be made (see s. 100U(4): 'Starting review on application' of the DFVPA) by:

(i) an aggrieved (or a person authorised in writing by the aggrieved);

(ii) named person; or

(iii) respondent,

completing the QP 1241: 'Application for Police Review PPD' submitted to a member at a station or establishment or online form.

A named person may only seek a review of themselves being a named person in the PPD or a condition included on the PPD relating to themself.

An application for Police Review may be made within the prescribed period being 28 days after the PPD Grounds are served on the respondent if there is a PPD in force.

Where a QP 1241 is received after the prescribed period, the application is to be forwarded to a PPD reviewing officer for consideration as to whether a longer period of time will be agreed on for submission of the application for Police Review.

On receipt of a QP 1241, the member receiving the application is to:

(i) verify the applicant's identity (i.e. photo identification)

(ii) obtain the applicant's:

(a) safe residential or postal address for service of documents;

(b) safe email address for electronic service; and

(c) safe contact phone number, and

record this information in a supplementary report on the PPD Occurrence;

(iii) issue a QP 1242: 'Receipt for applicant' to the applicant:

(a) acknowledging receipt of the QP 1241;

(b) notifying them of the review; and

(b) inviting them to make submissions about the review within 7 days;

OPM Issue 113 Public Edition

(iv) locate the original QPRIME DV Occurrence related to the issuing of the PPD;

(v) attach a copy of the QP 1241 received and QP 1242 issued to the DV Occurrence;

(vi) make a notation in the remarks field of the PPD Police Review section of the PPD Report that the applicant's safe-to-contact details for service of PPD Police Review documents have been recorded in a supplementary report on the PPD Occurrence in QPRIME;

(vii) create an Occurrence Enquiry Log entry with the time and date of receipt of the QP 1241; and

(viii) create a PPD review task using the PPD Police Review workflow and assign to the issuing district's PPD police review org unit for a PPD reviewing officer.

Officer initiated Police Review

The existence of a PPD in force does not negate an officer's obligation under s. 100: 'Police officer must investigate domestic violence' of the DFVPA and is to be considered first, prior to consideration of s. 100T: 'Starting review on police officer's initiative' of the Act. If action taken pursuant to s. 100 of the DFVPA ends the PPD, then further action under s. 100T of the Act is not to be commenced.

Where a PPD has been issued and an officer:

(i) becomes aware of circumstances, or reasonably believes there are circumstances, that were not, or may not have been known or considered by the issuing officer when the PPD was issued; and

(ii) reasonably believes that the circumstances may have affected the decision to issue, or the conditions imposed in the PPD, if the circumstances had been known or considered by the issuing officer,

the officer is to:

(i) locate the original QPRIME DV Occurrence related to the issuing of the PPD and determine if there is any record of the circumstances being known to the officer who issued the PPD in which case the officer cannot initiate a request for a PPD review;

(ii) consider whether it is practicable to seek clarification within the next 3 days from the issuing officer to determine if the circumstances were known or whether those circumstances may have affected the decision to issue the PPD or conditions, including consideration of the protection afforded by the PPD and if any delay to make the inquiries is appropriate;

(iii) complete a QPRIME Supplementary report outlining the circumstances they believe may have affected the decision to issue the PPD or the conditions; and

(iv) create a PPD review task using the PPD Police Review workflow and assign to the issuing district's PPD police review org unit for a PPD reviewing officer.

Inquiries made of the issuing officer must be conducted via and recorded in a QPRIME tasking.

If the officer is of the view the information could not have possibly been known by the issuing officer, or the delay to seek confirmation is such that it is inappropriate, the officer is to initiate a Police Review.

See s. 100T: 'Starting review on police officer's initiative' of the DFVPA.

Conducting a Police Review

A Police Review of a PPD is to be conducted by a PPD reviewing officer, which means an officer:

(i) of the rank of senior sergeant or above (including officers temporarily appointed to higher duties for that rank);

(ii) of a rank higher than the supervising police officer who approved the issuing of the PPD; and

(iii) who was not involved in the investigation of the reported DFV.

See s. 100X: 'Conduct of review' of the DFVPA.

ORDER

Under no circumstance, during the course of conducting a police review, is a member to disclose a party's contact details to another party nominated or involved in the Police Review. This includes residential or postal address for service, email addresses and phone numbers.

A PPD reviewing officer who receives an application for Police Review:

(i) outside the prescribed period is to determine:

(a) whether the circumstances outlined in the application, related to the late submission are justified; and

(b) whether or not to agree to allow a longer period for the application to be submitted. Such circumstances may include matters impacting the housing of the aggrieved or respondent;

(ii) is to verify the identity of the applicant on the QP 1241, to ensure the applicant is the person they claim to be and not another person impersonating an authorised person to make an application for Police Review;

OPM Issue 113 Public Edition

(iii) is to either:

(a) send to the applicant a QP 1243: 'Notice—No Police Review will be conducted', if a longer period is not approved; or

(b) commence a Police Review including initiating the Police Review Assessment Tool in the PPD Occurrence in QPRIME and cause for the following to be issued as appropriate to the respondent, aggrieved and any named persons on the PPD, who is not the applicant, a:

- QP 1244A: 'Notice of Police Review and Submission for Police Review'; or
- QP 1244B: 'Notice of Police Review—Police Initiated and Submission for Police Review',

by:

(a) email—if an email address is known;

(b) post—if a postal address is known; or

(c) otherwise create a task for service to the issuing officer station or establishment to serve the written notice (QP 1244A or QP 1244B) informing the respondent, aggrieved and any named persons (unless they were the applicant) of the Police Review and inviting them to make a submission about the Police Review within 7 days.

(iv) may start but not conclude and decide a Police Review prior to the expiration of 7 days for a party to make a submission, other than on the final day of the 28 days from the commencement of the Police Review. For example if a party to the Police Review is only served notice of the Police Review on day 27 after the Police Review has commenced and is advised the person may make a submission within 7 days, nonetheless the reviewing officer must decide the Police Review on the final day being 28 days from the commencement of the Police Review;

(v) must make a decision on the PPD Police Review within 28 days of:

(a) receipt by a member of the Service of a QP 1241, if made by a person authorised to make an application for Police Review:

- within the prescribed period; or
- after the prescribed period, but where the reviewing officer agrees to a longer period for submission of the application; or

(b) submission of an officer initiated PPD Police Review task in QPRIME (see subsection 'Officer initiated Police Review' of this section above and s. 100T: 'Starting review on police officer's initiative' of the DFVPA);

(vi) is to ensure all relevant information is obtained and considered, including:

(a) CAD data and recordings (see QP 0868: 'PCC—Tape/Data/ARL Request (CAD)');

(b) BWC footage;

(c) QPRIME Occurrences;

(d) DV history;

(e) criminal history; or

(f) evidence of any other witnesses;

(vii) can ask a respondent, the aggrieved or a named person for any information to help them make a decision (see s. 100W(3): 'Submission and information' of the DFVPA);

(viii) is to ensure that the evidence and material gathered is appropriately recorded within QPRIME;

(ix) must consider all relevant evidence and information available to the officer, including any submissions made, or information given in relation to or in the course of the conduct of the Police Review; and

(x) must decide the Police Review on the basis of the circumstances that existed when the PPD was issued, including any circumstances that existed at the time the PPD was issued that were not known or considered by the officer that issued the PPD (see s. 100X: 'Conduct of review' of the DFVPA).

If multiple applications or requests for Police Review are made in relation to one PPD, whenever possible the same PPD reviewing officer is to complete the Police Review. If a second application for Police Review is received while a Police Review is being conducted, whenever possible the one decision is to be made in relation to the requests for Police Review.

Decision on Police Review

After completing a Police Review and within 28 days of receipt of the application by one of the parties of the PPD or being asked by an officer, the PPD review officer is to:

OPM Issue 113 Public Edition

(i) make a decision, in accordance with s. 100Y: 'Decision on review' of the DFVPA, to:

(a) confirm the PPD;

(b) revoke the PPD and either:

- issue a new PPD with the same aggrieved and respondent:
  - same named persons and different conditions; or
  - different named persons with the same or different conditions;
- issue a PPN;
- apply for a protection order; or
- take no other action; or

(c) take any other action as mentioned in s. 100(3): 'Police officer must investigate domestic violence' of the DFVPA that is appropriate in the circumstances—for example arranging for the respondent to be taken to a hospital for treatment for their welfare;

(ii) as soon as practicable give:

(a) the aggrieved;

(b) the respondent;

(c) each named person,

a QP 1247: 'Notice of Decision for Police Review' that states:

(a) the decision;

(b) the reasons for the decision including setting out the findings on material questions of fact; and referring to the evidence or other material on which those findings were based (see s. 27B: 'Content of statement of reasons for decision' of the *Acts Interpretation Act*);

(c) that the respondent or aggrieved may seek a Court Review of the PPD by a Magistrates Court, how to seek the review and the possible decisions that could be made on the review; and

(d) that the respondent or aggrieved may apply for a protect order;

(iii) ensure the decision is recorded in QPRIME;

(iv) take or ensure all necessary action is taken to give effect to the decision;

(v) where a PPD reviewing officer decides to revoke the PPD and issue a PPD or PPN or make an application for a protection order (DV01)—complete the PPD, PPN or DV01 and grounds for the PPD, PPN or DV01, as they become the applicant officer and must complete the forms;

(vi) as the decision of the reviewing officer to revoke a PPD has immediate effect—consider whether it is practicable to arrange for the respondent of a new PPD or PPN to be present in person or by phone to enable them to make the decision and immediately advise the respondent to ensure the PPD or PPN issued takes immediate effect. Where this is not possible, the reviewing officer should ensure service of the PPD or PPN issued occurs as soon as is practicable to afford protection to the aggrieved or named persons; and

(vii) ensure any flags and service tasks are addressed, where required.

The officer serving a PPD or PPN issued by the PPD reviewing officer following a Police Review may be another officer.

Amending a PPD

A PPD reviewing officer (see s. 9.1.2: 'Definitions for DFV' of this chapter) may amend an issued PPD, where:

(i) it contains a minor error; or

(ii) the Service becomes aware or is informed of a change to:

(a) the respondent's name, contact details or address for service; or

(ii) name of the aggrieved or a named person.

See s. 100S: 'Amendment of police protection direction' of the DFVPA.

If a reviewing officer determines an amendment of a PPD is required they are to:

(i) to make the amendments where possible, other options available include tasking the Data Investigation Team [3270] through the QPS Request correction to record(s) workflow (see the QPRIME User Guide); or

(ii) contact QPRIME Functional Support (see MCC Functional Support SharePoint page for contact details) and advise the details change required.

OPM Issue 113 Public Edition

9.12.2 Court Review of a PPD

Where a person makes an application to a Magistrates Court for Court Review of a PPD (see s. 100Z: 'Application for review' of the DFVPA), and the Service receives a copy of the application, the Manager, Police Information Centre (PIC), Information Management Services, Legal Division will ensure:

(i) relevant documents listed below, contained in the QPRIME Occurrence related to the issued PPD, are filed with the relevant court hearing for the application within 1 business day or as soon as is reasonably practicable. The following are relevant documents:

(a) a copy of the PPD;

(b) the signed PPD Grounds;

(c) a notice stating that the person will be notified of the date, time and place for the hearing of the application for the review (included in the PPD initially issued); and

(d) a copy of the domestic violence history and criminal history of the respondent;

(ii) where any relevant documents are unavailable, a QPRIME Task is created and sent to the issuing officer's station or establishment; and

(iii) a QPRIME Task is created and sent for service to give a copy of the application for Court Review and all of the relevant documents listed in (i) above:

(a) for the respondent—(a) to (d); and

(b) for the aggrieved (including any authorised person or person acting under an Act for the aggrieved) and named persons—(a) to (c),

(see s. 100ZA: 'Filing and service of documents' of the DFVPA).

On receipt of the QPRIME Task to supply the Magistrates Court with a copy of the PPD or signed PPD Grounds the OIC of the station or establishment is to ensure the documents are completed and filed with the court within one business day or as soon as practicable (see s. 100ZZA(1): 'Filing and service of documents' of the DFVPA).

When a Court Review is commenced of a PPD, the PPD and the PPD Ground become the application for a protection order (see s. 100ZB: 'Police protection direction taken to be application for protection order' of the DFVPA).

The issuing officer of a PPD subject to Court Review is to take all necessary action to manage the proceedings and matter before the Court as if they had commenced an application for a protection order.

In addition to making a protection order or dismissing the application for a protection order, the Court may dismiss the application for Court Review, or make an order to end a PPD from a stated date or on dismissing the application for a protection order that the PPD is taken to be make an order to set aside the PPD.

The issuing officer is to ensure the aggrieved is advised of the outcome of a Court Review if the aggrieved is not present in Court.

OPM Issue 113 Public Edition

9.13 DFV coordination

9.13.1 District DFV specialist responsibilities

Correctly identifying the person most in need of protection (PMINOP) is a Service priority activity to optimise safety for victim-survivors, prevent perpetrators from using the system to further control and traumatise victim-survivors, and to facilitate an appropriate referral pathway to support services.

DFV specialists possess the skills necessary to review DFV matters with a deeper consideration of the principles of the DFVPA to fully assess the PMINOP.

A DFV specialist review to identify the PMINOP can be engaged:

(i) by any Service member; or

(ii) as per the requirement to review applications using Service approved dashboards; or

(iii) upon receipt of information from a DFV service provider or an approved entity.

A DFV specialist is responsible for the proactive and timely review of relevant DFV occurrences using appropriate Service approved dashboards to ensure the PMINOP has been appropriately identified. A DFV specialist may make recommendations to a relevant OIC following their review if further investigation or rectification work is required (see ss. 9.3.8: 'Application to vary a domestic violence order (increase conditions)' and 9.9.12: 'Withdrawal of DVO applications' of this chapter). This review should be prioritised and conducted daily. District Officers will determine the DFV specialist within their district.

Upon commencing a DFV specialist review, a DFV specialist should utilise dashboards and guides contained on the Person-Centred Review SharePoint page to support their investigation. The DFV specialist is to complete QPRIME workflows to the relevant OIC with recommendations for appropriate action.

ORDER

A gender-centred review is to be conducted daily by a DFV specialist officer for gendered PPDs issued. The specialist is to review the PPD to ensure the PMINOP is identified. Recommendations are to be made to the OIC if any rectification or further investigation is required.

DFV specialist review request from an OIC

Where a DFV specialist is tasked to review a DFV occurrence, the DFV specialist is to assist and support the OIC with the matter. The matter to be reviewed must be tasked via a workflow to the DFV specialist to ensure all actions and recommendations are appropriate (see the PCR user guide).

9.13.2 Domestic, Family Violence and Vulnerable Persons Group (DFV&VPG)

The objectives of the DFV&VPG are located on the group's SharePoint page.

The DFV&VPG develops, enhances and supports the Service's capability to prevent, disrupt, investigate and respond to domestic and family violence. For resources and specialised contacts see DFV&VPG SharePoint page.

The State DFV&VP Operational Support Unit (State DFV&VP OSU) comprises Domestic and Family Violence Coordinators (DFVCs) in the Brisbane Police Communications Centre (BPCC) to provide statewide operational advice and assistance to support timely, optimal and legislatively compliant responses to DFV matters. For resources and contact information see the State DFV&VP Operational Support Unit SharePoint page.

9.13.3 Regional DFV liaison officers

While regional DFV liaison officers are not formalised positions, the OIC of a region or command may appoint an officer to coordinate DFV issues and activities within the region or command if the officer believes the appointment would improve police efficiency and provide a better service to the community.

9.13.4 District DFV coordinators

ORDER

District officers are to allocate adequate time and resources to district DFV coordinators (DFVC) (if appointed with a district) to enable them to carry out their functions and duties.

The functions and duties of district DFVCs should include:

(i) managing respondents with electronic monitoring device (see s. 9.4: 'Electronic monitoring (DVO conditions)—Caboolture and Townsville pilot' of this Chapter);

(ii) coordinating policing strategies and monitoring the effectiveness of those strategies in dealing with DFV within the district;

(iii) providing direction, guidance and advice to members and the community on issues associated with DFV;

(iv) liaising with community and other government agencies to develop referral networks and preventative strategies for dealing with DFV;

(v) liaising regularly with and provide advice and guidance to station DFV liaison officers to ensure effective policing of DFV within their area;

(vi) assisting education and training officers in developing and conducting education and training programs relating to legislation, policy, orders and procedures and social understanding in dealing with DFV;

(vii) liaising with police prosecutors to ensure consistent and appropriate standards and responses are maintained in dealing with the legal issues of DFV;

(viii) liaising with the district crime manager, SCAN coordinator and child protection investigation unit to ensure professional and thorough investigation is undertaken in relation to contraventions of protection orders and DFV related child protection issues;

(ix) reporting regularly on their functions as a DFVC to the district officer;

(x) regular monitoring of QPRIME for quality assurance, ensuring an appropriate response and compliance with policy and legislation on a district-wide basis;

(xi) conducting regular checks to ensure QPRIME is updated when a DV 26: 'Notice of change of address for service' is received from the court;

(xii) identifying and monitoring repeat calls for service in relation to DFV matters and reporting same to the relevant station OICs; and

OPM Issue 113 Public Edition

(xii) ensuring in their absence, a suitable officer performs the functions and duties of a district DFVC on a temporary basis,

see Domestic and Family Violence Coordinators SharePoint page.

9.13.5 Station DFV liaison officers

The OIC of a station is, by virtue of their position, the DFV liaison officer for the station. The OIC may delegate the responsibility of DFV liaison officer to another officer within the station. When the OIC delegates the function to another officer, the OIC is responsible for the performance and supervision of the officer and should allow adequate time and resources for the officer to perform these duties.

An OIC of a station should enlist the assistance of officers within their station to give effect to Service policy relating to the DFVPA.

9.13.6 Deleted

9.14 High risk teams

High risk teams (HRT) are:

(i) a core component of an integrated service response (ISR) to domestic and family violence (DFV);

(ii) comprised of persons from prescribed government and non-government agencies (see s. 169C: 'Definitions for part' of the DFVPA), who work collaboratively to:

(a) share information;

(b) identify appropriate specialist service providers; and

(c) coordinate services and support to improve the safety of DFV victims and their families; and

(iii) operating at various locations throughout the State.

The principal responsibility of the QPS HRT is to represent the Service and assist the other members of the multi-agency HRT carry out its role and functions. The information sharing function of the HRT is governed by Part 5A: 'Information sharing' of the DFVPA.

A member who is performing a function within an HRT, which includes assessing and acting to prevent threats to life, health or safety because of DFV, and reasonably believes:

(i) a person fears or is experiencing DFV; and

(ii) sharing information may help reduce or prevent a serious threat to life, health or safety because of DFV,

may give, receive or use information in relation to a person in accordance with Part 5A, Division 2 of the DFVPA.

ORDER

Members receiving information pursuant to Part 5A of the DFVPA are to use the information to:

(i) assess whether there is a serious threat to the life, health or safety of people because of DFV;

(ii) respond to serious threats to the life, health or safety of people because of DFV; and

(iii) refer people who fear, experience or commit DFV to specialist DFV service providers.

Where an officer receives information pursuant to Part 5A of the DFVPA, the officer:

(i) may use the information to perform the officer's functions as a police officer; and

(ii) is not to use the information for an investigation or as evidence against a person for an offence, unless:

(a) the officer, or another officer, has consulted with the entity which provided the information; and

(b) after consultation with the entity, the officer has considered whether use of the information for that purpose would be in the best interests of the person experiencing DV.

Where an officer uses the information for an investigation, the officer is to comply with s. 9.2.6: 'Initial DFV investigative action' of this chapter.

9.14.1 Responsibilities of district officers

District officers should appoint an officer of the rank of senior sergeant or above to assist the HRT to:

(i) carry out its functions and duties within the district; and

(ii) manage and fill temporary HRT vacancies.

This may be the OIC of the district DFV and vulnerable persons unit (DFVVPU).

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9.14.2 Responsibilities of DFV&VPU officers and DFV coordinators (DFVC)

Where a DFV&VPU officer or a DFVC identifies a matter may be appropriate for referral to the HRT, the officer is to:

(i) work collaboratively with the QPS HRT to determine if referral to the HRT is the appropriate risk management response; and

(ii) where it is appropriate to refer the matter to the HRT, assign a task to the relevant QPS HRT org unit within the relevant QPRIME occurrence.

9.14.3 Responsibilities of QPS HRT senior project officers

Service referral to HRT

Where a VPU officer or a DFVC refers a matter to the QPS HRT, the senior project officer is to ensure:

(i) any QPRIME tasks are reviewed and actioned as soon as reasonably practicable;

(ii) a QPRIME Case management occurrence is created or updated;

(iii) the HRT Consideration Checklist and Level 2 risk assessment and safety plan are completed and uploaded to the relevant QPRIME case management occurrence;

(iv) a final assessment and determination whether the matter is appropriate for referral is made;

(v) where a determination is made:

(a) to refer the matter to the HRT, the referral and level 2 risk assessment are uploaded in the case management system; or

(b) not to refer the matter to the HRT, detailed reasons are recorded in the relevant QPRIME occurrence;

(vi) subject persons' addresses and flags are updated in QPRIME; and

(vii) a QPRIME task is assigned to the referring VPU or DFVC advising of the QPS HRT assessment and determination.

See the QPS referral into High Risk Team flowchart.

External referral to HRT

Where a matter has been referred to the multi-agency HRT by another prescribed government or non-government agency, and accepted by the HRT co-ordinator, the senior project officer is to ensure:

(i) a QPRIME Case management occurrence is created or updated as soon as reasonably practicable;

(ii) subject persons' addresses and flags are updated in QPRIME;

(iii) a Request for Information is completed within the required timeframe and uploaded to the case management system; and

(iv) a QPRIME FYI task is sent to the relevant VPU or DFVC.

See the Non-QPS referral into High Risk Team flowchart.

Case management of HRT matters

The senior project officer is responsible for the ongoing QPS management of HRT matters and is to ensure:

(i) all relevant information is uploaded onto the case management system;

(ii) a member(s) performing HRT duties (preferably the senior project officer and a police officer) attends each multi-agency HRT meeting;

(iii) a meeting summary is noted in the relevant Intelligence Enquiry Log (IEL) for each matter reviewed during the meeting with appropriate information caveats;

(iv) any QPS action items are tasked and actioned; and

(iv) the outcome of any QPS action items is uploaded onto the case management system.

See the Ongoing case management of High Risk Team referral flowchart.

QPRIME—DV High Risk Flag

When a member refers an aggrieved, child or other relevant person into a multi-agency high risk team (MAHRT) and the referral is formally accepted for case management, the responsible senior project officer (SPO) must ensure a DV High Risk Flag (DVHR Flag) is entered in QPRIME against:

(i) the respondent;

(ii) the aggrieved;

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(iii) any named children;

(iv) any other persons as determined relevant to the case; and

(v) all associated addresses.

The SPO is to ensure the DVHR Flag is active in QPRIME for a minimum period of 12 months from the date of entry and include a directive to members to undertake the following when they investigate a matter involving DVHR flagged parties involved in a DFV related matter:

(i) investigate and complete the DV-PAF;

(ii) where necessary initiate action in accordance with legislation, policy and procedures; and

(iii) consider submitting a task to the relevant DFVVPU outlining the circumstance surrounding the contact.

The OIC of the responsible DFVVPU (or as delegated by the OIC) receiving a DVHR Flag task is to ensure the task is reviewed and where necessary, consult with the relevant high-risk team (HRT) to:

(i) prioritise the safety, protection and wellbeing of the aggrieved and named persons;

(ii) consider whether there is clear evidence of escalating or imminent risk of serious bodily harm or lethality to the aggrieved and named persons;

(iii) determine whether it meets the threshold for referral to the HRT for a coordinated multi-agency response, in line with current DFV risk assessment protocols;

(iv) ensure that any identified gaps in service delivery or risk management are escalated appropriately and addressed in a timely manner; and

(v) record the outcome, decisions and actions taken in QPRIME.

Closure of HRT matters

Where the multi-agency HRT decides all strategies have been completed, assistance has been provided and the matter is closed, the senior project officer is to ensure:

(i) the relevant IEL is updated, adding any additional case notes and noting the matter is now closed;

(ii) the matter is reviewed 3 months after the decision to close;

(iii) a QPRIME task is sent to the relevant VPU or DFVC; and

(iv) local protocols are followed to close the QPRIME Case management occurrence.

See the Case Closure and monitoring of HRT referral flowchart.

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9.15 Relevant information exchange

The Commissioner is a prescribed entity and may give to and receive from any other service provider (see s. 169C: 'Definitions for part' of the DFVPA), relevant information under ss. 169I and 169J of the DFVPA, with members authorised to give and receive relevant information in accordance with s. 169H: 'Who may give and receive information on behalf of entity'.

Under s. 169H: 'Who may give or receive information on behalf of entity' authorises a prescribed entity, specialist DFV service provider or otherwise authorised person to give, receive or use the relevant information to assess or take action by providing assistance or a service.

The Chief Executive or an authorised officer may, under s. 169D: 'Sharing information for assessing domestic violence threat' and s. 169E: 'Sharing information for responding to serious domestic violence threat' of the DFVPA, ask the Commissioner for relevant information in the possession or control of the Service. If asked, the Commissioner may comply with the request.

The Chief Executive or an authorised officer may, under s. 169F: 'Police officer may refer person to specialist DFV service provider' of the DFVPA, supply the prescribed entity or specialist DFV service provider with referral information.

Under s. 10.2: Authorisation of disclosure' of the PSAA the Commissioner may, in writing, authorise disclosure of information that is in possession of the Service.

Officers may in accordance with ss. 169A to 169J of the DFVPA, whenever safe, possible and practical, share information with particular entities while protecting confidentiality of information to:

(i) assess whether there is a serious threat to life, health or safety because of DV;

(ii) respond to serious threats to life, health and safety because of DV; and

(iii) refer people who fear, experience or commit domestic violence to specialist DFV service providers.

9.15.1 Limitations on information that may be shared

In accordance with s. 169: 'Limits on information that may be shared' of the DFVPA, the Commissioner or a prescribed entity may not share information with another entity under circumstances that is:

(i) relating to previous convictions other than a DV related offence;

(ii) information under s. 186 of the *Child Protection Act*;

(iii) information under s. 24A of the *Director of Public Prosecutions Act*;

(iv) sensitive evidence under s. 590AF of the CC;

(v) a recording within the meaning of s. 21AY of the *Evidence Act* (EA);

(vi) a statement or transcript within the meaning of s. 93AA of the EA; or

(vii) giving the information is contrary to an order of a court or tribunal.

9.15.2 Confidential information

Members are to comply with s. 169K: 'Confidentiality of Information obtained under this part' of the DFVPA, the prescribed entity or specialist DFV service provider receiving confidential information must not use, disclose or provide access to the information to any other person or entity. If permitted by law the receiving prescribed entity or specialist DFV service provider may use, disclose or access the information to contact the person involved in domestic violence or offer assistance or a service to the person or another involved in domestic violence.

Officers who receive confidential information from a prescribed entity, specialist DFV service provider or support service are authorised to use the information to perform the officer's function.

ORDER

Officers are not to disclose confidential information unless authorised by the DFVPA.

9.15.3 Recording requests for information exchange

Members receiving requests for information or requesting information from a prescribed entity under s. 169H, to assess threats to a person's life, health or safety because of DV or take action to lessen or prevent threats to life, health or safety because of DV are to:

(i) When receiving requests for information:

(a) forward a copy of received QP 1211: 'Domestic Family Violence Information Request' to the business email account of the relevant vulnerable person unit (VPU) or high-risk team (HRT); and

(b) create a QPRIME occurrence '[3151] Domestic and Family Violence Protection Act 2012—Information Requests' and link relevant people, particulars and upload a copy of QP 1211 form.

(ii) When requesting information:

(a) complete a QP 1211 and forward a copy to the business email account of the relevant VPU or HRT; and

(b) relates to an existing QPRIME occurrence, upload a copy of QP 1211 to the occurrence, otherwise create a QPRIME occurrence '[3151] Domestic and Family Violence Protection Act 2012—Information Requests' and link relevant people, particulars and QP 1211 form.

Requests for information (RFI) should be made on QP 1211 where practicable and members should arrange for an electronic copy or hard copy of QP 1211 to be forwarded for completion by special entities when contact is made with the Service.

Each request for information is to be individually documented in QPRIME. Existing HRT case management occurrences and multiple requests for information from a single prescribed entity is exempt from this recording procedure. New RFI requests relating to an existing HRT case management occurrence do not require the creation of a new RFI occurrence, members are to log the RFI request in the existing occurrence.

ORDER

Members are to record all requests for information made to the Service and all requests made to a prescribed entity in QPRIME.

9.15.4 Sharing of information in relation to PPDs

In accordance with s. 43A: 'Notice about police protection direction' of the Family Responsibilities Commission Act, the Manager, Research and Analytics, CCE is to ensure the required information is provided to the Family Responsibilities Commission each 7 day period. Officers are not to share information in relation to a PPD or the PPD Grounds other than as required by law.

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9.15.5 Supplying information to the court on application for a protection order involving parties to the PPD

On receipt of an application for a protection order naming the aggrieved in the PPD as the aggrieved and the respondent in the PPD as the respondent in the application, the Manager, Police Information Centre, is to provide:

(i) a copy of the PPD;

(ii) the signed PPD Grounds; and

(iii) a copy of the domestic violence history and criminal history of the respondent.

9.16 Domestic and family violence homicide review

When a domestic and family violence (DFV) related homicide or homicide-suicide occurs (see also s. 8.9: 'Domestic and family related deaths' of this Manual), a 'desktop' review is to be conducted to provide an efficient and timely briefing of information to the:

(i) Chief Superintendent, Domestic, Family Violence and Community Engagement Group (DFVCEG); and

(ii) Deputy Commissioner, Regional Operations (DCRO).

At the time of identification of the DFV related death, the DFVCEG is to conduct an initial desktop review of all relevant Service interactions with the involved parties. The review is limited to a preliminary briefing only and is not to be regarded as expert evidence under s. 103CC: 'Expert evidence of domestic violence' of the *Evidence Act*.

9.16.1 Domestic, Family Violence and Community Engagement Group (DFVCEG) review

Officers conducting the DFVCEG desktop review should:

(i) conduct checks of QPRIME, LCAD and NCIS to identify any relevant DFV occurrences, including intelligence and street check occurrences that may relate to case management or information sharing;

(ii) identify the level and type of 'prior police contact' that has occurred between the Service, the deceased and any involved parties prior to the death. As part of a holistic investigation no specific timespan should be considered however the passage of time needs to be relevant to the involved relationship. The 'prior police contact' review should:

(a) include the deceased and involved party's criminal, traffic, mental ill-health, drug use, firearms history recorded by the Service;

(b) NCIS history; and

(c) consider reviewing the involved party's previous relationships where DFV incidents had been reported;

(iii) where officers had previously attended DFV incidents relating to the involved parties, the review should consider whether:

(a) a domestic violence order (DVO), a temporary protection order (TPO) or a police protection notice (PPN) had been sought or issued;

(b) case management activities had been undertaken with the involved parties by a Vulnerable Persons Unit co-responder team or DFV High Risk Team and the outcome of the activities;

(c) contraventions of any DVO, TPO, PPN or release conditions had been reported to police. This may include contraventions from previous relationships with the involved parties;

(d) external agencies had been engaged with or hold information, including police referrals, on the involved parties; and

(e) any DFV related offences had been committed and establish if bail undertakings were issued.

At the conclusion of the desktop review, a significant incident briefing (SIB) is to be prepared. The briefing is to include the results of the DFVCEG review.

9.16.2 Independent Regional Crime Coordinator review

Following the DFVCEG desktop review, the SIB is to be provided through the chain of command to the:

(i) DCRO; and

(ii) Assistant Commissioner and Regional Crime Coordinator (RCC) of the region where the homicide occurred.

The DCRO will determine if an independent review of the homicide is to be conducted by the RCC of an independent region.

OPM Issue 113 Public Edition

If an independent review is required, the outcome report with any identified issues and recommendations, is to be provided to the DCRO.

OPM Issue 113
Public Edition

Chapter 10—Escorts and Extraditions

10.1 Introduction 874

10.2 References to legislation 874

10.3 Medical escorts 874

10.3.1 Medical escorts generally 874
10.3.2 Requests for medical escorts 874
10.3.3 Consideration of request for and approval of medical escorts 874
10.3.4 Responsibilities of the senior escorting officer 875
10.3.5 Responsibilities of officers participating in medical escorts 875
10.3.6 Conduct of medical escorts 875
10.3.7 Circumstances of change to medical escorts 876
10.3.8 Vehicles not in radio contact 876
10.3.9 Change of radio operators 876

10.4 Escort of persons in custody 876

10.4.1 Escort of persons in custody generally 876
10.4.2 Legal requirements relating to escorting police officers and watch-house officers 877
10.4.3 Persons in custody 877
10.4.4 Health care for persons in custody 878
10.4.5 Search of persons in custody 878
10.4.6 Transport of arrested persons 878
10.4.7 Handcuffing of prisoners on aircraft 878
10.4.8 Responsibility for arranging escorts within Queensland 879
10.4.9 Escorting police officers and watch-house officers 880
10.4.10 Escort of multiple persons in custody 880
10.4.11 Mode of transport of persons in custody 881
10.4.12 Assistance with escorts to or from Brisbane 881
10.4.13 Packaging prisoner property for escort 882
10.4.14 Assistance from others when escorting persons in custody 882
10.4.15 Transfer of and taking charge of persons in custody 882
10.4.16 Transporting persons in custody 884
10.4.17 Queensland Government Air (QGAir) 884
10.4.18 Escort of persons in custody by commercial transport 886
10.4.19 Escort of persons in custody from a watch-house without a court order 888
10.4.20 Escort of persons in custody transferred to another watch-house 888
10.4.21 Taking persons in custody to court 888
10.4.22 Escort of children 888
10.4.23 Escorting children to and from court 889
10.4.24 Documents to accompany escorted children 890
10.4.25 Escort of mentally ill persons 890

10.5 Escort of valuables 890

10.5.1 Escort of valuables generally 890
10.5.2 Escort as a special service 891

10.6 Miscellaneous escorts 891

10.6.1 Miscellaneous escorts generally 891

10.7 Extraditions into Queensland 892

10.7.1 Extraditions into Queensland generally 892

10.8 Extraditions from within Australia 893

10.8.1 Action prior to approval for extradition 893
10.8.2 Action following approval to seek extradition 895
10.8.3 The extradition process interstate 895
10.8.4 Action concerning extradition proceedings 895

OPM Issue 113 Public Edition

10.8.5 Returning to Queensland with a person in custody 896
10.8.6 Action upon return to Queensland with a person in custody 896

10.9 Extraditions into Queensland from other countries (except New Zealand) 897

10.9.1 Extraditions from another country 897
10.9.2 Doctrine of Speciality 897
10.9.3 Action prior to approval to seek extradition 897
10.9.4 Liaison with Legal Division and the Office of the Director of Public Prosecutions 900
10.9.5 Urgent arrest required prior to approval by Federal Attorney-General 900
10.9.6 Standard of evidence 900
10.9.7 The extradition process in the other country 901
10.9.8 On arrival in Queensland 902

10.10 Extraditions into Queensland from New Zealand 902

10.10.1 Definitions 902
10.10.2 Extraditions from New Zealand 903
10.10.3 Documentation required for extradition from New Zealand 904
10.10.4 Arrest of an extraditable person in New Zealand 907
10.10.5 The extradition court process 909
10.10.6 Returning to Queensland on extradition 909
10.10.7 Action upon returning to Queensland on extradition 909

10.11 Extraditions out of Queensland 909

10.11.1 Extraditions out of Queensland 909
10.11.2 Extraditions to another State or Territory of Australia 911
10.11.3 Extradition to another country 912

10.12 Transfer of interstate prisoners 912

10.12.1 Transfer of interstate prisoners generally 912
10.12.2 Police seeking transfer of prisoners from interstate to Queensland 912
10.12.3 Transfer of prisoners from other States 913
10.12.4 Action following approval to seek transfer of prisoners from interstate 914
10.12.5 The court process of seeking the transfer of prisoners from interstate 914
10.12.6 Action following the court order for the transfer of prisoners from interstate 914
10.12.7 Returning to Queensland with interstate prisoners 914
10.12.8 Action upon return to Queensland with interstate prisoners 915

10.13 Transfer of prisoners between interstate correctional centres 915

10.13.1 Prisoner seeking transfer to a Queensland correctional centre 915
10.13.2 Prisoner seeking transfer from Queensland correctional centre to a prison in another State 915

Appendix 10.1 Process Map—Extraditions into Queensland from countries other than New Zealand 917

OPM Issue 113 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.

OPM Issue 113 Public Edition

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.

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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 watch-house, 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 watch-house, 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 watch-house officers involved in conducting escorts understand and appropriately apply the provisions of this section.

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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.

Escorting police officers and watch-house 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 watch-house officers

Under the provisions of s. 393: 'Duty of police officer after arrest etc. of person' of the PPRA, 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 PPRA, 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 PPRA; 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 PPRA;

(ii) is being detained under Chapter 15, ss. 396–441: 'Powers and responsibilities relating to investigations and questioning for indictable offences' of the PPRA for an indictable offence;

(iii) is being detained under s. 80: 'Provisions with respect to breath tests and laboratory tests' of the TO(RUM)A;

(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 watch-house manager or the OIC 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 PPRA 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 watch-house 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 watch-house 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 PPRA.

Police officers and watch-house 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 watch-house officers may be liable. There is also a legal requirement for police officers and watch-house 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 PPRA 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) it is also lawful for a police officer to use reasonably necessary force to prevent a person from escaping from lawful custody; and

(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 PPRA.

See also s. 652: 'Power to use force against individual at watch-house' and s. 653: 'Power to use force—transfer etc. of person in custody to or from court cell or other place' of the PPRA, which sets out the powers available for watch-house 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

Whilst members are not trained or equipped to perform complex medical assessments of persons in custody, all officers, protective services officers and watch-house officers who have custody of another person should take all reasonable care to provide for the necessaries of life of that person.

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Children will predominantly be brought before a court by way of a NTA under the PPRA 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 watch-house 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 watch-house staffed on a 24 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 suffer mental ill-health, police officers and watch-house officers should refer to Chapter 6: 'Persons who are vulnerable, disabled or have cultural needs' and s. 10.4.25: 'Escort of mentally ill persons' of this chapter.

Whilst the detention of entrants by protective services officers for a reasonable time may occur, protective services officers do not conduct prisoner transports. Protective services officers are to release detained entrants at the earliest reasonable opportunity into the custody of a police officer. Should the person's consciousness alter in any way during such detention, protective services officers are to contact QAS and request a priority response (see s. 558: 'Detention of entrants by protective services officers' of the PPRA).

10.4.5 Search of persons in custody

The following sections are relevant to searching persons in custody and should be complied with:

(i) s. 443: 'Police officer may search person in custody' of the PPRA;

(ii) Chapter 20, Part 3, ss. 624–638: 'Other safeguards' of the PPRA;

(iii) s. 644: 'Watch-house officer may ask entrant to remove outer garment etc.' of the PPRA;

(iv) s. 644A: 'Gender safeguard for inspection of entrant's belongings' of the PPRA;

(v) s. 649: 'Watch-house officer may search person in custody at watch-house' of the PPRA;

(vi) s. 654: 'Search of persons' of the PPRA, relating to searches of persons by watch-house officers.

See also s. 16.10: 'Search and examination of persons in custody' of this Manual.

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10.4.6 Transport of arrested persons

Arresting officers should:

(i) convey an arrested person to the nearest watch-house facility or police establishment using the most expedient means available. If arresting officers intend to apply to a watch-house manager or OIC of a place to refuse bail for an arrested person, then officers should convey that person, wherever practicable, to the nearest watch-house staffed on a 24-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 watch-house manager at the watch-house. See Chapter 16: 'Custody' of this Manual.

10.4.7 Handcuffing of prisoners on aircraft

When escorting prisoners on aircraft including Queensland Government Air (QGAir), the escorting police officer or watch-house officer should conduct a threat assessment of all prisoners under the escorting police officer's or watch-house 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 watch-house 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	Prisoners who are an obvious risk. Examples of prisoners who present as an obvious risk are those that: • have a history of violence; • have a history of serious offences; • are exhibiting symptoms of mental ill-health; • are an escape risk; or • are non-compliant	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 5.12.1: 'Handcuffing of children' of this Manual should be applied.

10.4.8 Responsibility for arranging escorts within Queensland

The officer responsible for arranging an escort is:

(i) for escorts from a watch-house—the watch-house 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 watch-house 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 watch-house manager, Brisbane Watch-house is to arrange the escort to the Brisbane Watch-house and any required return escort. In such cases, the watch-house manager for the respective greater Brisbane area is responsible for arranging the escort to and from the Brisbane Watch-house.

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 (QCS), or the Department of Justice are responsible for arranging and undertaking the escort.

See also s. 2.5.6: 'Removal of prisoners/children from corrective services facilities and youth detention centres' of this Manual; or

(iv) otherwise—the OIC 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 and comply with the travel policy and directives located on the Travel Policy SharePoint page;

(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 or 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 Watch-house, see s. 10.4.12: 'Assistance with escorts to or from Brisbane' of this chapter;

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(v) provide escorting police officers where required and where assistance may be required from another police station or police establishment, liaise with the OIC 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 QCS 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/children from corrective services facilities and youth detention centres' of this Manual; and

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

See also ss. 10.4.9: 'Escorting police officers and watch-house 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 watch-house officers

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

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

Officers arranging an escort should:

(i) use the nominated arresting officer, or the OIC of the investigation whenever possible;

(ii) use police officers and/or watch-house officers for escorts whenever possible;

(iii) appraise the physical and cognitive abilities and disposition of the person in custody when arranging escorting police officers or watch-house officers. Where the person in custody is violent, disturbed or likely to attempt escape, the escorting police officers or watch-house 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 watch-house officers and, where practicable, have at least one escorting police officer or watch-house officer of the same sex as the person in custody.

10.4.10 Escort of multiple persons in custody

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.

Police officers and watch-house 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 mental ill-health (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.

OPM Issue 113 Public Edition

10.4.11 Mode of transport of persons in custody

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.

Police officers or watch-house 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 2);

(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

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 OIC, Brisbane Watch-house. Assistance from the Brisbane Watch-house 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 Watch-house 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.

Requests for assistance with prisoner escorts should be made as early as possible by sending an e-mail message to the Brisbane Watch-house at, WatchhouseBrisbane.Leave@police.qld.gov.au. If transport is required within 24 hours, send an email message and contact the Watch-house Duty Manager by telephone. This will ensure that prisoners arrive in time for their scheduled court appearances.

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. 2.5.6: 'Removal of prisoners/children from corrective services facilities and youth detention centres' 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 Watch-house at WatchhouseBrisbane.Leave@police.qld.gov.au 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

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(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 Watch-house 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 OIC of the Brisbane Watch-house 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

Where a prisoner is escorted by police or watch-house 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 watch-house 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.

OPM Issue 113 Public Edition

10.4.14 Assistance from others when escorting persons in custody

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 watch-house officers should consider using the assistance of the Special Emergency Response Team (SERT) or the Public Safety Response Team (PSRT) (see ss. 17.10.3: 'Public Safety Response Team (PSRT)' and 17.10.4: 'Special Emergency Response Team (SERT)' of this Manual).

Officers or watch-house officers arranging an escort should notify the OICs of stations where meal reliefs or assistance will be required. OICs of a station receiving such advice should ensure that escorting officers and watch-house 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 watch-house officers relinquishing custody of a person 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 cognitive impairment, 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, watch-house officer or correctional officer receiving custody of a prisoner:

(i) where custody of a prisoner is relinquished by a watch-house manager to a senior escorting officer for transport of the prisoner to another watch-house or a correctional centre—by the watch-house manager;

(ii) where a prisoner is lodged at a watch-house 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 watch-house or a correctional centre—by the police officer or watch-house 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 watch-house officer lodging the prisoner.

The police officer or watch-house 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 watch-house 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. 17.10.3: 'Public Safety Response Team (PSRT)' and 17.10.4: 'Special Emergency Response Team (SERT)' 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 watch-house 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 watch-house manager, police officer or watch-house 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 watch-house manager, police officer or watch-house 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;

OPM Issue 113 Public Edition

(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 watch-house 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

Escorting police officers or watch-house 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 watch-house 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 watch-house 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 watch-house 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 watch-house 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 watch-house officers and if unable to be satisfactorily resolved, the police officer or watch-house officer responsible for arranging the escort is to make alternative travel arrangements.

OPM Issue 113 Public Edition

10.4.17 Queensland Government Air (QGAir)

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

The pilot in command of an 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

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

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

After ascertaining which flight arrangements are most suitable, police officers or watch-house 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 watch-house 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

Prior to approving the use of QGAir to transport prisoners, commissioned officers are to determine the number and gender of police officers or watch-house 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 watch-house officers are present at all stages of the flight.

Additionally, commissioned officers should consider the prisoner to escorting police officer or watch-house officer ratio guide when determining the number of police officers or watch-house 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 watch-house officer ratio guide

Prisoners	Escorting Police Officers or Watch-house Officers
1	1
2	2
3	2
4	2
5	3
6	3
7	3

OPM Issue 113 Public Edition

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.

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, Covert and Specialist Operations Group, Crime Command 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

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 taxing 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 watch-house 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 Civil Aviation Order 20.9: 'Air service operations—precautions in refuelling, engine and ground radar operations' 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.

ORDER

Escorting police officers and watch-house 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, ammunition, handcuffs, batons, conducted energy weapons and Oleoresin Capsicum (OC) spray etc. on aircraft and at airports' of this Manual.

OPM Issue 113 Public Edition

10.4.18 Escort of persons in custody by commercial transport

Definitions

For the purpose of this section:

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

see Subdivision 4.5.3: 'Movement of persons in custody otherwise than under Migration Act' of the ATSR(C) relating 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 watch-house 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 watch-house 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

OIC 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 overviewing 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. 14.11.3: 'Additional storage and packaging requirements for transport of dangerous goods' of this Manual.

OPM Issue 113 Public Edition

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 watch-house without a court order

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 watch-house when fire or other threat to the safety of the person in custody warrants that transfer; or

(iii) another watch-house 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 watch-houses' of the PPRA).

ORDER

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

10.4.20 Escort of persons in custody transferred to another watch-house

The reason for a transfer should be provided to a person in custody. The watch-house 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 in QPRIME Custody reports.

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, watch-house 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 watch-house officer or the person in custody is discharged by a court.

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 PPRA;

(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 watch-house 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

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;

OPM Issue 113 Public Edition

(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 (DJ); or

(iii) a Childrens Court has convicted and sentenced the child to a period of detention.

The DJ 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 watch-house must be undertaken in such a way that ensures the child's safety, security and wellbeing and be transported as expeditiously as possible.

Police and watch-house officers transporting children to or from watch-houses 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 adults in custody and the children in custody will be carried out by the escorting police or watch-house officer prior to the transport after receiving advice from the relevant detention centre or DJ 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 is to 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 or watch-house officers at such times;

(vii) children are wearing footwear where possible; and

(viii) the DJ representative is advised of:

(a) the time the transporting arrangements to the detention centre or watch-house will commence;

(b) details of the proposed mode of transport;

(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 is to 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 is to consider all relevant factors. Such factors may include:

(i) the risk the child poses to the safety of the escorting police or watch-house officers;

(ii) the child's history of escape or offences of violence;

(iii) the risk of the child attempting 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 or watch-house 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

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

OICs of a case or an application should:

OPM Issue 113 Public Edition

(i) where the detention centre at which the child is cared for is not known, contact the Area Office of the Department of Justice 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 OIC 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 (DJ) 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, DJ 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

See ss. 6.6.1: 'Dealing with mental illness generally', 6.6.3: 'Transporting persons with impaired mental capacity' and Chapter 6: 'Persons who are vulnerable, disabled or have cultural 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 watch-house officer accompanies the person in an ambulance when it is considered necessary or when requested by the medical officer authorising the transport.

OPM Issue 113 Public Edition

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.

OPM Issue 113 Public Edition

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

Approval to seek extradition proceedings from another jurisdiction to Queensland (Qld) may be given when:

(i) a legal means exists for extradition between Qld 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 issuing a summons would be ineffective in bringing the wanted person before a Qld court;

(iv) there is a real probability, on the weight of existing evidence, 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) will be required from the other jurisdiction before any extradition is approved.

The decision to seek the extradition of a 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 the extradition of a wanted person from another country (other than New Zealand) is made by the relevant deputy commissioner.

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

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

(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(s).

Officers should consider the provisions of s. 411: 'When does detention period start for offenders arrested outside Queensland' of the PPRA for the commencement of the detention period when questioning a suspect in another state or upon arrival in Qld.

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

For the purpose of extradition procedures, the term 'state' includes territories of Australia.

For all extraditions into Australia, the final endorsement of any criminal justice certificate issued by the Commissioner (see s. 11.15.5: 'Criminal justice certificates and visas' of this Manual) rests with the Minister for Home Affairs or their

OPM Issue 113 Public Edition

delegate. When circumstances suggest entry of the wanted person may hinder the national interest in any way (e.g. an unacceptable risk to the community or has been previously deported), officers should consult with the Department of Home Affairs (DHA) prior to commencing extradition proceedings (CAVEAT—there are currently no formal arrangements or agreements with the DHA regarding the provision of early advice on proposed extraditions).

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 OIC of the case is not readily available, or is otherwise unable to proceed with the extradition, the OIC 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 OIC of the station or establishment having responsibility for investigating the offence where the OIC of the case is not readily available or is otherwise unable to proceed with the extradition. The OIC 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.

Arresting officers, OICs 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, OICs 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 PPRA); and

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

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

If arresting officers, OICs of a case, or designated officers, having considered Service policy in s. 10.7: ‘Extraditions into Queensland’ of this chapter, believe the wanted person should be extradited to Queensland, a report should be furnished through normal channels to the regional crime coordinator (RCC) 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;

OPM Issue 113 Public Edition

(vi) the full name of the person who made the sworn complaint upon which the Warrant in the First Instance was issued, the OIC 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 watch-house that is staffed on a twenty-four hour basis; and

(b) details of overnight accommodation.

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

OICs of an establishment at which arresting officers, OICs 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 RCC 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.

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 RCC 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 a matter is:

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

(ii) a suitable case for extradition, the RCC regional crime coordinator or superintendent of a command should stipulate any conditions regarding the extradition and cause arresting officer of the case or designated officers, and their OICs 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;

OPM Issue 113 Public Edition

(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 Warrant Team, Police Information Centre (PIC) via the QPRIME occurrence stating extradition has been approved and that a copy of the warrant is to be sent to the officer requesting the extradition (QPS 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 warrant report generated from QPRIME is taken to be the original warrant, see s. 13.18.1: 'Introduction' of this Manual); 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.

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

Where a person is wanted on an eWarrant and the court requires a paper version of the warrant, officers should contact the Warrant Team, Police Information Centre (PIC) and request a paper warrant. The eWarrant will be returned to the court and a paper warrant issued and supplied to PIC for collection by the requesting officer (see eWarrant extradition page on the Service Intranet for further details).

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 (extradition officers) are to:

(i) liaise with the OIC 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. Officers are to also take any action necessary for the extradition of the wanted person;

(iii) if the court orders the person to be discharged, ascertain the reason 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 (Qld) 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 OIC 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) (ODPP), of the time and place the person is bailed to appear;

OPM Issue 113 Public Edition

(c) provide the relevant police prosecutions corps or ODPP, 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 (warrant report generated from QPRIME), 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 Qld:

(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 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

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. Extradition officers should liaise with the office of the commissioner in that state and provide the assistance required to the office and commissioner's legal representatives for the review by a Supreme Court.

Extradition officers who are interstate to escort the wanted person to Qld 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 OIC, police prosecutions corps regarding the review.

Where extradition officers 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 the order has been upheld by the Supreme Court.

Contingency costs associated with extraditions

A Memorandum of Understanding (MOU) has been signed by all Australian Police Commissioners agreeing to bear the costs of services provided by government agencies associated with extradition proceedings. The MOU includes:

(i) legal fees, filing court documents, search fees and other incidental charges levied by government and semi-government agencies, which 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

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 (warrant report).

10.8.6 Action upon return to Queensland with a person in custody

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

(i) as soon as practicable, take the person being extradited to the watch-house which serves the court at which the person is to appear;

OPM Issue 113 Public Edition

(ii) provide the watch-house 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 officers should 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. An additional 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 is not tendered as a court exhibit during the prosecution process, hand it to the watch-house manager or prosecutor where the person is dealt with in Qld; 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.

Watch-house 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 Federal Attorney-General's department will only request extradition when the wanted person is located and positively identified in another country. Information alone, regardless of its quality, will not suffice 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

When members receive advice regarding the whereabouts in another country of a person, who is wanted for an alleged offence committed in Queensland, they 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:

OPM Issue 113 Public Edition

(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 purpose 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 OIC of the station or establishment having responsibility for investigating the offence, where the arresting officer, or OIC of the case, is not readily available or is otherwise unable to proceed with the extradition. The OIC of the station or 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 OIC of the station or establishment having responsibility for investigating the offence where the OIC of the case is not readily available or is otherwise unable to proceed with the extradition. The OIC of the station or establishment is to designate an officer to proceed with the extradition process.

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

Arresting officers, OICs of a case or designated officers who consider a wanted person should be extradited to Queensland, are to report through the normal channels to the OIC of the region in which the offence occurred or the OIC of a command if responsibility for investigating the offence lies with that command. Arresting officers are to prepare the report in consultation with Crime and Intelligence Legal Services, Legal Division to ensure the report 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 be an '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 offence;

(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 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, 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 s. 6: 'Meaning of extraditable person' of the *Extradition Act* (Cwlth);

(x) particulars of any relevant bilateral or multilateral treaty or the existence of any 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 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 Queensland. Where the escorting officer is of the opposite gender to the wanted person, an additional officer of the same gender as the person should accompany the above officer;

OPM Issue 113 Public Edition

(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 pay 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 pay 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 OIC of the region or command as to acceptance of the offer. Complainants should not be approached to pay the cost of an extradition. Where they do offer to pay all or part of the cost, advice should be forwarded to the relevant OIC 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; and

(b) photocopies of all warrants issued for the arrest of the wanted person.

ORDER

OICs of stations or establishments at which arresting officers, OICs 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 OIC of the region or command.

The OIC of the region or command should consider s. 10.7: 'Extraditions into Queensland generally' of this chapter and decide if the extradition is warranted in the circumstances. If it is determined the matter is:

(i) not a suitable case for extradition, the OIC of the region or command should cause the arresting officer, OIC of a case, or designated officer and their OIC to be advised of that decision and of any further action required; or

(ii) a suitable case for extradition, the OIC of the 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 Queensland. 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.

The OIC of the region or command should forward the material to the relevant deputy commissioner.

The relevant deputy commissioner should determine whether the matter is a suitable case for extradition and advise the OIC of the region or command of the determination. If approval is given to seek extradition, the OIC of the 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 SMCD). 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, OICs 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, OICs 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, OICs of a case, or designated officers should forward the advice from the ANCB to the OIC of the region or command concerned.

The OIC of the 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.

Where the alleged offences 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(s) should determine responsibility for payment of expenses associated with the extradition.

OPM Issue 113 Public Edition

10.9.4 Liaison with Legal Division and the Office of the Director of Public Prosecutions

If the relevant deputy commissioner advises the matter is suitable for extradition, the arresting officer, OIC of a case or designated officer is to forward all relevant material to the Executive Director (ED), Legal Division (LD).

The ED, LD will review the material and arrange its delivery to a legal practice manager at the Office of the Director of Public Prosecutions (State) (ODPP).

The legal practice manager, ODPP should assess the material and advise the ED, LD, of the assessment and whether further inquiries are required to be made or additional material obtained to ensure it is in an appropriate form for the particular jurisdiction.

If further inquiries or material are required, the ED, LD should advise the arresting officer, OIC of the case or designated officer to provide the inquiry results or additional material to the ODPP.

If satisfied with the material, the ODPP will complete the prosecutor's affidavit and Undertaking to Prosecute and provide these documents to the ED, LD who will forward them to the arresting officer, OIC of the case or designated officer. The arresting officer, OIC of the case or designated officer should provide all material, including the prosecutor's affidavit and Undertaking to Prosecute to the State Attorney-General (AG).

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 ED, LD, who should advise the relevant deputy commissioner, who in turn should advise the relevant OIC of the region or command.

ORDER

Where the Federal Attorney-General requests extradition, the OIC of the region or command is to recommend to the relevant deputy commissioner, the officer who is to have carriage of the extradition and any other escorting officers.

OICs 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

Where there are reasonable grounds to believe a wanted person may avoid apprehension if not arrested at the earliest opportunity, a request for provisional arrest should be made through the Executive Director (ED), Legal Division (LD) who will then liaise with Office of the Director of Public Prosecutions (State) (ODPP). 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 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 urgently delivered to the ED, LD, who will review the material and arrange for its delivery to the ODPP 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.

OPM Issue 113 Public Edition

10.9.6 Standard of evidence

Where the requested country requires 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) (ODPP) will liaise with the Executive Director (ED), Legal Division (LD) to 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.

Officers responsible for proceeding with an extradition should:

(i) liaise with the office of the ED, LD 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 or they can liaise with the ODPP and nominate a contact person to directly liaise with; 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).

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 Executive Director, Legal Division is responsible for advising the Office of the Director of Public Prosecutions (State) (ODPP) of the full names and ranks of the escorting officers. The names and ranks of the escorting officers will only be provided to the ODPP 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 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 afforded 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 further information.

Under the *Migration Act* (Cwlth) persons who are not Australian citizens are termed non-citizens. Officers who believe 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 and visas' 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 chapter;

(ii) ensure overseas travel has been approved by both the Service and the Minister. See Travel Management Services policies and procedures available on the 'Witness Travel, Persons in Custody, Dangerous Goods' and 'International Travel' webpages of the Service Intranet;

(iii) ensure escorting officers have valid passports and, if required, visas for the other country. See s. 11.5: '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 certification is obtained pursuant to s. 11.15.5 of this Manual;

OPM Issue 113 Public Edition

(vi) if the wanted person is an Australian citizen but does not have a current passport, ensure 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 Department of Health and Aged Care (Cwlth) (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 a prisoner under escort is to be on board.

10.9.8 On arrival in Queensland

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 watch-house 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 watch-house 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

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

OPM Issue 113 Public Edition

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) (EA). For the purposes of this section, the following definitions apply:

Nominated officer

the officer nominated to prepare the necessary documentation in relation to an extraditable person pursuant to the EA.

Deposition

includes:

(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; or

(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.

See s. 2: 'Interpretation' of the EA.

Extraditable person

is a person who:

(i) is accused of having committed an extradition offence against the law of Australia or Queensland; or

(ii) has been convicted of an extradition offence against the law of Australia or Queensland and:

(a) there is an intention to impose a sentence on the person as a consequence of the conviction; or

(b) the whole or a part of a sentence imposed on the person as a consequence of the conviction remains to be served.

See s. 3: 'Meaning of extraditable person' of the EA.

Extradition offence

is an offence punishable under the law of Australia or Queensland for which:

(i) the maximum penalty is imprisonment for not less than 12 months or any more severe penalty; and

(ii) if the conduct of the person constituting the offence in Australia or Queensland, 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 12 months or any more severe penalty.

See s. 4: 'Meaning of extradition offence' of the EA.

10.10.2 Extraditions from New Zealand

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

(i) warrant has been properly endorsed;

(ii) person is an extraditable person; and

(iii) offence concerned is an extraditable offence.

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

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 relevant officers decide to seek approval for the extradition to Queensland. Officers should report through their chain of command to the regional crime coordinator (RCC) of the region in which the offence occurred or the superintendent of a command, if responsibility for investigating the offence lies with that command. The 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 the 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) written confirmation that the ODPP has been consulted and has provided an undertaking to prosecute the wanted person if extradited;

(xi) the citizenship status of the wanted person. If the wanted persons is not an Australian citizen, whether they have a right to enter Australia or will require a criminal justice entry certificate (CJEC) to be issued and endorsed and a criminal justice visa to be issued in accordance with s. 159: 'Procedure for obtaining criminal justice visa' of the *Migration Act* (Cwlth) prior to applying for extradition from New Zealand (see s. 11.15.5: 'Criminal justice certificates and visas' of this Manual);

(xii) the full names of any other officers considered necessary to escort the wanted person;

OPM Issue 113 Public Edition

(xiii) comment on the availability of prosecution witnesses;

(xiv) the estimated cost of air travel and the total cost of the extradition; and

(xv) any written offers to pay 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).

See also 'Australian Government's Guide to extradition from New Zealand' on the Extradition—Requests Made by Australia to New Zealand page of the Service Intranet.

ORDER

Station or establishment OIC 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 RCC of the region or superintendent of the relevant command.

The RCC of a region or superintendent of a command should:

(i) consider s. 10.7: 'Extraditions into Queensland' of this chapter and decide if the extradition is warranted in the circumstances;

(ii) if the matter is not a suitable case for extradition, advise:

(a) the officer who made the sworn complaint upon which an arrest warrant was issued;

(b) the arresting officer where a fail to appear warrant was issued;

(c) the officer submitting the report regarding the extraditable person; and

(d) any of the above officers of any further action required; or

(iii) if the matter is a suitable case for extradition, the relevant OIC of a region or command is to:

(a) make the final decision whether to make application to extradite;

(b) should stipulate any conditions relating to the extradition including the:

- nominated officer;
- particulars of escorting officers; and
- means of travel; and

(c) advise the nominated officer of the decision.

Where the alleged offences with which the extraditable person will be charged upon return to Queensland 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

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 (see s. 41: 'Endorsement of warrant issued in extradition country' of the *Extradition Act* (NZ) (EANZ)).

Obtaining the warrant

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

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 the documentation New Zealand require, including some proforma examples (available on the Operational Policy and Improvement SharePoint page).

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The nominated officer is to obtain the original warrant(s) regarding the extraditable person. The Police Information Centre (PIC), 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 (QGG)). To obtain a copy of the QGG, 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 QGG 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 or replacement warrant to comply with (i)–(iv) above.

Where the warrant has been issued by the courts, officers are to contact the PIC to coordinate the request for a replacement. The decision whether to issue a replacement warrant will be made by Department of Justice. 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 warrant.

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) of the offence(s) and penalty provisions for 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) 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;

(d) a 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 QGG);

(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);

OPM Issue 113 Public Edition

(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 a duplicate or replacement of the 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

An affidavit sworn outside of New Zealand must be authenticated to be admissible in New Zealand court proceedings 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 EANZ. 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 includes:

(i) certification of all documents annexed to the certificate and comprises of 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 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 NZ 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:

OPM Issue 113 Public Edition

(i) a covering report including;

(a) where the person to be extradited is believed to be located; and

(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;

(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); and

(vi) confirmation of the issue of a criminal entry justice visa or, if urgent, confirmation that Commonwealth Department of Home Affairs have advised that there are no known immigration concerns (see also s. 11.15.5: 'Criminal justice certificates and visas' of this Manual and 'Australian Government's Guide to extradition from New Zealand' on the Extradition—Requests Made by Australia to New Zealand page of the Service Intranet),

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

The relevant RCC or superintendent is to check the documentation and forward it to the New Zealand police liaison officer (NZ PLO) (see SMCD) by registered post. 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 or 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 EANZ. 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 of the EANZ 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 NZ PLO 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 including the 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 the extraditable person;

(vi) an undertaking that 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(s) of authentication 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 police liaison officer (NZ PLO) will ensure the documentation is in order and forward it to the Interpol Office, Police National Headquarters in New Zealand.

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) that the extraditable person has been arrested and whether there are any issues regarding identification;

OPM Issue 113 Public Edition

(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 that 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) 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 New Zealand 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, the person may apply to a judge of the New Zealand 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 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 New Zealand 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 extraditable person:

(a) is a New Zealand citizen, inquire whether New Zealand police hold or can obtain the person's valid passport to give to the escorting officers; or

(b) is an Australian citizen, inquire whether New Zealand police hold the person's passport and if it is valid for travel. If the passport is not valid, lost or not available, ensure a current passport is issued or other documentation is obtained to allow the person to enter Australia;

(v) where the extraditable person is not an Australian citizen and:

(a) does not have a valid New Zealand passport; or

(b) has a valid New Zealand 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 and visas' of this Manual;

(vi) ascertain when the extraditable 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 extraditable person. The one-way ticket for the extraditable 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 New Zealand;

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

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

OPM Issue 113 Public Edition

Arrest on a provisional arrest warrant

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

(i) 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

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

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

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

(ii) provide the watch-house 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 ODPP 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;

(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; and

(vii) if the extradited person seeks bail from the court, officers should consider opposing bail or seek relevant bail conditions where appropriate to avoid the criminal justice visa being cancelled by the Minister of Home Affairs, due to community safety concerns. Where bail is granted officers are to lodge a Border Alert Request Form (PACE) (see also 'Australian Government's Guide to extradition from New Zealand' on the Extradition—Requests Made by Australia to New Zealand page of the Service Intranet).

ORDER

Watch-house 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

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

OPM Issue 113 Public Edition

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 PPRA. 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 SMD.

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 Service). In these instances, the officer intending to perform the extradition escort should submit a report through normal channels to the OIC 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, an additional officer of the same gender as the person should accompany the above officer;

(iii) written confirmation from the requesting State or Territory 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 pay 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 pay the cost of an extradition, but they may offer to pay 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 watch-house that is staffed on a twenty-four hour basis; and

(b) details of overnight accommodation.

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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

OICs 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 OIC 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

OICs 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 PPRA 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 PPRA 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 7 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:

(i) Chapter 15, Part 3, ss. 414 to 441: 'Safeguards ensuring rights of and fairness to persons questioned for indictable offences'; ss. 548, 391, 681;

(ii) and if a child, s. 392 of the PPRA;

(iii) s. 28: 'Cautioning of relevant persons who are not under arrest or in custody—Act, s 431';

(iv) s. 26: 'Informing relevant persons of right to communicate with friend, relative or lawyer—Act, s 418' of the Responsibilities Code; and

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

OPM Issue 113 Public Edition

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

OPM Issue 113 Public Edition

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

OPM Issue 113 Public Edition

(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.

OPM Issue 113 Public Edition

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: 'Transfer at request of prisoner', ss. 6 and 10A 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

OPM Issue 113 Public Edition

(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.

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Appendix 10.1 Process Map—Extraditions into Queensland from countries other than New Zealand

This appendix is provided as an aide memoire, to provide a brief overview and summary of the extradition process. It is not to be used as a substitute for Service policy as outlined in Service manuals. Officers involved in the extradition process should make themselves fully conversant with relevant Service policy.

Initial considerations/actions when offender first located or identified

- **OPM 10.9.1** Legal instrument must exist with country, and offence must be provided for in the legal instrument.
- **OPM 10.7.1** When circumstances suggest entry of wanted person may hinder national interest (e.g. unacceptable risk to community or previously deported) consult with DHA.
- **OPM 10.7.1** Written confirmation required that the wanted person has been located and positively identified.
- **OPM 10.7.1** Written confirmation required that no proceedings are current or pending in the jurisdiction where the wanted person is located.
- **OPM 10.7.1** Approval for extradition is at deputy commissioner level.
- **OPM 10.9.1** Extradition request to the other country must be made by Federal Attorney-General via the State Attorney-General.
- **OPM 10.9.2** Any request for extradition should include all offences for which the person is wanted.
- **OPM 10.9.1** Australian National Central Bureau (ANCB), Interpol, will assist at all stages of extradition proceedings including location of wanted person and provision of advice.
- **MSM 7.3.1** Provides procedure for requesting Interpol inquiries (via e-mail to Det Supt State Intelligence).

Actions to obtain extradition approval

- **OPM 10.9.3** Ascertain warrant in existence and/or obtain warrant.
- **OPM 10.9.3** Case officer (i.e. arresting officer, OIC of case or designated officer) reports through chain of command to OIC of region or command.
- **OPM 10.9.3** Expected report will be prepared in consultation with Crime and Intelligence Legal Services, Legal Division (OPM 10.9.3 outlines contents of report).
- **OPM 10.9.3** Case officer's OIC to provide recommendation to OIC of region/command. OIC of region/command should consider whether extradition is warranted or not. If not supported OIC of region/command should cause officer to be advised of decision. If supported material is to be forwarded to deputy commissioner for final approval. Deputy commissioner advises the OIC of region/command of determination.

Actions after approval by Deputy

- **OPM 10.9.3** OIC of region/command should cause a request to be made to the ANCB for location of the wanted person. ANCB may forward an Interpol International Notice (colour code blue to locate suspect/offender) to the case officer for completion and return. When wanted person is located ANCB will advise case officer in writing of persons location and whether there are any proceedings outstanding against the person in the other country.
- **OPM 10.9.3** Case officer forwards the advice from the ANCB to OIC of region/command who will cause the advice to be forwarded to the deputy commissioner.
- **OPM 10.9.4** When deputy commissioner advises matter suitable for extradition the case officer is to forward all relevant material to the Executive Director, Legal Division (ED, LD) who will review the material and arrange delivery to a legal practice manager at ODPP. ODPP assess material and advise ED, LD if further inquiries or material is required. ED, LD will advise case officer if further inquiries/material is required. Relevant material is to be delivered to ED, LD who will forward to ODPP.
- **OPM 10.9.4** When ODPP is satisfied with the material they complete the prosecutor's affidavit and Undertaking to Prosecute and provide the documents to ED, LD who will forward them to the case officer.
- **OPM 10.9.4** Case officer forwards all material including prosecutor's affidavit and Undertaking to Prosecute to State Attorney-General. State Attorney-General will liaise with Federal Attorney-General. The decision of the Federal Attorney-General should be conveyed to ED, LD who should advise the relevant deputy commissioner who will advise the relevant OIC of region/command.
- **OPM 10.9.4** When Federal Attorney-General requests extradition the OIC of the region/command is to recommend to deputy commissioner the officer who will have carriage of the extradition and any other escorting officers. The OIC of the region/command may appoint an experienced officer to overview and assist the officer with carriage.

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- **OPM 10.9.5** When there are reasonable grounds to believe a wanted person may avoid apprehension if not arrested at the earliest opportunity a request should be made to the ED, LD who will then liaise with ODPP. ODPP will consult with the Federal Attorney-General before a request for provisional arrest is made.
- **OPM 10.9.5** If the wanted person is arrested in the other country all relevant material must be urgently delivered to ED, LD who will review the material and arrange for delivery to the ODPP.
- **OPM 11.15.5** When the person to be extradited is not an Australian citizen (a non-citizen) a Criminal Justice Entry Certificate is required. In such cases the Service is responsible for all costs including accommodation, health and living expenses of the person (NB even though a Criminal Justice Entry Certificate may have been issued ultimate responsibility for issuing a Criminal Justice Entry Visa rests with DHA—see 10.7.1)

Miscellaneous

- Extraditions from other countries into Queensland generally require extensive liaison with the office of the Commonwealth Attorney-General and Australian Federal Police. Contact details for these can be found in the SMCD. Commonly a specific liaison person is identified by these organisations. Other areas of liaison may include consular/embassy staff, airlines etc. Case officers should be aware that other organisations may require information or processes in addition to Service policy.
- Certain timelines exist for various stages of the extradition process.
- The extradition process can be quite lengthy and take several months. In some circumstances other avenues may exist for the wanted person to be deported back to Australia if they are an Australian citizen.
- Case officers should remain mindful of the need to provide briefings and submit briefing notes to the Executive and Minister as required or requested.

OPM Issue 113 Public Edition

Chapter 11—Federal Issues

11.1 Introduction 921

11.2 References to legislation 921

11.3 Prosecution of Commonwealth offences 921

11.4 Inconsistencies between State and Commonwealth legislation 921

11.5 Investigation of Commonwealth offences 921

11.5.1 Investigation of offences 922
11.5.2 Voluntary accompanied 922
11.5.3 Arrest detention 923
11.5.4 Post arrest detention 923
11.5.5 Re-arrested within 48 hours 924
11.5.6 Dead time 925
11.5.7 Extension of time 925
11.5.8 How to be released 925
11.5.9 Audio/video recording of admissions and confessions 926
11.5.10 Criminal responsibility 926
11.5.11 Interview friends 926

11.6 Crimes Act and Criminal Code Act 926

11.6.1 Australia Post 926
11.6.2 Telecommunications carriers (Telstra Corporation) 926
11.6.3 Deleted 927
11.6.4 Narcotics sent through Australia Post 927

11.7 Crimes (Internationally Protected Persons) Act 927

11.7.1 Action to be taken in respect of internationally protected persons 927
11.7.2 Prohibition of possession and use of firearms in diplomatic and consular premises 927

11.8 Diplomatic Privileges and Immunities Act 928

11.8.1 Diplomatic immunity entitlement 928
11.8.2 Consular immunity entitlement 928
11.8.3 Privileges and immunities of foreign representatives 928

11.9 Crimes (Currency) Act 929

11.9.1 Investigations regarding counterfeit money 929
11.9.2 Defacing currency for scientific examination 930
11.9.3 Photographing or photocopying bank notes 930
11.9.4 Counterfeit currency across multiple jurisdictions 930

11.10 Copyright Act 930

11.10.1 Investigations of breaches of film and video copyright 931

11.11 Defence Act 931

11.11.1 Contact persons and numbers of military establishments 931
11.11.2 Location of members of the Australian Defence Force 931

11.12 Commonwealth Electoral Act 932

11.12.1 Polling booths 932
11.12.2 Security of ballot boxes 932

11.13 Family Law Act 932

OPM Issue 113 Public Edition

11.13.1 Serving of process 932
11.13.2 Complaints which involve breaches of an order or injunctions of the Family Law Court 932
11.13.3 Family Law Court order inconsistent with domestic violence order 934
11.13.4 Missing persons 934
11.13.5 Child custody disputes 934

11.14 Commonwealth support and the Australian Defence Force assistance and aid 936

11.14.1 Introduction 936
11.14.2 Commonwealth support (includes Defence Assistance to the Civil Community) 936
11.14.3 Defence Assistance to the Civil Community 936
11.14.4 Defence Force Aid to the Civil Authority 938

11.15 Migration Act (Cwlth) 938

11.15.1 Department of Home Affairs and Australian Border Force 938
11.15.2 Assistance to officers of the Department of Home Affairs and Australian Border Force 939
11.15.3 Deportation and removal 939
11.15.4 Unlawful non-citizens 940
11.15.5 Criminal justice certificates and visas 941

11.16 Racial Discrimination Act 943

11.17 Offences against Services Australia legislation 943

11.18 Airports legislation 944

11.18.1 Air Navigation Act 944
11.18.2 Civil Aviation Act 944
11.18.3 Civil Aviation Regulations 944
11.18.4 Crimes (Aviation) Act 945
11.18.5 Crimes (Hostages) Act 945

11.19 Other Acts 945

11.19.1 Customs Act 945
11.19.2 Navigation Act 945
11.19.3 Defence Force Discipline Act 945

11.20 Other Commonwealth matters and agencies 945

11.20.1 Australian Protective Service (cultural property) 945
11.20.2 Interpol 946
11.20.3 War crimes tribunal inquiries 946
11.20.4 Assistance to Australians overseas 946
11.20.5 International persons wishing to defect from their country of origin 946
11.20.6 Commonwealth department responsible for education or employment 947

11.21 Public Order (Protection of Persons and Property) Act 947

11.22 Excise Act 948

11.22.1 Seizure of illicit tobacco products 948

11.23 Aviation and maritime transport security 949

11.23.1 Aviation Transport Security Act 949
11.23.2 Maritime Transport and Offshore Facilities Security Act 950
11.23.3 General provisions 950

11.24 Human trafficking (offences against humanity and related offences) 951

OPM Issue 113 Public Edition

11.1 Introduction

This chapter covers Federal legislation which members may be required to administer. Officers should be aware of their powers and responsibilities in terms of that legislation and provide assistance to Federal authorities, where appropriate.

11.2 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 on the Service Intranet.

11.3 Prosecution of Commonwealth offences

POLICY

In respect of Commonwealth offences, the office of the Director of Public Prosecutions (Cwlth) (see SMCD) determines whether the Service is to prosecute defendants after their first appearance in Court. However, generally, if a defendant is charged by an officer for committing Commonwealth and State offences at the same time, a police prosecutor will continue the prosecution of the defendant.

Except in remote areas of the State, police prosecutors will not normally be required to deal with hearings or committals unless the defendant has been charged with State and Commonwealth offences arising from the one incident.

ORDER

Police prosecutors involved in the prosecution of Commonwealth offences are to promptly advise the nearest office of the Director of Public Prosecutions (Cwlth) that a prosecution of a Commonwealth offence has commenced.

In Brisbane, if a matter arising from a State investigation into a Commonwealth offence is not dealt with by way of a plea of guilty on the first appearance, the matter is to be adjourned to the Commonwealth call over and the brief is to be referred to the office of the Director of Public Prosecutions (Cwlth).

Officers may contact the offices of the Director of Public Prosecutions (Cwlth) to discuss any proposed Commonwealth charge.

OPM Issue 113 Public Edition

11.4 Inconsistencies between State and Commonwealth legislation

PROCEDURE

Officers should ensure any State legislation used is not inconsistent with Commonwealth legislation. Inconsistency between State and Commonwealth legislation arises when it would be impossible to obey both laws, when the law of one government permits an activity while the law of the other government prohibits the activity or when the Commonwealth law is deemed to exhaustively and exclusively cover a particular area of activity.

Officers should consider whether Commonwealth legislation applies to an offence or area of activity which is also covered by State law. Commonwealth law takes precedence over State law in these cases.

In determining which legislation to use in regard to offences occurring in places acquired by the Commonwealth, officers should consider whether Commonwealth legislation covers the offence in question. If no Commonwealth legislation exists which covers an activity then appropriate State law may be applied by virtue of s. 4(1) of the *Commonwealth Places (Application of Laws) Act* (Cwlth).

Queensland has passed complementary legislation in the form of the *Commonwealth Places (Administration of Laws) Act*. By virtue of s. 4 of that Act, officers can perform their usual duties on Commonwealth places as if the place was a State place. The power of arrest for a State law applied to a Commonwealth place is the same as that which applies when the offence is dealt with as a State offence. An offence against State law, which is applied to a Commonwealth place, is treated as an offence against Commonwealth law and is heard by a court exercising Federal jurisdiction.

ORDER

When State legislation is being applied, officers are to make the following endorsement on the bench charge sheet or summons: 'Commonwealth Places (Application of Laws) Act 1970 (Cwlth) Section 4(1).'

11.5 Investigation of Commonwealth offences

Parts 1AA and 1C of the *Crimes Act* (Cwlth) (CA) outline the procedures to be complied with by officers when investigating Commonwealth offences. These Parts contain provisions, which allow and regulate such things as the issue of search warrants, the arrest of persons, searches of people and places with and without warrant, the identification of suspects and the taking of fingerprints, photographs and other identification material. By virtue of s. 5(2A) of the

Commonwealth Places (Application of Laws) Act (Cwlth) officers are not bound by the provisions of Parts 1AA and 1C of the CA, when investigating offences against State laws which have been applied to Commonwealth places.

The CA provides for and regulates the following powers and investigative practices:

(i) issue and execution of search warrants (ss. 3E to 3JA, 3P, 3R to 3S, and 3ZS to 3ZU). Officers making an application for a search warrant to search a premises/person must ensure they use the correct forms under the CA;

(ii) seizure and detention of evidence as a result of a search (ss. 3K to 3N, 3Q, 3ZQX to 3ZQZB and 3ZV to 3ZW);

(iii) stopping and searching vehicles without warrant (ss. 3T, 3U and 3ZR);

(iv) requiring persons to state their name and address (s. 3V);

(v) arrest without warrant (ss. 3W to 3Y);

(vi) arrest with warrant (s. 3ZA);

(vii) use of force when making an arrest (ss. 3ZB and 3ZC);

(viii) searching of arrested persons (ss. 3ZE to 3ZI and 3ZR);

(ix) taking and eventual destruction of fingerprints, photographs and other identification material (ss. 3ZJ to 3ZL);

(x) use of identification parades (ss. 3ZM and 3ZN);

(xi) use of photographic identification of suspects (s. 3ZO);

(xii) identification procedures where there is more than one suspect (s. 3ZP);

(xiii) use of descriptions of suspects (s. 3ZQ); and

(xiv) detention period and interviewing of persons (ss. 23A to 23DA and 23E to 23W); and

the following specific powers and investigative practices related to terrorism offences:

(i) requiring persons to state their name and address (s. 3UC);

(ii) stopping and searching without warrant (s. 3UD);

(iii) seizure of terrorism and serious offence related items as a result of a search (s. 3UE);

(iv) arrest without warrant (s. 3WA); and

(v) detention period (ss. 23DB to 23DF).

PROCEDURE

The powers and practices described in the CA may be applied to the investigation of any offence against Commonwealth law, except the *Defence Force Discipline Act* (Cwlth), despite the existence of similar powers under other Commonwealth legislation.

ORDER

Officers investigating Commonwealth offences or dealing with persons who are suspected of having committed offences against Commonwealth law, except the *Defence Force Discipline Act* (Cwlth), are to comply with the provisions of the CA. The provisions of the CA are to be read in conjunction with Chapter 2: 'Investigative Process' of this Manual. The provisions of the CA are to take precedence over the contents of this Manual where any inconsistency between the Act and Service policies, procedures or orders arises.

11.5.1 Investigation of offences

PROCEDURE

When investigating a mixture of State and Commonwealth offences, officers should, in addition to referring to Chapter 2: 'Investigative Process' of this Manual:

(i) deal with State offences separately first, if possible; and

(ii) clearly inform the suspect that the interview relates only to State offences at that stage.

11.5.2 Voluntary accompanied

PROCEDURE

If the officer, when first approaching the suspect, merely entertains a strong suspicion that the person has committed the offence, but does not have sufficient admissible evidence upon which to base reasonable grounds to believe that the person has committed the offence, the officer should inquire as to whether the suspect is prepared to voluntarily accompany the officer to a police station/establishment for interview purposes.

If the person accompanies the officer voluntarily, the following applies:

OPM Issue 113 Public Edition

(i) officers should advise suspects that they are not obliged to accompany the officer to the station and that if they do accompany the officer, they may leave at any time unless advised by the officer that they are deemed to be a protected suspect pursuant to s. 23B(2): 'Definitions' of the *Crimes Act* (Cwlth) (CA). (Note: A suspect will be deemed to be a protected suspect vide s. 23B(2)(a), (b), (c), (d) and (e) if the officer believes there is sufficient evidence to establish that the person has committed the offence (at which time the person should be cautioned) or the officer will not let the person leave or the officer has given the person reasonable grounds for believing that the person would not be allowed to leave if the person wished to do so. A person in custody as a protected suspect is not the same as a person under lawful arrest therefore the investigation periods in ss. 23C to 23DF of the CA do not apply to protected suspects);

(ii) when officers form an opinion that they have reasonable grounds to believe that the person has committed a Commonwealth offence, a caution must be administered, before further questioning, advising the suspect that they do not have to say or do anything but anything that the person does say or do may be used in evidence. The giving of the caution must be recorded (see s. 23U: 'Tape recording of information required to be given to person under arrest' of the CA); and

(iii) at that time, suspects must be informed:

(a) that they may communicate with a friend or relative to inform that friend or relative of their whereabouts; and

(b) that they may also communicate with a legal practitioner of their choice; and

(c) of the other rights and protections granted by ss. 23F to 23T of the CA. All of these rights and protections come into effect at this time.

The giving of this information and the responses to it must be audio recorded (see s. 23U of the CA).

11.5.3 Arrest detention

PROCEDURE

If the officer, when first approaching the suspect, is satisfied that there are reasonable grounds to believe that:

(i) a Commonwealth offence (other than a terrorism offence and an offence against s. 80.2C: 'Advocating terrorism' of the *Criminal Code Act* (Cwlth)) has been committed;

(ii) the suspect has committed it; and

(iii) proceedings by way of summons would not achieve one or more of the purposes outlined in s. 3W(1)(b): 'Power of arrest without warrant by constables' of the *Crimes Act* (Cwlth) (CA),

the officer may arrest the suspect by virtue of s. 3W of the CA.

For an officers' power of arrest for a Commonwealth terrorism offence and an offence against s. 80.2C refer to s. 3WA(1)(b): 'Constables' power of arrest without warrant for a terrorism offence or offence of advocating terrorism' of the CA.

If a suspect is obliged to accompany the officer to the station/establishment for the purpose of investigation. As soon as the person is arrested, the investigation period (see ss. 23C: 'Period of arrest if arrested for non-terrorism offence' and 23DB: 'Period of investigation if arrested for a terrorism offence' of the CA for periods of investigation for non-terrorism and terrorism offences respectively) has commenced and the whole of Part IC: 'Investigation of Commonwealth offences' of the CA applies.

To determine whether proceedings by way of summons would be effective in achieving the purposes listed in s. 3W(1)(b) or 3WA(1)(b) of the CA officers should at least consider the following points:

(i) the nature of the offence;

(ii) the age, the age, marital status, dependants, employment history of the suspect;

(iii) the antecedents of the suspect in relation to previous grants of bail and offender history generally;

(iv) the likelihood that there will be a repetition or continuation of the offence or the commission of another offence;

(v) the need to preserve the suspected person's safety or welfare;

(vi) the likelihood that evidence may be concealed, destroyed or lost;

(vii) the likelihood that witnesses may be harassed or interfered with; and

(viii) the likelihood that evidence may be fabricated.

11.5.4 Post arrest detention

PROCEDURE

When investigating offences against Commonwealth legislation, except the *Defence Force Discipline Act* (Cwlth), officers should, in order for admissions or confessions to be admissible, determine if the person to be interviewed:

OPM Issue 113 Public Edition

(i) is under 18 years of age;

(ii) is of Aboriginal or Torres Strait Islander extraction;

(iii) requires the services of an interpreter; or

(iv) is a foreign national.

At the time when the suspect is placed under arrest, the officer should:

(i) caution the person in the following terms before asking any questions—

'I intend to ask you (further) questions in relation to this matter but before I do I must warn you that you do not have to say or do anything but anything you do say or do may be used in evidence'

The caution not only includes answering questions but also 'doing anything'. For example, taking part in an interview or any other activity. The suspect is not obliged to co-operate in any way whatsoever;

(ii) record the giving of the caution (see s. 23U: 'Tape recording of information required to be given to person under arrest' of the *Crimes Act* (Cwlth) (CA)); and

(iii) comply with the following provisions of the CA:

(a) s. 23K: 'Persons under 18' if the person is under 18 years of age;

(b) s. 23H(1), (2), (2A) and (2B): 'Aboriginal persons and Torres Strait Islanders' if the person is of Aboriginal or Torres Strait Island extraction and s. 23H(7) or (8) does not apply;

(c) s. 23P: 'Right of non-Australian nationals to communicate with consular office' if the person is a foreign national;

(d) s. 23N: 'Right to interpreter' by providing an interpreter if there are reasonable grounds to believe that the person has inadequate knowledge of the English language or a physical disability that hinders fluent communication; and

(e) s. 23G: 'Right to communicate with friend, relative and legal practitioner' by advising the person of their right to communicate with a relative or friend and legal practitioner of their choice.

The giving of all the above information and responses thereto must also be recorded (see s. 23U).

Subject to the exceptions provided in s. 23L: 'Exceptions' of the CA, the above caution and other information should always be given and recorded because, in addition to complying with s. 23U, it provides the best possible objective evidence as to the onus the prosecution must discharge in s. 23U(2). It protects both the suspect and, equally importantly, police from allegations of unfairness, etc.

Section 23M: 'Providing information relating to persons who are under arrest or protected suspects' imposes a duty on police to inform a relative, friend or legal representative (unless within the exclusions of s. 23L) of the whereabouts of the person under arrest if such information is sought, but only with the consent of the person under arrest.

The right to silence has been maintained in statutory form (see s. 23S: 'Right to remain silent etc. not affected' of the CA).

The officer has a time limit imposed by s. 23C: 'Period of investigation if arrested for a non-terrorism offence' of the CA for the arrest of the suspect for the purpose of investigating of a non-terrorism offence. Section 23C(4) of the CA states that the time must be reasonable (onus on the prosecution) but cannot extend beyond:

(i) two hours for Aboriginal or Torres Strait Islander persons, or persons under 18 years of age; or

(ii) four hours in all other cases,

unless extended by s. 23DA: 'Magistrate may extend investigation period' of the CA.

Section 23DB: 'Period of investigation if arrested for a terrorism offence' of the CA is to be complied with in relation to an arrest for a terrorism offence as defined in s. 3: 'Interpretation'.

11.5.5 Re-arrested within 48 hours

PROCEDURE

Section 23C(6): 'Period of investigation if arrested for a non-terrorism offence' of the *Crimes Act* (Cwlth) (CA) states that if the person has been arrested more than once within any period of 48 hours, the investigation period for each arrest other than the first is reduced by the amount of the earlier investigation period or periods that occurred within that 48 hours (see s. 23C(6) of the CA). The provisions of this section apply only to non-terrorism offences.

Section 23DB(11): 'Period of investigation if arrested for a terrorism offence' of the CA is to be complied with if a person has been arrested more than once within any period of 48 hour period and has subsequently been arrested for a terrorism offence.

OPM Issue 113 Public Edition

11.5.6 Dead time

PROCEDURE

Officers should keep accurate records of when the investigation period commences and ceases and all periods of 'dead time' to ensure that the relevant investigation period is not exceeded.

For instances of 'dead time', that is, time not taken into account when calculating the time limits, officers should refer to the *Crimes Act* (Cwlth):

(i) s. 23C(7): 'Period of investigation if arrested for a non-terrorism offence'; and

(ii) s. 23DB(9): 'Period of investigation if arrested for a terrorism offence'.

11.5.7 Extension of time

PROCEDURE

Section 23D: 'Application may be made for extension of investigation period' of the *Crimes Act* (Cwlth) (CA) authorises the making of an application to extend the relevant investigation period for a period, in relation to a non-terrorism offence not exceeding eight hours. Section 23DA(2): 'Magistrate may extend investigation period' of the CA prescribes the matters to be proved to the satisfaction of a Magistrate before they may grant the application and extend the period.

Section 23D(2) of the CA states that an application may be made by telephone or in writing. The use of telex, fax or other electronic means is permitted by s. 23DA(5)(b) of the CA.

Any officer who obtains an extension by electronic means should complete the appropriate form and produce it at any subsequent Court hearing noting the provisions of s. 23E: 'Evidentiary provisions if application made by electronic means' of the CA.

An extension will only be granted for a serious offence. A serious offence is defined in s. 23B(1): 'Definitions' of the CA as a Commonwealth offence that is punishable by imprisonment for a period exceeding 12 months.

Irrespective of whether the period of detention is two hours or four hours or an extension is granted, the officer must satisfy the Court that the detention period was reasonable (see s. 23C(8): 'Period of investigation if arrested for a non-terrorism offence' of the CA).

Applications for extension of an investigation period for a terrorism offence must be approved by an 'authorising officer', defined in s. 23B(1) of the CA as a superintendent, assistant commissioner or the Commissioner (see ss. 23DC to 23DF of the CA).

11.5.8 How to be released

PROCEDURE

Sections 23C(3): 'Period of investigation if arrested for a non-terrorism offence' and 23DB(4): 'Period of investigation if arrested for a terrorism offence' of the *Crimes Act* (Cwlth) (CA) states that if a person is not within the investigation period they must be brought before a judicial officer within that period or, if it is not practicable to do so within that period, as soon as practicable after the end of that period.

If the officer has exercised the power of arrest under ss. 3W: 'Power of arrest without warrant by constables' or 3WA: 'Constables' power of arrest without warrant for a terrorism offence or offence of advocating terrorism' of the CA then the officer may formally charge the person.

If the person has voluntarily accompanied police and has been deemed to be a protected suspect by virtue of s. 23B(2): 'Definitions' of the CA and a prima facie case has been established, then:

(i) if proceedings by way of summons would be effective, the officer should release the person unconditionally pursuant to ss. 3W(2) or 3WA(2) of the CA and later cause a summons to be issued for service upon the person concerned; or

(ii) if it is reasonably believed that proceedings by way of summons would not achieve one or more of the purposes listed in ss. 3W(1)(b) or 3WA(1)(b) of the CA, the officer may formally arrest under ss. 3W or 3WA of the CA, charge the person and bring the person before a judicial officer within the investigation period, if possible, or as soon as practicable thereafter.

If there is insufficient evidence to justify a prosecution of a person who has been deemed to be a protected suspect by virtue of s. 23B(2) then the person should be allowed to leave the company of the interviewing officer unconditionally.

If the person has voluntarily accompanied the officer and never been deemed to be a protected suspect and there is insufficient evidence to justify a prosecution, the person should be allowed to leave the company of the interviewing officer unconditionally.

OPM Issue 113 Public Edition

11.5.9 Audio/video recording of admissions and confessions

The audio/video recording requirements specified in ss. 23U: 'Tape recording of information required to be given to person under arrest' and 23V: 'Tape recording of confessions and admissions' of the *Crimes Act* (Cwlth) apply to State police officers when investigating Commonwealth offences.

ORDER

Officers investigating Commonwealth offences are to do so in the same manner as they would State offences and comply with the Digital Electronic Recording of Interviews and Evidence Manual.

11.5.10 Criminal responsibility

The Criminal Code contained within the *Criminal Code Act* (Cwlth) codifies the general principles of criminal responsibility applicable to Commonwealth legislation and Commonwealth offences.

POLICY

Officers are to familiarise themselves with the following provisions of Chapter 2: 'General principles of criminal responsibilities' of the *Criminal Code Act* (Cwlth):

(i) part 2.2: 'The elements of an offence';

(ii) part 2.3: 'Circumstances in which there is no criminal responsibility';

(iii) part 2.4: 'Extensions of criminal responsibility';

(iv) part 2.5: 'Corporate criminal responsibility';

(v) part 2.6: 'Proof of criminal responsibility'; and

(vi) part 2.7: 'Geographical jurisdiction'.

11.5.11 Interview friends

Provisions of Part 1C, sections 23A to 23W: 'Investigation of Commonwealth offences' of the *Crimes Act* (Cwlth) (CA) require the presence of an interview friend during the questioning of persons when investigating Commonwealth offences. A number of sections define what the term interview friend means, which includes a person whose name is included in the relevant list maintained under s. 23J(1): 'Lists of interview friends and interpreters' of the CA.

Pursuant to s. 23J, of the CA, a list has been established of suitable persons to act as interview friends, or as interpreters for Aboriginal and Torres Strait Islander persons being interviewed by police in relation to Commonwealth offences for the purpose of this section. The 'Lists of interview friends and interpreters' under section 23J of the CA is located on the Operational Support web page on the Service Intranet.

ORDER

Officers are to select an appropriate person from this list whenever Part 1C of the CA requires the presence of an interview friend or interpreter during questioning.

OPM Issue 113 Public Edition

11.6 Crimes Act and Criminal Code Act

The *Crimes Act* (Cwlth) and the *Criminal Code Act* (Cwlth) are Acts relating to offences against the Commonwealth, and are the Acts which officers generally enforce.

In 2002, the Commonwealth Attorney General's Department has published a document titled: 'The Commonwealth Criminal Code—a Guide for Practitioners'. Reference to this document will assist officers to understand and apply the provisions of the Criminal Code.

11.6.1 Australia Post

PROCEDURE

An offence with respect to Australia Post or postal services can proceed under the provisions of the *Crimes Act* (Cwlth), *Criminal Code Act* (Cwlth) depending on the circumstances.

11.6.2 Telecommunications carriers (Telstra Corporation)

Telstra Corporation Ltd, formerly the Australian and Overseas Telecommunications Corporation is a public company limited by shares within the meaning of the *Corporations Act* (Cwlth) and registered with the Australian Securities and Investments Commission as the Telstra Corporation.

There are a number of telecommunication carriers within the Australian telecommunications industry, details of which can be obtained from the Australian Communications and Media Authority (ACMA) (see SMCD). Inquiries in the first instance may be made through the ACA web site, www.acma.gov.au.

An offence in respect of the Telstra Corporation Ltd (or any other carrier), can proceed under the provisions of the relevant Commonwealth or State legislation, dependent upon the circumstances, i.e. some sections of the *Crimes Act* (Cwlth) relating to telecommunications carriers still apply.

Officers investigating offences committed against the Telstra Corporation Ltd may obtain information and investigation assistance from Telstra Law Enforcement Liaison Section, via the Call Charge Record Unit of the State Intelligence Group, Crime Command (see 'Staff Contact' on the Service Intranet).

See s. 7.4.2: 'Telecommunication information' of the MSM when seeking information from telecommunication carriers.

11.6.3 Deleted

11.6.4 Narcotics sent through Australia Post

A person who sends or distributes a narcotic substance defined as a border controlled drug and border controlled plant (see s. 14: 'Border controlled drugs' and s. 15: 'Border controlled plants' of the Criminal Code Regulations (Cwlth)) through Australia Post commits an offence under s. 85W: 'Causing controlled drugs or controlled plants to be carried by post' of the *Crimes Act* (Cwlth).

Where an article containing a narcotic substance has been:

(i) distributed through the domestic mail system, the investigation remains the responsibility of the Queensland Police Service; or

(ii) imported into Australia by international mail, the investigation becomes the responsibility of the Australian Federal Police.

Officers who are investigating an article suspected to contain a narcotic substance forwarded through Australia Post should contact the Chemical Diversion Desk, Drug and Serious Crime Group for advice.

11.7 Crimes (Internationally Protected Persons) Act

The *Crimes (Internationally Protected Persons) Act* (Cwlth) and the *Criminal Code Act* (Cwlth) are Acts relating to the prevention and punishment of crimes against internationally protected persons, including diplomatic agents.

For arrest of foreign nationals, see Chapter 16: 'Custody' of this Manual.

11.7.1 Action to be taken in respect of internationally protected persons

ORDER

Officers who investigate incidents involving internationally protected persons are to, within seven days of the matter coming to their notice, report in writing through their respective officer in charge to the Commissioner outlining:

(i) full particulars of the internationally protected person;

(ii) full particulars of the offence committed against the internationally protected person; and

(iii) action taken.

11.7.2 Prohibition of possession and use of firearms in diplomatic and consular premises

Possession, carriage and use of firearms on diplomatic and consular premises for the purpose of protection is prohibited.

Individuals may obtain permission from the Department of Foreign Affairs and Trade to retain weapons solely for sporting purposes, and, in those cases, the relevant State or Territory licensing authority will be informed.

The Department of Foreign Affairs and Trade requests prompt advice of any instance of a contravention of this policy, which comes to the notice of officers.

This policy does not override the established rules of diplomatic and consular immunity and facts should be obtained discreetly by non-intrusive observation or courteous questioning.

Where Australian citizens are appointed as honorary consular officers or engaged locally as staff, the policy will apply in respect of their official capacities only. They will not be permitted to carry firearms while on duty or to have firearms in immune premises or vehicles.

PROCEDURE

Members observing apparent contraventions of the policy should promptly advise the Manager, Administration and Business Relations, Commonwealth Department of Foreign Affairs and Trade, Brisbane.

OPM Issue 113 Public Edition

11.8 Diplomatic Privileges and Immunities Act

The *Diplomatic Privileges and Immunities Act* (Cwlth) is an Act relating to diplomatic privileges, immunities and other purposes.

For arrest of foreign nationals, see Chapter 16: 'Custody' of this Manual.

11.8.1 Diplomatic immunity entitlement

The head of a diplomatic mission of the Commonwealth and of a foreign country or the members of the diplomatic staff of the mission having diplomatic rank are entitled to a number of immunities, privileges and exemptions by virtue of diplomatic status.

These persons are exempt from the criminal jurisdiction of Federal and State legislation and cannot be arrested or summoned or brought before any Court, and all process against them is to be treated as null and void, unless their immunity is officially waived.

However, in the case of civil and administrative jurisdiction, diplomatic immunity is enjoyed with certain exceptions.

Diplomatic personnel are expected to respect the laws of the land, and for any violation of statutory provisions, redress should be sought through diplomatic, not legal sources.

The immunities extend to members of the family who form part of the household of the diplomatic personnel who are not Australian Nationals, and to members of the administrative and technical staff of the mission together with members of their families forming part of their respective households, provided these persons are not Australian citizens or permanently resident in Australia.

Domestic staff, who are employed by the diplomatic mission but who are not citizens of or permanently resident in Australia, enjoy immunity in respect of acts performed in the course of their duties.

However, diplomatic personnel and the staff of a diplomatic mission, who are Australian citizens or who are ordinarily resident in Australia, are entitled to immunity from jurisdiction and inviolability, in respect of official acts performed by them in the exercise of their duty.

11.8.2 Consular immunity entitlement

Consular officers and employees are entitled to certain privileges and immunities in respect of official acts performed in the exercise of consular functions, that is to say:

(i) Immunity from jurisdiction, the head of a consular post, any person entrusted in that capacity with the exercise of consular functions, including an honorary consular officer, and any person employed in the administrative or technical service of a consulate-general, consular, vice-consulate or consular agency; and

(ii) Inviolability privilege, the head of a consular post and any person entrusted in that capacity with the exercise of consular functions.

The privilege or immunity does not extend to the wife, family or other employees of a consul, nor to acts performed by the consul or other persons listed herein, outside their official duties.

Refer to s. 14.4: 'Diplomatic immunity and consular immunity for traffic offences' of the Traffic Manual for traffic offences committed by diplomats and consular officers.

11.8.3 Privileges and immunities of foreign representatives

Only diplomatic and consular officials who have been officially accredited by the Department of Foreign Affairs and Trade (DFAT) are entitled to privileges and immunities. All persons entitled to any form of immunity are issued with a colour coded identification card. The reverse of the card summarises the level of privileges and immunities the bearer is entitled to.

Where officers have any doubt as to the status of a foreign representative or the immunities and privileges which may be afforded to that person, they should firstly contact the State Intelligence Group, Crime Command, during their hours of operation and outside of those hours, contact the DFAT (see SMCD) for advice as to what action may be taken in respect of that representative.

Officers have the right to prevent foreign representatives from committing offences.

ORDER

Officers are not to apply any legislative provisions to persons who have reasonably identified themselves as foreign representatives except in accordance with the privileges and immunities summarised on the appropriate colour coded identification card issued by the DFAT.

Officers who investigate incidents involving foreign representatives are to, within seven days of the matter coming to their notice, report in writing to the Commissioner outlining:

(i) full particulars of the foreign representative;

OPM Issue 113 Public Edition

(ii) full particulars of the incident involving the foreign representative; and

(iii) suggested action.

11.9 Crimes (Currency) Act

The *Crimes (Currency) Act* (Cwlth) provides for offences connected with the counterfeiting of money, certain kinds of securities and other activities injurious to Australian currency. Whilst currency related matters are coordinated from a central location by the Australian Federal Police (AFP) Currency Team and the Reserve Bank of Australia, any officer is authorised under the *Crimes (Currency) Act* (Cwlth) to seize and prosecute currency related matters, including foreign currencies.

11.9.1 Investigations regarding counterfeit money

POLICY

An officer who receives a complaint relating to a counterfeiting money offence should ensure:

(i) the provisions of s. 1.11.2: 'Recording an offence in QPRIME' of this Manual are followed;

(ii) the following information is recorded in the QPRIME occurrence:

(a) full circumstances surrounding the complaint;

(b) details of the counterfeit currency; and

(c) any information available in relation to the origin and production of the counterfeit money; and

(iii) an investigation is commenced (see Chapter 2: 'Investigative Process' of this Manual) and all available evidence seized, e.g CCTV; and

(iv) the exhibit is lodged in a property point (counterfeit currency should not be lodged as legitimate currency),

until the investigation is finalised.

PROCEDURE

The AFP Currency Team requires officers seizing counterfeit money:

(i) not to directly handle currency due to the risk of chemical residues from back yard production processes that maybe present;

(ii) that all formal requests to be conducted by email; and

(iii) that any relevant intelligence regarding the seizure is forwarded to the AFP Currency Team.

If a person has been charged with a counterfeiting currency offence, the investigating officer should forward the suspect counterfeit money to the AFP Counterfeit Currency Liaison Officer (see AFP counterfeit currency website) and have the exhibit examined by one of their experts. If it is determined the currency is counterfeit, a representative from the Reserve Bank will prepare an expert statement for inclusion in the brief of evidence. Both the exhibit and statement will then be returned to the investigating officer.

A statement will not be provided by the AFP Counter Currency Liaison Officer until the investigating officer provides:

(i) the defendant's name;

(ii) date of birth;

(iii) police reference number (MNI/CNI);

(iv) court date; and

(v) date the statement is required by.

Upon finalisation of court proceedings, the exhibit is to be forwarded to the AFP Counterfeit Currency Liaison Officer for disposal along with a correctly completed Suspect 'Counterfeit Banknote Submission form' clearly marked 'non-evidentiary and for destruction'.

Disposal of counterfeit money

PROCEDURE

Officers investigating a counterfeiting offence are not to forward the suspect counterfeit currency to the AFP whilst the investigation is ongoing and the offender has not been identified.

If after the investigation has been completed and the suspect:

(i) cannot be identified;

(ii) all avenues have been exhausted; and

OPM Issue 113 Public Edition

(iii) the exhibit is no longer of evidential value,

the exhibit is to be forwarded via registered mail to the AFP Counterfeit Currency Liaison Officer with a correctly completed 'Suspect Counterfeit Banknote Submission form' (see AFP counterfeit currency website). If it is determined by the Reserve Bank that the suspect currency is counterfeit, the Reserve Bank will hold the exhibit for a maximum of 90 days before having it destroyed (see s. 29: 'Forfeiture and seizure' of the *Crimes (Currency) Act* (Cwlth)).

11.9.2 Defacing currency for scientific examination

ORDER

If an officer in charge of an investigation requires an exhibit taking the form of money to be defaced or destroyed during scientific examination, that officer is to obtain permission in writing direct from the Officer in Charge, Currency Team, Australian Federal Police (see SMCD).

PROCEDURE

Permission in writing may be obtained through facsimile transmission or service email.

11.9.3 Photographing or photocopying bank notes

ORDER

When officers photograph or photocopy Australian bank notes for evidentiary purposes, they are to ensure that the:

(i) photographic or photocopy reproduction is at least one third larger or smaller than the genuine note;

(ii) photographic or photocopy reproduction is not reproduced in colour; and

(iii) clause and the signature that specifies the note is legal tender is partially covered or erased.

The responsible officer is to ensure that any photographic or photocopy reproduction which is to be used for evidentiary purposes is recorded against the relevant property entry in the QPRIME occurrence.

The responsible officer is to ensure, upon finalisation of proceedings and at the conclusion of any appeal period that:

(i) all photographic or photocopy reproductions in relation to the case are destroyed; and

(ii) a notation is made against the relevant property entry in the QPRIME occurrence at the respective property point recording the date any photographic or photocopy reproduction was destroyed.

The destruction of photographic reproductions does not include original photographic negatives.

11.9.4 Counterfeit currency across multiple jurisdictions

Where it is identified there are a number of offences being committed across multiple jurisdictions, or an investigation should be escalated into a multi-agency investigation, the investigating officer should advise the AFP Counterfeit Currency Liaison Officer as soon as practicable.

OPM Issue 113 Public Edition

11.10 Copyright Act

The law of copyright in Australia is wholly determined by the *Copyright Act* (Cwlth). This statute, which is binding on Federal, State and Territory governments defines what material is protected by copyright, who owns the rights and what rights belong to copyright owners. The Commonwealth Attorney General's Office is responsible for administration of copyright law.

Copyright is infringed by any person who, without permission, uses or authorises the use of all or a substantial part of copyright material in one of the ways that is the exclusive right of the copyright owner unless copyright has expired or a special exception applies. Copyright can also be infringed in certain circumstances by importing an article containing copyright material for commercial purposes, and by commercially dealing with infringing copies or unauthorised imports.

Copyright owners can take court action for infringements. Subject to this Act, the relief that a court may grant in an action for an infringement of copyright includes an injunction and either damages or an account of profits (that is, infringers may have to surrender any money they have made from dealing with the infringed works).

The Australasian Film and Video Security Office (AFVSO) and the Business Software Association of Australia (BSAA) will also take civil action against offenders. However, more serious breaches will generally be referred to police for investigation. There may be occasions where police detect more serious breaches committed by persons who are engaged in other criminal activity. The *Copyright Act* (Cwlth) also provides for criminal proceedings.

The most common complaints received by police usually relate to the copying of video and audio tapes (commonly termed **'piracy'**) and the copying of artistic works such as that appearing upon designer T-shirts and other apparel. Incidents relating to the piracy, possession and distribution of unlicensed computer software are also being reported more frequently.

11.10.1 Investigations of breaches of film and video copyright

Section 11.5: 'Investigation of Commonwealth offences' of this Manual deals with the investigation of Commonwealth offences.

POLICY

A member to whom a complaint or report of a breach of the *Copyright Act* (Cwlth) is made, should:

(i) comply with the provisions of s. 1.11: 'QPRIME occurrences' of this Manual; and

(ii) ensure the following information is recorded in the QPRIME occurrence:

(a) full circumstances surrounding the complaint/breach;

(b) details of persons making the complaint/report of breach;

(c) details of persons found in possession of the copyright article;

(d) identification details of the copyright article and value where known;

(e) any information available in relation to the origin and production of the copyright article; and

(f) full details and contact telephone number of the member taking the complaint/report of breach.

An officer in charge of a station or establishment who receives a QPRIME occurrence for attention, concerning a breach of the *Copyright Act* (Cwlth) in accordance with s. 1.11.4: 'Assigning Policelink entered occurrences' of this Manual. should:

(i) check the details of the QPRIME occurrence with the member who took the complaint or report of breach of the *Copyright Act* (Cwlth) and ensure all available information is included in the report;

(ii) refer the complaint to the nearest regional office of the Australian Federal Police (AFP) by emailing a copy of the QPRIME occurrence (see SMCD);

(iii) in cases where evidentiary material is available, advise the appropriate AFP regional office and arrange for the forwarding of that material; and

(iv) ensure that the complainant is contacted and advised of any action taken to resolve the complaint.

11.11 Defence Act

The *Defence Act* (Cwlth) relates to the protection of the Commonwealth and the States by the Australian Defence Force (ADF) which consists of the Royal Australian Navy, Australian Army, Royal Australian Air Force.

Contact may be made directly with the appropriate establishment regarding investigations. Where requests for information are made by members of the ADF in relation to another ADF member refer to s. 5.6.29: 'Release of information to the Australian Defence Force' of the MSM.

OPM Issue 113 Public Edition

11.11.1 Contact persons and numbers of military establishments

ORDER

The OIC of divisions containing military establishments are to maintain a list of contact persons and telephone numbers for each military establishment and ensure that the list is accessible by staff under their control. The first point of contact should be the relevant Joint Military Police Unit (national contact number: 13 11 67). Section 5.6.29: 'Release of information to the Australian Defence Force' of the MSM details what information can be released to members of the Australian Defence Force.

11.11.2 Location of members of the Australian Defence Force

ORDER

When an officer requires access to a member of the Australian Defence Force (ADF) who resides upon a military establishment, contact is to be made with:

(i) the OIC of the relevant Joint Military Police Unit (JMPU) for the military establishment; or

(ii) the senior ADF officer at the establishment if the JMPU cannot be contacted.

Contact with the relevant JMPU or senior ADF officers may be made verbally.

If written particulars of the reasons for requiring access are requested, the OIC of the inquiry may forward written advice direct.

11.12 Commonwealth Electoral Act

The *Commonwealth Electoral Act* (Cwlth) is an Act to consolidate and amend the law relating to parliamentary elections and for other purposes.

11.12.1 Polling booths

POLICY

On the occasion of a Commonwealth election, officers should attend at polling booths as required to ensure the free flow of voters and to keep the peace.

ORDER

The officer in charge of a station or establishment during a Commonwealth election is to ensure that there are sufficient numbers of police to preserve the peace and the efficient flow of traffic at the election centre.

Officers are not to act as poll clerks in connection with Commonwealth elections.

11.12.2 Security of ballot boxes

ORDER

An officer is to assist the Commonwealth Assistant Returning Officer in the moving and related security of the ballot boxes when requested by that Returning Officer to do so.

11.13 Family Law Act

The *Family Law Act* (Cwlth) (FLA(C)) governs matters related to divorce, parenting arrangements between separated parents, property separation, and financial maintenance involving children or divorced or separated de facto partners.

The Australian Federal Police (AFP) jurisdiction extends to certain parts of family law matters. The AFP's primary role is to prevent the unlawful removal of children from Australia. This is achieved through:

(i) the Family Law Watchlist;

(ii) recovery orders; and

(iii) arrest warrants.

The AFP do not enforce parenting orders issued under s. 64C: 'Parenting orders may be made in favour of parents or other persons' of the FLA(C) or provide legal advice. Any alleged breaches should be referred to the person's lawyer.

The Federal Circuit and Family Court of Australia can issue recovery orders under s. 67U: 'Court's power to make recovery order' of the FLA(C) and the Service will cooperate with the AFP in the service and execution of any requested process under the FLA(C).

OPM Issue 113 Public Edition

11.13.1 Serving of process

An officer is not to serve a process under the *Family Law Act* (Cwlth) where an Australian Federal Police office is located within a 40 kilometre radius.

When officers are used as bailiffs in process serving, standard service fees should be applied to the Under Secretary, Department of Justice.

11.13.2 Complaints which involve breaches of an order or injunctions of the Family Law Court

Family Law Court orders

The Federal Circuit and Family Court of Australia (FCFCoA) may make parenting orders under Part VII: 'Children' of the *Family Law Act* (Cwlth) (FLA(C)). These orders may address one or more of the following:

(i) who the child will live with;

(ii) how much time the child will spend with each parent and with other people, such as grandparents;

(iii) the allocation of parental responsibility;

(iv) how the child will communicate with a parent they do not live with, or other people; or

(v) any other aspect of the care, welfare or development of the child.

Officers establishing the existence of, or receiving complaints relating to non-compliance with Family Law Court orders, should act only in accordance with the specific directions to police officers contained in the relevant order. Officers should establish if the non-compliance with a Family Law Court order was clearly part of a course of conduct that constitutes Domestic and Family Violence (DFV), including coercive control. Officers must comply with their obligations

to investigate all allegations of DFV with a view to protect the person most in need of protection (PMINOP) and any children from harm (see s. 100: 'Police officer must investigate domestic violence' of the DFVPA).

If the family law court order does not provide specific direction to officers, the first response officer should advise the complainant to seek legal advice, with a view to obtaining a suitable order for the enforcement of the family law court order. Officers should also consider taking appropriate action under any relevant Queensland law.

If a parent refuses to comply with a residence or contact order by failing to return a child to the other parent, officers do not have the authority to enforce the order without a recovery order issued by the FCFCoA.

Executing Family Law Court Recovery Orders

A recovery order, as outlined in s. 67Q: 'Meaning of recovery order' of the FLA(C), is an order issued by the Federal Circuit and Family Court. It can require that child be returned to a:

(i) parent of the child

(ii) person who has a parenting order that states the child lives with, spends time with or communicates with that person, or

(iii) person who has parental responsibility for the child.

A recovery order may authorise or direct individuals, such as police officers, to take necessary actions to locate, recover and return a child to one of the people mentioned above. Additionally, it can provide directions regarding the child's day-to-day care until the child is returned or delivered.

Officers requested by the Australian Federal Police (AFP) to execute a recovery order are to:

(i) view and take possession of the order;

(ii) take note of the conditions and requirements endorsed on the order;

(iii) liaise with the office of the AFP from where the recovery order was directed; and

(iv) prior to serving documents on relevant parties, including the occupier, obtain authorisation from the AFP.

Officers executing a recovery order are to:

(i) as far as possible and convenient, familiarise themselves with any place to be entered and searched;

(ii) conduct a briefing involving all officers and persons who are to assist in the search of a place. This briefing should outline:

(a) all identified non-confidential information relating to the place;

(b) any specific powers or conditions contained in the order;

(c) the purpose of the search and the details of the child to be recovered;

(d) the person or persons thought to be a resident or otherwise in the place;

(e) the possibility of a dangerous situation arising, including the presence of firearms; and

(f) anything else relevant to the purpose of the search or the safety of the officer and persons helping to recover the child;

(iii) advise the officers' immediate supervisor prior to executing the order;

(iv) seek the cooperation of any person in possession of the child named in the order;

(v) supply their details in accordance with s. 637: 'Supplying police officer's details' of the PPRA;

(vi) ensure that as little as possible physical and emotional disturbance occurs in executing the order, including consideration of the time of day or night the order is executed;

(vii) ensure that the minimum number of officers, persons and equipment required to execute the order safely and effectively are used;

(viii) complete register entries for any enforcement act as outlined in s. 2.1.2: 'Registers required to be kept' of this Manual; and

(ix) enter a QPRIME Child/Young Person report under the name of each child recovered under the order and complete a QPRIME occurrence linking each child recovered under the order.

Officers are not to use force to execute a recovery order unless the use of force has been authorised in the order.

Officers who enter a place and recover a child under a recovery order should ensure that the following details are recorded in the relevant QPRIME Child/Young Person Report in the QPRIME occurrence:

(i) the reason for the entry; and

(ii) the purpose of the entry.

OPM Issue 113 Public Edition

Breaches of injunctions

The FLA(C) also provides that a Federal Circuit and Family Court may issue injunctions under the provisions of s. 68B: 'Injunctions' or s. 114: 'Injunctions'. These injunctions can be issued for the personal protection and welfare of a child, a parent of the child or a party to the marriage.

Powers of arrest are provided by s. 68C: 'Powers of arrest' and s. 114AA: 'Powers of arrest' respectively for breaches of injunctions issued for the personal protection of a person under s. 68B or s. 114, where the respondent causes or threatens to cause bodily harm to the person protected by the injunction.

However, the inability of police prosecutors to appear in subsequent court proceedings make the application of Queensland laws a more effective and efficient response to any act or omission which might also constitute a breach of an injunction.

Officers receiving complaints of breaches of injunctions made under the FLA(C), should take appropriate action under any relevant Queensland law, e.g. prosecution for assault, wilful damage or stalking (s. 112AM of the FLA(C) refers).

If the application of Queensland law is not appropriate or the complainant seeks the enforcement of rights conferred by an injunction, officers should advise the complainant to seek legal advice with a view to enforcing the injunction through the Federal Circuit and Family Court.

ORDER

Officers receiving complaints which give reasonable grounds to suspect that a person is an aggrieved spouse (see s. 15(2): 'Meaning of spousal relationship' of the DFVPA) are to investigate the matter and take such action as is required by the provision of Chapter 9: 'Domestic Violence' of this Manual.

11.13.3 Family Law Court order inconsistent with domestic violence order

Section 68Q: 'Relationship of order or injunction made under this Act with existing inconsistent family violence order' of the *Family Law Act* (Cwlth) (FLA(C)) provides an order made by the Federal Circuit and Family Court will take precedence over a domestic violence order (DVO) to the extent of the inconsistencies between the orders (see s. 11.4: 'Inconsistencies between the State and Commonwealth Legislation' of this chapter).

When officers become aware of the existence of:

(i) a parenting order;

(ii) a recovery order; or

(iii) an injunction,

made under the provisions of the FLA(C) that are inconsistent with a current DVO, officers should make inquiries with the Duty Registrar, Family Law Court Brisbane to obtain a court copy of the order or injunction (see SMCD).

An officer upon receiving a copy of the court order or injunction should update the relevant domestic violence occurrence.

In circumstances where there is an existing family law court order, investigating officers are to notify the court considering a DFV application of the existence and terms of any existing family law court order. State courts are vested with Commonwealth jurisdiction to vary, discharge or suspend any existing family law court order to remove inconsistencies with DVOs (see s. 78: 'Court must consider family law order' of the DFVPA and s. 9.9.6: 'Role of prosecutor under s. 68R of the Family Law Act' of this Manual).

ORDER

An OIC of a station or establishment upon receiving a copy of a Federal Circuit and Family Court parenting order, recovery order or injunction made under the provisions of the FLA(C), are to ensure any details inconsistent with an existing DVO are entered in QPRIME as a new condition. The entry is to be recorded under the relevant domestic violence occurrence in the 'Conditions tab' of the 'Order' of the respondent person on the same day as the copy of the order or injunction is received. Officers are to ensure an effective from and an expiry date are also entered in QPRIME for the new condition. The copy of the order or injunction is to be uploaded as an attachment to the relevant domestic violence occurrence. Officers should consider creating a DV flag in QPRIME to outline the new conditions.

11.13.4 Missing persons

Refer to Chapter 7: 'Child Harm' of this Manual.

11.13.5 Child custody disputes

Officers receiving complaints over custody arrangements of children should in the first instance refer the party to the legal fraternity.

The Service will not intervene on behalf of a parent unless a court order is in place or there are reasonable grounds to believe the child is at risk of harm. Officers should assess whether the behaviour of any involved party constitutes domestic and family violence (DFV), including coercive control including instances where a person may remove a child and not return a child as a behaviour to exert power and control over the party, causing emotional abuse. Officers must

OPM Issue 113 Public Edition

comply with their obligations to investigate all allegations of DFV to protect the person most in need of protection (PMINOP) and any children from harm (see s. 100: 'Police officer must investigate domestic violence' of the DFVPA).

ORDER

Officers receiving requests for assistance in child custody disputes are not to adjudicate in custody matters or make any decisions as to which parent is to have custody of the child.

Officers are not to retrieve a child in child custody matters unless acting in accordance with a court order or legislative authority.

Where there is a dispute about which person a child is to live with, or what contact a child is to have with another person, and there is no Family Law Court order (see 'Family Law Court orders' as described in s. 11.13.2: 'Complaints which involve breaches of an order or injunctions of the Family Law Court' of this chapter), an officer does not have power to act unless the officer believes on reasonable grounds that the child is in imminent danger (see s. 7.4.1: 'Children at immediate risk of harm' and, if relevant, subsection 'Protection of children of mentally ill persons' of s. 6.6.1: 'Mental distress or crisis' of this Manual) or the circumstances of the contact create an offence (e.g. a parent is subject to a bail condition which requires the parent not to have contact with the child as the child is a prosecution witness for an offence committed by the parent).

Request for police assistance

When officers:

(i) receive a request from a parent of a child to:

(a) recover a child from the other parent's custody;

(b) recover a child from another party who has permission from the other parent to have custody of the child at that time;

(c) keep the peace in relation to recovering a child; or

(ii) attend or are requested to attend a location where a child custody dispute is taking place,

officers should:

(i) establish if the child is the subject of a current Family Law Court order, and if so, comply with s. 11.13.2: 'Complaints which involve breaches of an order or injunctions of the Family Law Court' of this chapter;

(ii) if no Family Law Court order exists, advise the parties to seek legal advice with a view to obtaining a Family Law Court order;

(iii) conduct inquiries to establish whether the child is at risk of harm, including relevant checks on all parties establishing:

(a) their personal particulars including name, date of birth and their usual place of residence;

(b) their mental state and whether there is a history of mental illness;

(c) any previous dealings with police (QPRIME), and where possible, other agencies including other jurisdictions; and

(d) if there is a history of domestic and family violence or child welfare issues.

(iv) ensure that the subject child is safe and not at risk of immediate harm. If at risk of immediate harm, officers are to take action in accordance with s. 7.4.1 of this Manual;

(v) if allegations of child harm are made where a child is subject to a Family Law Court order, officers are to comply with s. 7.3.8: 'Allegations of child harm where child is subject of Family Law proceedings' of this Manual;

(vi) seek advice from their local CPIU office should officers have any concerns;

(vii) take any other enforcement action as required by legislation (e.g. DFVPA and *Mental Health Act*);

(viii) where a child is present during a custody dispute between parents, consider furnishing an 'Emotional Abuse of Child' Policelink occurrence for assessment by CPIU; and

(ix) advise the parent in general terms of police inquiries made regarding the welfare of the child. For example the subject child was sighted by officers to be in good health.

OPM Issue 113 Public Edition

11.14 Commonwealth support and the Australian Defence Force assistance and aid

11.14.1 Introduction

Standing arrangements are in place for provision of support, assistance and aid by the Commonwealth to the States and Territories for acts of terrorism, other serious acts of violence that may be beyond the capability of the State or Territory police, civil emergencies/disasters, significant Commonwealth/State anniversaries, significant cultural events, and special medical evacuations.

11.14.2 Commonwealth support (includes Defence Assistance to the Civil Community)

Emergency Management Australia (EMA) is responsible for the coordination of all Commonwealth support during periods of disaster.

PROCEDURE

The Executive Officer, Queensland Disaster Management Committee, is the nominated Queensland official to request Commonwealth support from EMA in a disaster.

11.14.3 Defence Assistance to the Civil Community

Defence Assistance to the Civil Community is the provision of Australian Defence Force personnel, equipment, facilities or capabilities to perform tasks that are primarily the responsibility of civil authorities or organisations, and for which the civilian community lacks the necessary equipment or resources. It includes assistance in counter disaster training. Such assistance is not automatic, except where a local Australian Defence Force commander may authorise assistance in civil emergencies where immediate action is necessary to save the lives or property of people in imminent danger and where local civilian resources are inadequate or unavailable.

The six categories of Defence Assistance to the Civil Community

The six categories of Defence Assistance to the Civil Community (DACC) are summarised in the following paragraphs:

(i) Emergency situations:

(a) **Category 1 DACC** is emergency assistance for a specific task(s) provided by a Local Commander/Administrator, from within his or her own resources, in localised emergency situations when immediate action is necessary to save human life, alleviate suffering, prevent extensive loss of animal life or prevent widespread loss/damage to property. A category 1 DACC is not normally longer than 24 hours. Examples include aviation and/or personnel for search and rescue tasks;

(b) **Category 2 DACC** is emergency assistance, beyond that provided under Category 1, in a more extensive or continuing disaster where action is necessary to save human life or alleviate suffering, prevent extensive loss of animal life or prevent loss/damage to property, and when State/Territory resources are inadequate. Examples include use of plant equipment or aviation for movement of people. Ministerial approval is required after requesting assistance from Emergency Management Australia; and

(c) **Category 3 DACC** is assistance associated with a civil emergency or disaster recovery, which is not directly related to the saving of life or property. Examples include temporary bridging, clean up of oil pollution and generators. Ministerial approval is required after requesting assistance from Emergency Management Australia; and

(ii) Non-emergency situations:

(a) **Category 4 DACC** is non-emergency assistance provided to other government departments or authorities, to the States or Territories, local government or other authorities or organisations, commercial enterprises, non-profit organisations, or individuals or bodies in the general community. The range of tasks for a category 4 DACC request is wide and examples may include support for significant sporting events, use of specialist defence resources, disposal of dangerous materials and training assistance;

(b) **Category 5 DACC** is non-emergency assistance of a minor nature, excluding flying tasks, provided to local organisations and which is within the capacity of a Local Commander/Administrator's resources and authority. The difference between category 4 and 5 requests is the amount of assistance and/or the possibility of public controversy or political sensitivity. If in doubt, requests will be treated as a category 4 request; and

(c) **Category 6 DACC** is assistance to civil authorities in the performance of non-emergency law enforcement related tasks where there is no likelihood that Australian Defence Force personnel will be required to use force. Examples include non-emergency explosive ordnance disposal relating to commercial explosives and chemicals (other than of a military origin), surveillance, searches for hidden materials, provision of communications and control facilities, interpreters and transportation.

OPM Issue 113 Public Edition

Call out procedure

POLICY

Requests for Defence Assistance to the Civil Community for categories 2 and 3 are made under the Queensland Disaster Management Arrangements. Applications for defence assistance in these circumstances are to be made by the relevant District Disaster Coordinator through the State Disaster Coordination Centre (also see ss. 17.2: 'Disaster Management', 17.2.1: 'District Disaster Management Group members' responsibilities', and 17.2.2: 'Declaration of a disaster situation' of this Manual).

A request for Defence Assistance to the Civil Community other than for categories 2 and 3 should be made in accordance with local arrangements or district or station instructions to the commanding officer or nominated delegate of the relevant Australian Defence Force establishment.

Cost recovery for Defence Assistance to the Civil Community

Category 1 and 2 Defence Assistance to the Civil Community is cost free (unless the recipient agrees to pay costs of support). For Categories 3 through to 6 Defence Assistance to the Civil Community, there is direct cost recovery by the Australian Defence Force where the tasks cost more than $2500 (unless a cost waiver/variation is approved). All decisions on cost recovery are made by the Australian Defence Force.

Requesting Defence Assistance to the Civil Community (primary considerations)

POLICY

Before any request for Defence Assistance to the Civil Community is submitted, the following criteria should be met:

(i) it should be demonstrated that no suitable alternative resource is available;

(ii) there is an inability to react with sufficient speed;

(iii) appropriate resources are not available; or

(iv) there is a need for immediate action necessary to:

(a) save human life;

(b) alleviate suffering;

(c) prevent extensive loss of animal life; or

(d) prevent wide spread loss/damage to property.

As a general principle, the provision of Defence Assistance to the Civil Community should be regarded as the exception rather than the rule.

Requests for supplies and/or Australian Defence Force equipment under Defence Assistance to the Civil Community (additional considerations)

PROCEDURE

The following factors should be considered before requesting supplies and/or equipment under Defence Assistance to the Civil Community:

(i) description of item(s), including any known handling restrictions (e.g. weight and dimensions if aircraft movement is involved);

(ii) quantities required (by location);

(iii) whether the request includes transport or whether transport arrangements have been made;

(iv) whether the request is a loan (i.e. are items recoverable);

(v) person or authority who will take responsibility for the supplies or equipment when delivered on site;

(vi) address and telephone number of consignee who will accept delivery if not on site;

(vii) urgency of request, including date and time by which delivery should be completed; and

(viii) reasons of inability to provide or arrange for supplies/equipment from local or commercial sources.

Requests for Australian Defence Force air support under Defence Assistance to the Civil Community (additional considerations)

POLICY

The following factors should be considered before requesting aircraft support under Defence Assistance to the Civil Community:

(i) description of types of tasks likely to be undertaken (e.g. pre-positioning of aircraft in an area for prolonged period, casualty evacuation, distributing relief supplies or reconnaissance);

(ii) an indication of the likely commitment including anticipated radius of operation and number of tasks per day;

OPM Issue 113 Public Edition

(iii) person or authority who will be coordinating requests at the disaster site, including call sign and frequency;

(iv) location of the base that aircraft will be working from and, if possible, the availability of fuel by type at the base;

(v) current conditions of airfields and loading zones in the area;

(vi) expected duration of task; and

(vii) reasons alternate methods not used (e.g. commercial or other aircraft).

11.14.4 Defence Force Aid to the Civil Authority

National agreements for State/Commonwealth involvement are coordinated through the National Counter-Terrorism Committee (NCTC). The Australian Defence Force (ADF) can provide assistance to civil authorities to perform their law enforcement tasks where such tasks are beyond the capability of that authority and where ADF resources may be required to use force against persons. Such assistance may be in response to terrorism or other serious acts of violence. Assistance to the Civil Authority is facilitated through the process of 'Defence Force Aid to the Civil Authority' (DFACA).

Templates for the requests of ADF through DFACA are found in the 'Guidelines for requesting support from the Australian Defence Force (Call Out) under Part IIIAAA of the *Defence Act 1903* by States and Territories'.

ORDER

Police Commanders are to adhere to the guidelines set down in the 'Guidelines for requesting support from the Australian Defence Force (Call Out) under Part IIIAAA of the *Defence Act 1903* by States and Territories' available from the Security and Capability Development Unit, Prepare, Prevent, Protect Group, Security, Counter-Terrorism and Forensic Services Command SharePoint page.

11.15 Migration Act (Cwlth)

The *Migration Act* (Cwlth) forms the legislative basis for all forms of migration and visa applications in Australia of non-citizens, including humanitarian assistance.

11.15.1 Department of Home Affairs and Australian Border Force

The Department of Home Affairs (DHA) is the Australian Government interior ministry responsible for national security, law enforcement, emergency management, border control, immigration, refugees, citizenship, transport security and multicultural affairs. The DHA is comprised of:

(i) the Australian Border Force (ABF);

(ii) the Australian Security Intelligence Organisation (ASIO); and

(iii) the National Emergency Management Agency (NEMA).

The department overseas centralised coordination, strategy and policy leadership for:

(i) cyber and critical infrastructure resilience and security;

(ii) immigration;

(iii) boarder security and management;

(iv) counter-terrorism;

(v) the protection of our sovereignty; and

(vi) citizenship and social cohesion.

The Australian Border Force (ABF) is the operational enforcement entity within the DHA, responsible for offshore and onshore border enforcement, investigations, compliance, detention operations and customs services nationally.

The Australian Security Intelligence Organisation (ASIO) plays a crucial role in gathering intelligence and providing the government with information on activities or threats that may endanger Australia's national security.

The National Emergency Management Agency (NEMA) leads and coordinates national efforts in emergency management. It develops scalable, coordinated emergency management capabilities to address significant national, cross jurisdictional and international crises.

For all request for Immigration, visa or movements information see s. 7.2.9: 'Requesting information from Department of Home Affairs' of the MSM.

Queensland Remand Liaison

The DHA has a Queensland Remand Liaison (QRL) that monitors non-citizens who are currently charged with any offence and monitors court outcomes to action cancellations and detention/removal processes, where required. The QRL should be advised if charges are laid to temporary or permanent visa holders. The QRL can be contacted by email

OPM Issue 113 Public Edition

or phone to assist with other enquires (see SMCD). It should be noted that QRL do not have access to immigration and visa records or movement and passenger information.

Border Operations Centre

The Movement Alert List (MAL), overseen by the DHA, stores biographic details and travel documents of individuals who pose immigration concerns to Australia.

Details of identities and documents of concern are recorded on MAL through cooperation between the DHA, security agencies, law enforcement agencies, other Government departments and immigration officers both in Australia and overseas. Any inquiries in relation to the MAL are to be made to the QRL. See also s. 11.15.2: 'Assistance to officers of the Department of Home Affairs and Australian Border Force' subsection: 'Providing intelligence to the Department of Home Affairs' of this chapter.

The Field Operations and Removals

Field Operations (see SMCD) located in Brisbane provides operational assistance to police on joint operations in areas of mutual interest. They also provide advice and assistance regarding any necessary action that may be taken in regard to unlawful non-citizens or deportees.

Once an individual is determined to be an unlawful non-citizen or deportee by Field Operations, the Removals unit is responsible for their removal from Australia. See also s. 11.15.3: 'Deportation and removal' of this chapter.

Immigration Status Service

The Immigration Status Service (ISS) facilitates the checking of the immigration status of persons of interest to determine if they are lawfully or unlawfully in Australia. The ISS 24 hour helpline can assist police (see SMCD). See also s. 11.15.4: 'Unlawful non-citizens' of this chapter.

11.15.2 Assistance to officers of the Department of Home Affairs and Australian Border Force

Officers who are called upon to assist officers from the Australian Border Force (ABF) should do so in order to control breaches of the peace (see also s. 13.4.9: 'Breaches of the peace' of this Manual and s. 50: 'Dealing with breach of the peace' of the PPRA).

Assistance to ABF officers may include:

(i) arrest of persons detained by ABF officers;

(ii) escort of persons detained to the nearest detention centre; and

(iii) location of persons who have escaped immigration detention.

Assistance does not normally extend to the escort of detainees from prisons or watch-houses to airports or to interstate destinations, as this responsibility rests with the AFP in conjunction with the ABF.

Where AFP or immigration authorities are unable to attend, the escort of such prisoners can be undertaken within the State provided that no expense concerning the escort is incurred by the Service.

Providing intelligence to the Department of Home Affairs

Officers who are requested to provide intelligence held by the Service to the Department of Home Affairs (DHA) are to forward a report outlining the intelligence sought through their regional crime intelligence coordinator to the Detective Superintendent, Crime Command.

The Detective Superintendent, Crime Command should consider the request and advise DHA what intelligence if any will be released.

See also s. 5.6.15: 'Requests for information from other law enforcement agencies' of the MSM.

11.15.3 Deportation and removal

Deportation and removal of non-citizens is a federal responsibility. Officers will provide assistance to the Federal authorities where necessary regarding any investigations involving non-citizens as suspects.

Sections 201: 'Deportation of non-citizens in Australia for less than 10 years who are convicted of crimes' and 203: 'Deportation of non-citizens who are convicted of certain serious offences' of the *Migration Act* (Cwlth) (MA(C)) set out the conditions necessary for non-citizens to be deported.

Section 501: 'Refusal or cancellation of visa on character grounds', of the MA(C) allows for the refusal or cancellation of visas for non-citizens who it is believed do not pass the character test. Subsection 501(6) of the MA(C) outlines when a person does not pass the character test. This can include when a person:

(i) has a substantial criminal record where the person has been:

(a) sentenced to death, or life imprisonment;

(b) sentenced to terms of imprisonment totalling 12 months or more (see s. 501(7A) of the MA(C));

OPM Issue 113 Public Edition

(c) acquitted of an offence on the grounds of unsoundness of mind or insanity, and as a result the person has been detained in a facility or institution; or

(d) found by a court to be unfit to plead to an offence, but nonetheless found on the evidence available to have committed the offence, and as a result has been detained in a facility or institution;

(ii) is reasonably suspected by the Minister to have been or is:

(a) a member of a group or organisation, or has had an association with a group, organisation or person which is or has been involved in criminal conduct; or

(b) involved in conduct constituting:

- people smuggling;
- trafficking in persons; or
- the crime of genocide, a crime against humanity, a war crime, a crime involving torture or slavery or a crime of serious international concern;

(iii) is not of good character (relating to their past or present criminal or general conduct);

(iv) if allowed to enter or remain in Australia there is a risk the person would:

(a) engage in criminal conduct;

(b) harass, molest, intimidate or stalk another person;

(c) vilify a segment of the community;

(d) incite discord in the community; or

(e) represent a danger to the community, whether by way of being liable to become involved in activities that are disruptive to, or in violence threatening harm to, that community, or in any other way;

(v) has been found guilty of a sexual offence involving a child in Australia or elsewhere, even if discharged without a conviction;

(vi) has been charged in Australia or elsewhere for the crime of genocide; a crime against humanity; a war crime; a crime involving torture or slavery or a crime of serious international concern;

(vii) has been assessed by the Australian Security Intelligence Organisation to be a security risk;

(viii) is the subject of a current Interpol notice which reasonably indicates they present a risk to the Australian community, or a segment of the Australian community;

(ix) convicted of an offence committed whilst in immigration detention; or

(x) convicted of an offence committed after the person escaped immigration detention but before being taken into immigration detention again.

A non-citizen who does not pass the character test may have their visa cancelled and be removed from Australia.

Officers investigating matters involving non-citizens who may be liable to deportation or removal from Australia in accordance with the MA(C) are to furnish a report through the regional crime co-ordinator or for members of Crime Command, a detective superintendent, to the State Manager, Department of Home Affairs (DHA) (see SMCD), advising of the circumstances and that deportation or removal may be considered for that non-citizen. Officers who suspect a person is an unlawful non-citizen or deportee should contact DHA to establish that person's status (see s. 11.15.4: 'Unlawful non-citizens' of this chapter).

Officers who become aware of the location of unlawful non-citizens or deportees should seek advice regarding any necessary action from the DHA. Contact the Field Operations of DHA (see SMCD and s. 11.15.1: 'Department of Home Affairs and Australian Border Force' of this Manual).

Where the DHA request information in accordance with s. 501L: 'Disclosure of information to the Minister' of the MA(C), the information is to be released in accordance with Delegation D 61.2.

11.15.4 Unlawful non-citizens

Unlawful non-citizens are people who are not citizens of Australia and do not hold current visas permitting them to be in Australia. There is an exception made for non-citizens who are traditional visitors within the Torres Strait Protected Zone.

Police officers of the Queensland Police Service are 'officers' for the purpose of the *Migration Act* (Cwlth) (MA(C)) (s. 5: 'Interpretation') and pursuant to Delegation D 61.1.

Officers who locate persons that they know or reasonably suspect are unlawful non-citizens should require them to produce evidence that they are lawful non-citizens (s. 188: 'Lawful non-citizen to give evidence of being so' of the MA(C)). If the persons are unable to produce such evidence officers should:

OPM Issue 113 Public Edition

(i) obtain:

(a) their full name, date and place of birth and nationality;

(b) any other names used by the person;

(c) any current and previous addresses;

(d) date and port of arrival;

(e) the type of visa held and whether it is current;

(f) details of any other visa applications made; and

(g) any other documentation which proves identity and right to be in Australia;

(ii) contact the 'Immigration Status Service (ISS)' of the Department of Home Affairs (DHA) by telephone or e-mail to confirm the immigration status of the persons, see SMCD. (If the request is by telephone, a follow-up written request on official letterhead or email will also be required);

(iii) if the person's unlawful non-citizen status is confirmed then detain the person at a watch-house (s. 189: 'Detention of unlawful non-citizens' of the MA(C)); and

(iv) arrange with Field Operations of the Australian Border Force, see SMCD for the persons to be taken into their custody or be issued with bridging visas.

ORDER

Officers are to detain persons whom they know or reasonably suspect are unlawful non-citizens (see s. 189: 'Detention of unlawful non-citizens' of the MA(C)). Detention under the MA(C) can include requiring persons to remain in the company of an officer while further inquiries are made. Officers are to document the reasons for detaining persons they suspect are unlawful non-citizens in the relevant QPRIME Custody Report or Custody Report (Full) in the Detention Log, under General Detention.

A person so detained is to be detained until lawfully released or until that person is taken into custody by the Australian Border Force or the DHA.

Officers are to release the person from immigration detention if:

(i) the person provides evidence of Australian citizenship;

(ii) the officer comes to know or later forms a belief on reasonable grounds that the person is an Australian citizen;

(iii) the person provides evidence that they are a lawful non-citizen; or

(iv) the person is granted a visa.

Officers who detain unlawful non-citizens are to advise them that they will be detained until they are removed from Australia or until they can be lawfully released and that they may apply to the DHA for a visa within two working days of the beginning of their detention (ss. 194: 'Detainee to be told of consequences of detention' and 195: 'Detainee may apply for visa' of the MA(C)). Officers detaining any person under the provisions of s. 189: 'Detention of unlawful non-citizens' of the MA(C) are to complete a Form 1275: 'Police record of immigration detention' and forward this form to the ISS by e-mail. See SMCD.

OPM Issue 113 Public Edition

11.15.5 Criminal justice certificates and visas

Officers investigating an offence involving a non-citizen may apply to the Commissioner for the issue of a 'State criminal justice entry certificate' or a 'State criminal justice stay certificate' if it is deemed necessary for:

(i) the administration of justice; and

(ii) authorisation is required for the non-citizen to enter Australia; or

(iii) the non-citizen unlawfully in Australia to remain,

as either a person charged with or witness to a criminal offence.

A 'State criminal justice entry certificate' is required if a non-citizen is:

(i) to be extradited to Australia from another country under the *Extradition Act* (Cwlth);

(ii) a person who has a criminal record or is otherwise generally prohibited from obtaining a visa to enter Australia; or

(iii) a witness in a criminal matter and is required to enter Australia.

A 'State criminal justice stay certificate' is required if the continued presence of a non-citizen is required in Australia for:

(i) an investigation to determine if an offence has been committed;

(ii) the prosecution of the person for an offence; or

(iii) the punishment by way of imprisonment of the person for an offence.

Expenses

The Service is responsible for all costs and associated incidentals e.g. travel (to and from Australia), accommodation, health and other living expenses for non-citizens on a:

(i) criminal justice entry visa; or

(ii) criminal justice stay visa.

Any payments made to the non-citizen are usually equivalent to a Centrelink unemployment benefit but the final determination of any expenses will be made by a court (see s. 160 'Conditions of criminal justice visa' of the *Migration Act* (Cwlth) (MA(C)).

Application for a State criminal justice entry certificate

Officers applying for a State criminal justice entry certificate are to:

(i) complete the following correspondence (see the Deputy Commissioner, Regional Operations (DCRO) SharePoint page):

(a) Commissioner's cover letter;

(b) maintenance (cost) undertaking;

(c) questionnaire; and

(d) certificate;

(ii) submit a report in hard and electronic form through the chain of command to the relevant assistant commissioner addressing:

(a) the reasons the non-citizen's entry into Australia is required;

(b) details of the person's valid travel document (passport etc.);

(c) itinerary of the proposed travel arrangements (including the date of departure from Australia);

(d) address whilst staying in Australia;

(e) all anticipated expenses including;

- travel to and from Australia; and
- living expenses (including accommodation, meals and medical);

(f) confirmation the expenditure will be authorised and borne by the relevant district or command;

(g) arrangements made to ensure a non-citizen with a history of violence will not be a danger to the general public; and

(iii) forward all correspondence to the DCRO requesting approval for the issue of a certificate (see s. 146: 'State criminal justice entry certificate' of the MA(C)).

Application for a State criminal justice stay certificate

Officers applying for a State criminal justice stay certificate are to:

(i) complete the following correspondence (see the DCRO SharePoint page):

(a) Commissioner's cover letter;

(b) maintenance (cost) undertaking;

(c) questionnaire; and

(d) certificate;

(ii) submit a report in hard and electronic form through the chain of command to the relevant assistant commissioner addressing:

(a) circumstances surrounding the status of:

- the non-citizen's authority to be in Australia; and
- the unlawful non-citizen's removal or deportation from Australia;

(b) details of the offence and the non-citizen's involvement play in the judicial process;

(c) details of arrangements made for the non-citizens including;

- living expenses (including accommodation, meals and medical); and

OPM Issue 113 Public Edition

- confirmation the expenditure will be authorised and borne by the relevant district or command;

(d) the address of the unlawful non-citizen if the person is not being kept in detention or custody; and

(e) arrangements made to ensure a non-citizen with a history of violence will not be a danger to the general public; and

(iii) forward all correspondence to the DCRO requesting approval for the issue of a certificate (see s. 148: 'State criminal justice stay certificate' of the MA(C)).

Cancellation of certificates

Officers are to advise the office of the DCRO at the earliest opportunity about a non-citizen on a criminal justice stay certificate no longer being required.

When a non-citizen is no longer required for the administration of justice, the officer is to:

(i) complete the following correspondence (see the DCRO SharePoint page);

(a) cancellation letter; and

(b) cancellation certificate;

(ii) complete a report which addresses:

(a) the reason why the non-citizen is no longer required;

(b) the date after which the non-citizen will no longer be required;

(c) the non-citizen's current address; and

(d) details of the arrangements (State criminal justice entry certificates) made for the non-citizen's departure from Australia; and

(iii) submit this correspondence by the most expedient means through the chain of command to the DCRO.

The Department of Home Affairs is responsible for the removal of an unlawful non-citizen from Australia once a State criminal justice stay certificate is cancelled.

ORDER

The investigating officer is to comply with this section and provide all written correspondence to the DCRO at the earliest opportunity.

Responsibilities of the Deputy Commissioner, Regional Operations

If the DCRO is satisfied the information supporting the application for the issue of a;

(i) State criminal justice entry certificate; or

(ii) State criminal justice stay certificate,

is sufficient then the application is to be forwarded to the Commissioner for the issue of a certificate.

Where a certificate is issued, the Commissioner's cover letter, certificate, questionnaire and maintenance (cost) undertakings will then be forwarded by the Office of the DCRO to:

(i) the Minister for Home Affairs (for entry visas only for endorsement by the Minister for Home Affairs in accordance with s. 146(2): 'State criminal justice entry certificate 'of the MA(C)), see SMCD; and/or

(ii) the Criminal Justice Programme (within Human Trafficking and Criminal Justice Visas section) of the Department of Home Affairs (for both entry and stay visas), see SMCD.

The DCRO will forward all reports requesting the cancellation of a State criminal justice certificate to the Commissioner for approval prior to referring the signed documents to the Criminal Justice Programme, the Human Trafficking and Criminal Justice Visas section of the Department of Home Affairs.

11.16 Racial Discrimination Act

The *Racial Discrimination Act* (Cwlth) is an Act relating to the elimination of racial and other discrimination.

Policy and procedures regarding discrimination are contained within Chapter 6: 'Persons who are vulnerable, disabled or have cultural needs' of this Manual and outlined on the Workforce Management 'Performance and Conduct' SharePoint page.

11.17 Offences against Services Australia legislation

Services Australia is responsible for administering the federal:

OPM Issue 113 Public Edition

(i) Centrelink;

(ii) Medicare; and

(iii) Child Support,

agencies through a number of complex legislative arrangements.

The *Social Security Act* (Cwlth) provides for the payment of certain pensions, benefits and allowances, and for related purposes.

The *Child Support (Assessment) Act* (Cwlth) and *Child Support (Registration and Collection) Act* (Cwlth) provides for the payment of benefits to assist the costs of raising children following their parent's separation.

The *Health Insurance Act* (Cwlth) provides for the partial payment of the costs involved in providing medical care and for related purposes through Medicare.

The Pharmaceutical Benefits Scheme subsidises the costs of certain prescription medicines to members of the public.

Services Australia has two branches responsible for conducting investigations into breaches of the:

(i) Medicare and Pharmaceutical Benefits Scheme; and

(ii) Centrelink and Child Support,

which are coordinated from the department's facilities in Canberra. There are investigation teams based in each State and Territory.

POLICY

A member who receives a complaint of a fraud related offence committed against any of the legislation administered by Services Australia should:

(i) create a QPRIME occurrence and ensure the following information is recorded in the occurrence:

(a) full circumstances of the complaint, including any supporting evidence, such as CCTV and documents;

(b) details of informant and any witnesses regarding the complaint; and

(c) any known details of the suspect for the offence; and

(ii) where a suspect is nominated in the occurrence, a copy of the QPS Occurrence Report should be forwarded by email to the relevant Services Australia investigation branch (see SMCD).

An officer who receives a QPRIME occurrence for investigation concerning a fraud related offence committed against any of the legislation administered by Services Australia, should:

(i) contact the relevant Services Australia investigation branch by email to determine whether the Service or Services Australia will investigate the offence; and

(ii) ensure that the informant is contacted and advised of any action to resolve the complaint, especially if the matter is transferred to Services Australia for investigation.

Officers who wish to access information held by the Department of Human Services should refer to s. 7.2.3: 'Services Australia (Centrelink, Medicare and Child Support)' of the Management Support Manual.

OPM Issue 113 Public Edition

11.18 Airports legislation

See s. 14.11: 'Carriage of firearms or ammunition on aircraft and at airports' of this Manual.

11.18.1 Air Navigation Act

The *Air Navigation Act* (Cwlth) is an Act relating to air navigation.

11.18.2 Civil Aviation Act

Section 24: 'Interference with crew or aircraft' of the *Civil Aviation Act* (Cwlth) includes an offence for interfering with a crew member of an aircraft in the course of the performance of his or her duties as such a crew member or for doing anything which threatens the safety of an aircraft or of any persons on board the aircraft.

11.18.3 Civil Aviation Regulations

The *Civil Aviation Regulations* (Cwlth) contains provisions including an offence for disorderly and offensive behaviour in an aircraft (s. 256AA refers).

11.18.4 Crimes (Aviation) Act

The *Crimes (Aviation) Act* (Cwlth) is an Act relating to crimes and certain other acts committed on or in respect of certain aircraft, aerodromes, airports and air navigation facilities and for related purposes.

11.18.5 Crimes (Hostages) Act

The *Crimes (Hostages) Act* (Cwlth) is an Act which gives effect to the International Convention against the taking of hostages and for other related purposes.

11.19 Other Acts

Generally, officers are not required to take any action in relation to these Acts.

Matters that come to the attention of members of the Service relating to these Acts should be referred to the relevant authority.

11.19.1 Customs Act

Where members of the Service assist the Australian Border Force enforcing provisions of the *Customs Act* (Cwlth), it should be noted that State police officers are authorised persons under s. 183UA: 'Definitions' of the *Customs Act* (Cwlth). Part XII, Division 1: 'Powers of Officers' of the *Customs Act* (Cwlth) contains the powers, duties and responsibilities of an authorised person.

POLICY

Before exercising the powers, duties and responsibilities of an authorised person under the *Customs Act* (Cwlth), officers are to ensure that they have been granted approval in compliance with s. 14: 'Declaration of police officers as public officials' of the PPRA.

See also s. 11.5.1: 'Department of Home Affairs and Australian Border Force' of this chapter.

11.19.2 Navigation Act

The *Navigation Act* (Cwlth) is an Act relating to navigation and shipping.

11.19.3 Defence Force Discipline Act

The *Defence Force Discipline Act* (Cwlth) is an Act relating to the discipline of the Defence Force and for related purposes.

11.20 Other Commonwealth matters and agencies

11.20.1 Australian Protective Service (cultural property)

The Australian Protective Service (APS), a division of the Commonwealth Department of Administrative Services, protects certain property which is owned by the Commonwealth, as well as property for which the Commonwealth accepts responsibility while it is in Australia.

For the purposes of this section, the term 'cultural property' includes valuable works of art, antiquities, property of artistic interest, rare manuscripts and archives. Displays of Aboriginal artefacts, properly identified and valued as such, could be cultural property.

Responsibilities of the APS include the escort and protection of Commonwealth indemnified exhibitions of cultural property, assessment of security arrangements at cultural institutions accepting cultural property for display and the exchange of information with Interpol regarding the theft or vandalism of any cultural property.

POLICY

Members investigating offences in relation to cultural property should contact the Australian Protective Service and supply information as to the:

(i) complainant person or organisation;

(ii) location of the offence;

(iii) description of property;

(iv) value of property and whether or not indemnified by the Commonwealth; and

(v) if property has been stolen, the likelihood of attempts being made to dispose of the property interstate or overseas.

OPM Issue 113 Public Edition

11.20.2 Interpol

Section 7.3.1: 'International inquiries through Interpol' of the MSM contains Service policy and procedures relating to requests for Interpol assistance.

See also ss. 8.3.5: 'Advising next of kin', s. 10.9.3: 'Action prior to approval to seek extradition' and s. 12.4.1: 'Responsibility of officer who receives a report' of this Manual.

11.20.3 War crimes tribunal inquiries

In Australia, the primary function of investigating war crimes activities rests with the Commonwealth and, in particular, the Australian Federal Police (AFP) in conjunction with the Department of Home Affairs (DHA) and the Attorney General's Department. The DHA has responsibility for liaising with relevant ethnic groups and non-government organisations to facilitate reported sightings of alleged war criminals in Australia.

The various state and territory Police Services have been requested to refer the report of any sightings, which have been made to them, to the AFP in their respective states and territories.

There may be occasions where persons seek to report sightings of alleged war criminals to officers of the Service.

Officers should not interview suspected war criminals. In all circumstances the presumption of innocence is to prevail including due regard to privacy. Officers should also be aware of the possibility of malicious allegations.

Where persons seek to report sightings of alleged war criminals, officers should refer the complainant to, and separately report details of the complainant/complaint to the AFP (see SMCD).

11.20.4 Assistance to Australians overseas

The Department of Foreign Affairs and Trade is responsible for the provision of consular services to Australian citizens overseas.

Consular assistance and protection are typically provided to Australians overseas who:

(i) are detained by the local authorities for alleged breaches of local law;

(ii) fall ill or are injured and need help in dealing with the local medical services and/or in keeping family members in Australia informed;

(iii) encounter an unexpected difficulty, e.g. loss of travel documents, tickets or money, and need guidance or assistance; or

(iv) have been out of contact with their family for an extended period or family members need to make urgent contact with them due to matters such as the death of a family member.

POLICY

Members who receive inquiries in relation to assistance which may be required by an Australian citizen overseas should advise the inquirer to contact the Consular Operations Centre, Department of Foreign Affairs and Trade, Canberra (see SMCD).

See also s. 12.4: 'Missing person occurrence' of this Manual in relation to residents of Australia missing overseas.

11.20.5 International persons wishing to defect from their country of origin

Persons who are not Australian citizens are permitted to be in Australia if they hold an appropriate current visa.

There may be instances where a lawful non-citizen may approach an officer and claim that they wish to defect to Australia from their country of origin, i.e. they wish to seek political asylum.

Officers who are approached by a person claiming to be a defector are to endeavour to determine the status of the person.

To assist in establishing whether the person is a genuine political defector or an economic refugee, officers are to determine:

(i) the person's name (surname, former surname or maiden name, first names and any other names known by, including pseudonyms and nicknames);

(ii) the person's address (current address in Australia and address in their country of origin);

(iii) the person's date and place of birth;

(iv) the person's nationality, citizenship or ethnicity;

(v) any identifying documents in the person's possession;

(vi) any safety issues;

(vii) the languages spoken or read by the person; and

OPM Issue 113 Public Edition

(viii) the person's basis for claiming to be a 'political defector' or economic refugee.

Officers have a responsibility to ensure the safety of a genuine political defector or an economic refugee and the community, although matters relating to the defection or immigration status of the subject person are the responsibility of the Department of Home Affairs (Home Affairs).

Upon being notified of a claim as a genuine defector or economic refugee, officers are to contact Home Affairs to provide further information in relation to Home Affairs making an application for a Protection visa.

Further information can be obtained by going to the Department's website—www.homeaffairs.gov.au, or by telephone—131 881.

Officers are to generate an Intelligence Submission including all relevant information of the person and provide the available information relating to the possible defector as outlined in points (i) to (viii). An intelligence submission is to be completed under the headings *Security/Illegal Immigration* and be tasked to QTASIG (5856) in order for it to be assessed in the National Security space in consultation with partner agencies.

11.20.6 Commonwealth department responsible for education or employment

The Commonwealth departments responsible for education or employment administer Commonwealth funded programs.

These departments' national offices and a joint Investigations Branch, Shared Services Centre (see SMCD) (IB) are located in Canberra. The purpose of the IB is to investigate and initiate prosecutions where fraud is detected and to undertake fraud prevention against departmental programs.

A member of the Service who receives a complaint or report concerning a fraud related offence relevant to funding from a Commonwealth department for education or employment, should:

(i) comply with the provisions of s. 1.11: 'QPRIME occurrences' of this Manual; and

(ii) ensure the following information is recorded in the QPRIME occurrence:

(a) full circumstances of the complaint/report;

(b) details of person(s) making the complaint/report; and

(c) details and contact telephone number of the member taking the complaint/report.

An OIC of a station or establishment detailed a QPRIME occurrence (s. 1.11.4: 'Assigning Policelink and Missing Persons Unit entered occurrences' of this Manual) concerning a fraud related offence committed against a Commonwealth department responsible for education or employment should:

(i) check the details of the QPRIME occurrence with the member who took the complaint or report of the fraud related offence and ensure all available information is included in the report;

(ii) ensure the QPRIME occurrence is cross referenced with the initial report (hard copy);

(iii) forward to the Director, IB:

(a) an email copy of the QPRIME occurrence; and

(b) any evidentiary material; and

(iv) ensure that the complainant is contacted and advised of any action to resolve the complaint.

Members who detect a matter that may impact on a Commonwealth department responsible for education or employment operations should advise the Director, IB.

Officers who wish to access information held by a Commonwealth department responsible for education or employment should refer to s. 7.2.5: 'Requesting information from the Commonwealth department responsible for education or employment' of the MSM.

11.21 Public Order (Protection of Persons and Property) Act

The *Public Order (Protection of Persons and Property) Act* (Cwlth) is an Act relating to the preservation of public order and security in certain territories and in respect of Commonwealth premises, premises and personnel of diplomatic and special missions, consular posts, and international organisations, federal courts and tribunals.

Policy regarding public order/safety within the terms of State legislation is in Chapter 13: 'Miscellaneous' of this Manual.

POLICY

Officers are to familiarise themselves with the following provisions of the *Public Order (Protection of Persons and Property) Act* (Cwlth):

OPM Issue 113 Public Edition

Part IIA—Provisions relating to premises of certain investigatory authorities

s. 13C: 'Power of authorised officer to require information';

s. 13D: 'Power of authorised officer to search a person or require a person to deposit personal effects';

s. 13E: 'Removal from authority premises';

s. 13F: Person not to carry firearm, explosive substance or offensive weapons on authority premises';

Part IV—General

s. 22: 'Arrest'.

11.22 Excise Act

11.22.1 Seizure of illicit tobacco products

All tobacco products manufactured (including cultivated) in or imported into Australia are subject to payment of Federal Government taxes in the form of excise/customs duty and/or licensing fees.

This policy is concerned with possession of or trade in locally cultivated tobacco plants or manufactured tobacco products (commonly referred to as **'chop-chop'**) for which excise or relevant license fees have not been paid (**'illicit tobacco products'** or 'ITP').

Officers who detect ITPs in the course of their duties or suspect a person is cultivating tobacco plants or manufacturing tobacco products should contact the Australian Taxation Office (ATO) on 1800 060 062 or forward the information to the ATO via the www.ato.gov.au website.

Relevant legislation

The *Excise Act* (Cwlth) (EA) contains a number of offence provisions, within ss. 117 to 117I, relating to trade in ITP, including unlawful possession, moving, selling, and buying of excisable goods, and tobacco leaf, plant and seed.

Section 116: 'Forfeiture' of the EA (Cwlth) provides for the automatic forfeiture to the Crown classes of goods relating to the unlicensed manufacture or possession of excisable goods and tobacco seed, plant and leaf, and their transport and packaging.

Section 9: 'Seizure and condemnation of forfeitable goods' of the *Crimes Act* (Cwlth) (CA) provides any officer may, without warrant, seize any articles which are forfeited or are reasonably believed to be forfeited under any law of the Commonwealth.

Section 107FA(4): 'Seized goods to be secured' of the EA (Cwlth) provides if an officer seizes any forfeited goods under s. 9 of the CA (Cwlth), the officer is to, as soon as practicable, deliver the goods into the custody of an officer (see s. 4: 'Definitions' of the EA (Cwlth)).

OPM Issue 113 Public Edition

Action following detection of forfeitable tobacco related goods

POLICY

Officers should not automatically seize any goods which can be forfeited under s. 116 of the EA (Cwlth) without first contacting the ATO for assistance in determining:

(i) the status of the suspected goods; and

(ii) whether seizure is warranted in the circumstances.

If it is recommended that the goods be seized, the ATO will provide advice concerning:

(i) to whom and when the delivery of the goods will be effected (see subsection 'Action following seizure of forfeitable tobacco related goods' of this section); and

(ii) if any additional assistance the ATO can provide with respect to the seized goods, such as transport and storage arrangements for large seizures.

Officers should not prosecute a person for an offence under the EA (Cwlth) before contacting the ATO for advice.

Officers may use discretion in applying the above policy in cases where small amounts of goods which are forfeited or are reasonably believed to be forfeited pursuant to s. 116 of the EA (Cwlth) are detected (i.e. an officer may locate, upon searching a person, a clear plastic bag containing 10 grams of tobacco suspected of being chop-chop).

Action following seizure of forfeitable tobacco related goods

POLICY

The term **'relevant commonwealth officer'** means an officer for the purpose of the EA (Cwlth).

An officer who seizes goods under s. 9 of the CA (Cwlth) should:

(i) as soon as reasonably practicable deliver the goods into the custody of a relevant commonwealth officer (see s. 107FA(4) of the EA (Cwlth)); and

(ii) advise the person to direct any inquiries with respect to the seized goods to the Regional Manager, Excise Investigations, ATO; and

(iii) issue a QPB 32A: 'Field Property Receipt';

(iv) as soon as practicable after delivering the seized goods, obtain a receipt from the relevant commonwealth officer nominated by the ATO; and

(v) if the goods cannot be immediately delivered into the custody of a relevant commonwealth officer, as soon as practicable lodge the goods at an appropriate property point and comply with the provisions of paragraph (iv).

The Service's involvement in the seizure of goods is considered finalised once:

(i) the goods are delivered into the custody of the relevant commonwealth officer; and

(ii) a receipt has been issued for the seized goods, unless the seizing officer is required to:

(a) provide a statement or affidavit; or

(b) give direct evidence at any subsequent hearing,

with respect to the seizure.

Costs associated with seizure

POLICY

The ATO has undertaken to cover all costs incurred by the Service for transport and storage of goods deemed to be forfeited pursuant to s. 116 of the EA (Cwlth) and seized by officers under s. 9 of the CA (Cwlth). Application for reimbursement of these costs should be negotiated directly with the regional investigations office of Excise, ATO, by the officer in charge of the station, establishment or district concerned.

Regional investigations office of ATO

In addition to providing advice and other assistance to officers with respect to the issues addressed in this policy, the ATO (see SMCD), will also provide advice with respect to other articles subject to excise and which may be liable to seizure, such as suspected illicit alcohol products.

OPM Issue 113 Public Edition

11.23 Aviation and maritime transport security

The *Aviation Transport Security Act* (Cwlth) (ATSA(C)) provides a regulatory framework to safeguard against unlawful interference with aviation within Australia. To achieve this purpose the ATSA(C) establishes minimum security requirements for civil aviation in Australia by imposing obligations upon persons engaged in civil aviation related activities. Part 5, Division 3: 'Law enforcement officers' of the ATSA(C) provides police with specific powers relating to areas in and around airports.

Similarly, the *Maritime Transport and Offshore Facilities Security Act* (Cwlth) (MTOFSA(C)) provides a safeguard against unlawful interference with maritime transport and achieves this by establishing minimum security requirements. Part 8, Division 4: 'Law enforcement officers' of the MTOFSA(C) provides police with specific powers in and around ports and ships.

11.23.1 Aviation Transport Security Act

For the definitions of 'airport', 'airside area', 'airside security zone', 'landside area', 'landside security zone', and 'security controlled airport' see s. 9: 'Definitions' of the *Aviation Transport Security Act* (Cwlth) (ATSA(C)) and for a definition of 'unlawful interference with aviation' see s. 10 of the ATSA(C). For the definition of 'law enforcement officer', see s. 82: 'Law enforcement officers' of the ATSA(C).

See also 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.

Access

Officers performing duty at a security controlled airport may enter and remain in any part of a security controlled airport at any time. See s. 83: 'Access to airports by law enforcement officers' of the ATSA(C).

Stopping and searching

Sections 84: 'Stopping and searching people' and 85: 'Stopping and searching vehicles' of the ATSA(C) provides officers with the authority to stop and search people and vehicles within an airside area, where the officer reasonably believes that it is necessary to do so for the purposes of safeguarding against unlawful interference with aviation.

Removal of people and vehicles

Officers are authorised under s. 86: 'Requests to leave areas or zones' of the ATSA(C) to request people to leave an aircraft, an area, a zone, or an airport when the officer reasonably suspects that a person is committing or has committed an offence against the ATSA(C). Once a request has been made, and the person fails to comply with the request, officers are authorised to remove people from the aircraft, area, zone, or airport under s. 87: 'Removing people from aircraft, airports, areas or zones' of the ATSA(C). When removing people officers may only use as much force as is reasonably necessary.

Officers have the authority under s. 88: 'Removing vehicles from areas or zones' of the ATSA(C) to remove a vehicle from an area or zone of a security controlled airport, where the officer reasonably suspects that the vehicle presents a risk to aviation security or the vehicle is in the zone without the proper authority. However, the officer must not remove the vehicle without making reasonable efforts to have the person in control of the vehicle remove the vehicle.

11.23.2 Maritime Transport and Offshore Facilities Security Act

For definitions of 'maritime industry participant', 'maritime security zone', 'security regulated port' and 'security regulated ship' see s. 10: 'Definitions' of the *Maritime Transport and Offshore Facilities Security Act* (Cwlth) (MTOFSA(C)). For definition of 'unlawful interference with maritime transport' see s. 11 of the MTOFSA(C). For the definition of 'law enforcement officer', see s. 151: 'Law enforcement officers' of the MTOFSA(C).

Access

Officers may enter and remain in, any part of a security regulated port at any time. However, before entering any part of a security regulated port the officer is to identify themselves to the maritime industry participant who is in control of the area the officer is entering, and inform the participant why the officer is entering that part of the security regulated port, (see s. 152: 'Access to ports by law enforcement officers' of the MTOFSA(C)).

Stopping and searching

When an officer reasonably believes that it is necessary to do so for the purposes of safeguarding against unlawful interference with maritime transport, the officer may stop a person, vehicle or vessel that is within a maritime security zone or a person that is on a security regulated ship and may search the person, vehicle or vessel. See ss. 153: 'Stopping and searching people', 154: 'Stopping and searching vehicles' and 155: 'Stopping and searching vessels' of the MTOFSA(C).

When an officer stops a person, vehicle or vessel the officer is to identify themselves as a police officer to the person or the person in charge of the vehicle or vessel, and then tell the person the reason for being stopped. If a search is then to be conducted, the officer is to tell the person the reason for the search.

Removal of people, vehicles and vessels

Where an officer reasonably suspects that a person who is on a ship or within a maritime security zone, has committed or is committing an offence against the Act, the officer may request the person to leave the ship or the zone. See s. 156: 'Requests to leave ships or zones' of the MTOFSA(C).

When a person fails to comply with a request from an officer to leave a ship or maritime security zone, the officer may remove the person using as much force as is reasonably necessary to do so (see s. 157: 'Removing people from ships or zones' of the MTOFSA(C)).

When an officer reasonably suspects that a vehicle or vessel that is in or near a maritime security zone and presents a risk to maritime transport security or is there without the proper authorisation, the officer may remove the vehicle or vessel (see ss. 158: 'Removing vehicles from zones' and 159: 'Removing vessels from zones' of the MTOFSA(C)).

11.23.3 General provisions

To comply with the provisions of either Act, officers may only remove a vehicle or vessel after making reasonable efforts to have the person in control of the vehicle or vessel remove it. When a vehicle is to be removed, officers are to comply with the provisions of s. 4.12: 'Towing of motor vehicles' of this Manual.

Any person who hinders or obstructs an officer exercising a power under either Act commits an offence. When commencing an investigation for an offence against either Act refer to ss. 11.5: 'Investigation of Commonwealth offences' and 11.3: 'Prosecution of Commonwealth offences' of this Chapter and Chapter 3: 'Prosecution Process' of this Manual.

When searching people under the provisions of either Act, an 'ordinary search' or a 'frisk search' may be conducted, for the definitions of these terms see s. 3C: 'Interpretation' of the *Crimes Act* (Cwlth). See also s. 16.10: 'Search of persons' of this Manual.

In all cases where a person or vehicle has been stopped and searched, officers are to comply with the requirements of s. 2.1.2: 'Registers required to be kept' and s. 16.8: 'QPRIME custody, search and property reports' of this Manual.

Officers should remain aware at all times that an incident at airports and ports may relate to terrorist acts or preparatory activities relating to terrorism. When officers suspect that an incident may relate to terrorism, officers should refer to the relevant provisions of s. 17.3.26: 'Terrorist emergency' of this Manual.

OPM Issue 113 Public Edition

For the carriage of weapons and prohibited items within airports refer to s. 14.11: 'Carriage of firearms, ammunition, handcuffs, batons, conducted energy weapons and Oleoresin Capsicum (OC) spray etc. on aircraft at airports' of this Manual. For the escort of persons in custody by commercial aircraft, see s. 10.4.18: 'Escort of persons in custody by commercial transport' of this Manual.

11.24 Human trafficking (offences against humanity and related offences)

Human trafficking is a colloquial term used to cover a wide range of offending behaviours for the purpose of exploitation which include the recruitment, transportation, transfer, harbouring or receipt of persons by means such as the threat or use of force, other forms of coercion or deception. The *Criminal Code Act* (Cwlth) contains the relevant provisions for offences against humanity and related offences (see Chapter 8: 'Offences against humanity and related offences' and particularly Division 270: 'Slavery and slavery-like offences' and Division 271: 'Trafficking in persons'). The offence types include and are not limited to:

(i) slavery—the condition of a person over whom any or all of the powers attaching to the right of ownership are exercised—and applies whether or not:

(a) the conduct occurred in Australia; or

(b) the victim or the offender are Australian citizens or residents;

(ii) slavery-like practices, including:

(a) servitude;

(b) forced labour; and

(c) deceptive recruiting for labour or services.

These offences can apply to the exploitation:

(a) of a person's labour or services in any industry; or

(b) within intimate relationships, such as forced marriage, which is where one or both parties to the marriage do not fully and freely consent because of coercion, threat or deception, or because they are incapable of understanding the nature and effect of a marriage ceremony, for reasons including age or mental capacity.

The slavery-like offences can apply where the conduct occurred:

(a) in Australia; or

(b) outside Australia but the offender was an Australian corporation, citizen or resident.

None of the above offences require the victim to be moved across or within Australia's borders;

(iii) trafficking in persons, which includes:

(a) trafficking people into, out of, and within Australia; and

(b) specific provisions for:

- domestic trafficking;
- organ trafficking; and
- trafficking in children;

(iv) debt bondage; and

(v) harbouring a victim.

For further in depth information see the Department of Foreign Affairs and Trade: People, Smuggling, Human Trafficking and Modern Slavery webpage.

While the Australian Federal Police (AFP) is the primary enforcement agency for human trafficking offences, states and territories also have responsibilities in combating human trafficking.

The Service is tasked with collecting, collating, and analysing information from frontline policing related to human trafficking. Given the complexity of offences under this statute the Child Abuse and Sexual Crime Group (CASCG), Crime Command is responsible for reviewing suspected human trafficking offences before referring them to the AFP.

CASCG conducts investigations in collaboration with regional investigators, external law enforcement agencies, and government and non-government organisations both nationally and internationally.

Human trafficking offences involving children or of a sexual nature fall under the direct responsibility of CASCG.

Investigations regarding human trafficking

Officers who receive information relating to a human trafficking offence are to:

OPM Issue 113 Public Edition

(i) record an intelligence submission in QPRIME at the first available opportunity (see s. 2.10.2: 'Intelligence submissions' of this Manual); and

(ii) forward completed intelligence submission via a QPRIME task to the relevant district or local regional intelligence office for investigation.

Intelligence officers who receive a QPRIME intelligence submission relating to human trafficking are to:

(i) review the submission and ensure the information is effectively assessed and evaluated and a sanitised copy is created; and

(ii) create and assign a QPRIME task:

(a) 'for your attention' to CASCG [1432] or DSCG [5735] for review;

(b) 'for your information' to State Intelligence [3067] for consideration; and

(c) 'for your information' to the relevant local CPIU or CIB unit for information.

ORDER

Officers who suspect human trafficking or become aware of any human trafficking offences under Divisions 270: 'Slavery and slavery-like offences' and 271: 'Trafficking in persons' of the *Criminal Code Act* (Cwlth) are to notify their shift supervisor and DDO or RDO. The notified DDO or RDO is to notify the regional crime coordinator (RCC) and seek advice on how to proceed. The RCC is to facilitate engagement with Crime Command through the on-call Duty Inspector, Crime Command.

In circumstances where officers locate a human trafficking victim or receive reliable information relating to a human trafficking offence where there is imminent risk of harm to any person, they are to comply with this order immediately.

Where an officer believes a child has been harmed or is at risk of harm, they are to apply the Child Harm Referral Process (see s. 7.3.1: 'Initial action for reports of child harm' of this Manual).

OPM Issue 113 Public Edition

Chapter 12—Missing Persons

12.1 Introduction **954**

12.2 References to legislation **954**

12.3 General information **954**

12.3.1 Missing Persons Unit 954
12.3.2 Release of information to the media 954
12.3.3 Authority for media release 955

12.4 Missing person occurrence **955**

12.4.1 Responsibilities of case officer 955
12.4.2 Responsibility of shift supervisor, district duty officer or patrol group inspector 958
12.4.3 Responsibility of officers in charge of stations and establishments 958
12.4.4 Missing person investigations involving multiple regions, interstate or international 958
12.4.5 Responsibilities of intelligence officers 960
12.4.6 Report to coroner where missing person reasonably suspected of being dead 960

12.5 Located missing persons **960**

12.5.1 Responsibilities of officers regarding located missing persons 960
12.5.2 Non-disclosure of the whereabouts of a missing person 961

12.6 Amber alerts **962**

12.6.1 First response officers 962
12.6.2 Regional duty officer, patrol group inspector or detective inspector 963
12.6.3 Regional crime coordinator (or supervising superintendent) 964
12.6.4 Appointed liaison officer 964
12.6.5 Detective Superintendent, Child Abuse and Sexual Crime Group, Crime Command 964
12.6.6 Child Abuse and Sexual Crime Group, Crime Command officers 964
12.6.7 Police Communications Centres 964
12.6.8 Brisbane Police Communications Centre and Policelink 964
12.6.9 Media and Public Affairs 965

12.7 Missing persons during disaster events **965**

12.8 High-risk missing person warrants **965**

12.8.1 Applying for a missing person warrant 966
12.8.2 Non-urgent applications for a missing person warrant 966
12.8.3 Establishing an urgent missing person scene 967
12.8.4 Powers at missing person scene 968
12.8.5 Limitations of missing person scene 968
12.8.6 Restricting access to missing person scene 968
12.8.7 When a place ceases to be a missing person scene 969
12.8.8 Search warrants (administrative arrangements) 969

OPM Issue 113 Public Edition

12.1 Introduction

Definitions

For the purposes of this chapter:

Authorised assistant

for missing person powers see s. 11: 'Authorised assistants—Act, sch 6' contained within Schedule 11: 'Responsibilities code' of the PPRR.

Case officer

means the officer responsible for conducting and finalising a missing persons investigation.

An officer who receives a missing person report (reporting officer) is the case officer. This officer remains the case officer unless a new case officer is assigned.

High-risk missing person

means a missing person classified as 'High-Risk' upon completion of the 'Risk Assessment Guidelines for Missing Persons' when entering a QPRIME missing person occurrence. See s. 179C of the PPRA for when a missing person is high-risk for the purpose of a missing person warrant.

Known vulnerability

see definition contained in SMD.

Missing person

means a person, whether an adult or child, reported to police whose whereabouts are unknown and where there are fears for the safety or concerns for the welfare of that person, and a police officer makes reasonable inquiries to contact and locate that person and the persons whereabouts remain unknown (see s. 179B of the PPRA).

Note: When Queensland Health Mental Health Services initially contact police only for the purposes of requesting police to act alone in an authority to transport a person who is deemed Absent Without Approval (AWA) from treatment and care under the *Mental Health Act* or *Public Health Act*, they are not in this instance reporting the person missing for the purposes of this section.

Missing person scene

means that part of a place in which missing person powers may be exercised.

Missing person warrant

see s. 179J(1) of the PPRA.

Responsible station, unit or establishment

means the station, unit or establishment where the case officer is attached.

OPM Issue 113 Public Edition

12.2 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 on the Service Intranet.

12.3 General information

The Service has a responsibility to protect life. When a person is reported missing, inquiries are to be made by officers to locate or ensure the safety of that person.

To support this function, the Missing Persons Unit (MPU), Crime Command is responsible for the statewide overview, coordination and analysis of information in relation to missing persons.

12.3.1 Missing Persons Unit

For details of the Missing Persons Unit roles and functions, refer to their webpage on the Service intranet.

12.3.2 Release of information to the media

The Service recognises the right of privacy of individuals. Before releasing personal particulars or images of a missing person to the media, members are to comply with s. 12.3.3: 'Authority for media release' of this chapter. During the investigation or when making inquiries regarding a missing person, a member may show a photograph of the missing person to members of the public. If in doubt, seek advice from the MPU.

The media should be engaged to assist in locating a missing person. This includes where:

(i) the missing person is a child;

(ii) concerns exist that the missing person may not have the freedom or ability to voluntarily return home;

(iii) the physical or mental state of the missing person may be such that the missing person would not be able to consciously make a decision to return home;

(iv) such release may immediately cause the missing person to come forward; or

(v) the investigation is such that community assistance is necessary to locate the missing person.

12.3.3 Authority for media release

When an officer determines the assistance of the media is required to locate a missing person, the officer is to:

(i) contact the OIC of their station or establishment, or if that officer is not on duty;

(ii) their senior supervising non-commissioned officer; and

(iii) advise that officer of the circumstances and request permission to release particulars and image of the missing person to the media.

When an officer receives a request for a media release, the officer is to:

(i) consider the safety of the missing person;

(ii) consider the likelihood of locating the missing person;

(iii) request consent for the release of missing person information from the missing person's parents, relatives or inquirer (authorised person); and

(iv) if granted, complete and upload a QP 0950: 'Missing Person Media Authorisation' into the missing person occurrence. Consent is not required for a missing child in out of home care (see subsection' Child in out of home care reported missing' of s. 12.4.1: 'Responsibility of case officer' of this chapter); and

(v) give a direction to the officer making the request as to what action should be taken.

Where media release is authorised

Where a media release is authorised, the actioning officer is to:

(i) contact Media and Public Affairs to initiate the media release;

(ii) advise the officer who authorised the media release;

(iii) ensure that a copy of the media release and photo is attached to the QPRIME missing person occurrence; and

(iv) advise the consenting parent, relative or inquirer (authorised person) that the media release has been distributed.

Restrictions

Officers are to comply with s. 121: 'Restriction on publication of court proceedings' of the *Family Law Act* (Cwlth), which places restrictions on the publication of identifying information under the Act. When considering the release of information to the media, care is to be taken not to infringe the legislation. Particulars of Family Law proceedings are to be included in the QPRIME missing person occurrence.

See also s. 5.6.12: 'Information released by police seeking public assistance in the investigation of incidents and crimes', 'Images (including photographic)' section of the MSM.

Officers should liaise with missing person's parents, relatives or inquirer

In authorising the release of particulars of a missing person, the OIC of a station or establishment, or if that officer is not on duty, the senior supervising non-commissioned officer, should liaise or direct another officer to liaise with the missing person's parents, relatives or inquirer with a view to minimising any misunderstandings.

12.4 Missing person occurrence

12.4.1 Responsibilities of case officer

The case officer receiving a report of a missing person, is to immediately:

(i) establish from the inquirer that the person is a missing person (see Definitions of this chapter);

(ii) ascertain if there are fears for the safety or concerns for the welfare of the missing person or any persons in the missing person's immediate care;

OPM Issue 113 Public Edition

(iii) query QPRIME to ascertain if any previous records about the missing person exist;

(iv) prior to the termination of the case officer's shift, create a missing person occurrence in QPRIME and enter all required information (see s. 20.4: 'Missing Person report' of the First Response Handbook). The officer is to include sufficient details to substantiate the person being recorded as missing;

(v) complete the Missing Persons Template and associated Risk Assessment on the QPRIME occurrence;

(vi) create a missing person flag against the missing person on the QPRIME occurrence;

(vii) obtain a recent photograph of the missing person and enter on the QPRIME occurrence;

(viii) if the missing person is a child and the informant is not the parent, notify the parents of the incident, if appropriate;

(ix) if the missing person is the subject of a court order under the *Family Law Act* (Cwlth), advise the guardian a warrant must be obtained from a family court by the guardian who has custody. The warrant authorises police to remove the child if there is a need to use force. This function is usually performed by Australian Federal Police (AFP) and is attended to by an officer of the QPS when an AFP officer is unavailable;

(x) where appropriate, create a BOLO flier, disseminate and record details in QPRIME;

(xi) where suspicious circumstances exist, obtain:

(a) a DNA sample from an appropriate family member of the missing person. Treat any biometric samples obtained as an evidence sample;

(b) details of the person's current:

- medical practitioner; and
- dentist and dental records;

and enter details of these records on the QPRIME occurrence;

(xii) initiate inquiries aimed at locating the missing person and enter the result of those inquiries and other relevant information on the QPRIME occurrence;

(xiii) where the missing person is a school-aged child:

(a) contact the child's school regarding the child's attendance record, their networks and any other information which may assist the investigation. Where the child attends a State school and a representative cannot be contacted, officers should contact the Child Safety Director, Department of Education (see SMCD); and

(b) if the child attends a school with a school-based officer (see s. 1.7.8: 'Police in schools' of this Manual), where appropriate, direct the school-based officer to make inquiries amongst the school's community to identify information which may assist the investigation;

(xiv) notify the shift supervisor, DDO or patrol group inspector of the missing person, the circumstances surrounding the disappearance and any action taken; and

(xv) where the officer cannot create the missing person report prior to the termination of the shift, provide the relevant details to their shift supervisor, DDO, patrol group inspector or OIC who are to ensure the report details are entered and all necessary action and inquiries are made as soon as practicable.

Ongoing responsibilities of case officer

Throughout the missing person investigation the case officer is to:

(i) make all necessary inquiries to locate the missing person and update the QPRIME occurrence, including an entry on the Occurrence Enquiry Log, with the results of their inquiries;

(ii) if the missing person is a child in out-of-home care, access the Our Child portal for information to assist with avenues of inquiry;

(iii) obtain formal statements from all witnesses within the stipulated 60-day period (refer s. 2.13: 'Statements' of this Manual);

(iv) provide regular updates on the police investigation to the informant, family or next of kin of the missing person (where appropriate) and update the QPRIME occurrence accordingly. Consideration should be given by the case officer in identifying the most appropriate single point of contact (informant, family or next of kin) to ensure consistency, accuracy and regularity of information provided in relation to the investigation. The intervals with which updates are to be provided will be dependent upon the nature and progress of the investigation.

The case officer assumes the role of family liaison officer by providing regular updates and is the first point of contact within the Service for the informant, family or next of kin. For high risk missing person investigations that are considered suspicious and are investigated in accordance with s. 2.6.2: 'Homicide' of this Manual, the role of the family liaison officer will be appointed upon the establishment of the investigation centre;

OPM Issue 113 Public Edition

(v) send specific advice of the particulars of the missing person to the OIC of a station or establishment where the missing person is likely to visit. Such advice is to include a request for a reply to the inquiry;

(vi) if, after 60 days, the missing person has not been located, arrange a DNA evidence sample and dental records (if not already obtained) from a family member of the missing person and enter the details on the QPRIME occurrence;

(vii) consider the provisions of s. 12.4.6: 'Report to coroner where missing person reasonably suspected of being dead' of this chapter; and

(viii) if, at the conclusion of 12 months, the missing person has not been located, complete a QP 0608: 'Report to State Coroner (missing person—suspected reportable death)' on the QPRIME occurrence, and forward the QP 0608 together with a copy of the complete file to the Operations Leader, Missing Persons Unit through the applicable chain of command. The report should include the results of the police investigation into the cause and circumstances of the missing person's disappearance. Where appropriate, a request is to be included for the State Coroner to hold an inquiry into the cause and circumstances of the disappearance of the missing person.

Missing person is of a known vulnerability

ORDER

Where the person is of a known vulnerability (see definitions in SMD), a QPRIME missing person occurrence is to be created in all instances.

Missing person is not of known vulnerability

Where the missing person is not of a known vulnerability, the case officer is to be satisfied there exists a reasonable and justified concern for the safety or welfare of the person.

Missing person is an international home-stay school student

Where the person reported as missing is an international homestay school student, see s. 5.12.4: 'International homestay school students' of this Manual.

Inquiries of missing persons not a policing function

Missing person inquiries relating to family tree searches, child support issues or persons known to be homeless (see s. 6.3.11: 'Homeless persons' of this Manual) are not a policing function.

For loss of contact and family tracing inquiries outside Australia, refer to the Red Cross, Find My Family: Restoring Family Links services for assistance.

Child in out-of-home care reported missing

The Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS) has published guidelines in relation to the requirements on agencies providing care services to children in out-of-home care when a child goes missing from their placement (see Missing Persons Unit on the Service Intranet).

If the occurrence relates to a child in out-of-home care, in addition to the requirements of this section, the case officer is to:

(i) obtain a completed 'Missing Child Checklist' from the carer or the DFSDSCS staff member and upload the checklist on the QPRIME occurrence;

(ii) ensure a risk assessment relating to the missing child is completed and uploaded on the QPRIME occurrence;

(iii) include the classification of 'child in care' in the child's QPRIME occurrence involvement tab;

(iv) notify or cause to be notified the Child Safety Service Centre (CSSC), or the Child Safety After Hours Service Centre (CSAHSC). Officers are to obtain the name and contact details of the Child Safety officer advised and include that information on the QPRIME occurrence;

(v) ascertain whether DFSDSCS have contacted the biological parents of the child and identify if they had any information. It is the responsibility of DFSDSCS to contact the biological parents of the missing child;

(vi) consider the provisions of s. 166: 'Offence to refuse contact with child in custody or guardianship' of the *Child Protection Act*;

(vii) access the Our Child portal for information to assist with avenues of inquiry;

(viii) where a media release is to be issued:

(a) telephone the CSSC or CSAHSC; and

(b) send an email to the CSAHSC, including whenever practicable an image of the child (see SMCD),

to inform them of the media release; and

(ix) where it is necessary to identify the missing child as a child in out-of-home care in a media release, the authorisation of DFSDSCS is required.

OPM Issue 113 Public Edition

Where a media release is to be issued, QPS Media and Public Affairs is to advise the DFSDSCS Media Unit of the media release.

12.4.2 Responsibility of shift supervisor, district duty officer or patrol group inspector

Each shift supervisor, district duty officer (DDO) or patrol group inspector is to:

(i) ensure particulars of the missing person and other relevant information resulting from inquiries, including any vehicles or vessels of interest, have been entered in QPRIME, including entering a flag against the missing person;

(ii) ensure dissemination of the information has been arranged (if appropriate);

(iii) ensure the QPRIME missing person occurrence of a missing person receives immediate and continued attention;

(iv) assess the risk of the missing person in accordance with the Risk Assessment Guidelines for Missing Persons (available on the MPU SharePoint page) and enter this risk into the QPRIME occurrence under the priority field and complete the supervising officer section of the risk assessment form;

(v) supervise the immediate investigation;

(vi) where a child protection and investigation unit is established and the missing person is a child, cause the OIC of that unit to be advised as to the circumstances of the missing child;

(vii) ensure the OIC of the CIB, regional duty officer, DDO, patrol group inspector and the MPU are advised if the missing person occurrence:

(a) is suspicious;

(b) is out of character; or

(c) relates to a person of known vulnerability (see SMD).

Depending on the circumstances, consideration should be given to the urgent release of information to the public through the media or other appropriate means, see s. 12.3.2: 'Release of information to the media' of this chapter;

(viii) ensure the particulars of any missing person are brought to the attention of the OIC of the station or establishment, the relieving shift supervisor or DDO, and the district or station intelligence officer;

(ix) consider the need for a search in accordance with s. 17.5: 'Search and rescue' of this Manual; and

(x) where applicable consult with the Operations Leader, MPU to consider if the assistance of the Behavioural Specialist Unit, State Intelligence Group, Crime Command should be sought.

12.4.3 Responsibility of officers in charge of stations and establishments

Officers in charge of stations and establishments are to:

(i) ensure that a case officer has been assigned to each Missing Persons occurrence. If a different case officer is to be assigned, in consultation with the new case officer and their respective OIC, make a notation of the reassignment in QPRIME in the Occurrence Enquiry Log of the Missing Person occurrence;

(ii) check, and where required, assign a QPRIME missing person occurrence task to an officer or OIC of another station or establishment, for investigation or continuing inquiries;

(iii) ensure missing person occurrences are finalised as soon as practicable when missing persons are located;

(iv) ensure the Operations Leader, MPU is advised of any unidentified bodies or skeletal human remains located;

(v) maintain a register of services, agencies or organisations which are available to support missing persons and families of missing persons;

(vi) ensure at the conclusion of twelve months if the missing person has not been located and the person is reasonably suspected of being deceased, the case officer completes a 'Report to State Coroner, missing person—suspected reportable death' (QP 0608) on the QPRIME missing person occurrence as outlined in 'Report to coroner where missing person reasonably suspected of being dead' of this chapter; and

(vii) ensure the provisions of this chapter are adhered to.

12.4.4 Missing person investigations involving multiple regions, interstate or international

Where Missing Persons investigations cross multiple regions in Queensland:

(i) the missing person occurrence and case officer obligations do not typically transfer in the instance where the missing person is sighted in another region. However, upon agreement between a commissioned officer of the responsible region and the receiving commissioned officer of a region where the missing person was last sighted, the missing person occurrence may be transferred. The transfer is to be recorded in QPRIME in the Occurrence Enquiry Log of the Missing Person occurrence;

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(ii) where clarification of the most appropriate region to continue the investigation is required, the Operations Leader, Missing Persons unit (MPU) or Detective Inspector Homicide Investigation Unit will determine the region who will be responsible for investigation.

Missing person investigations transferred into Queensland

Where a missing person occurrence from an interstate or international law enforcement agency (LEA) is received by the MPU:

(i) the MPU is to assign a QPRIME 'Review' task to the relevant crime manager (see s. 1.11.4: 'Assigning Policelink and Missing Person Unit entered occurrences' of this Manual);

(ii) the OIC of the relevant station, unit or establishment is to assign the case officer; and

(iii) the case officer is required to conduct investigations and finalise the missing person report.

Missing person investigations transferred out of Queensland

If the occurrence relates to a resident of another Australian state or territory and the missing person is believed to be missing from that state or territory, the case officer should:

(i) complete a missing person occurrence in QPRIME;

(ii) include on the occurrence advice to the MPU, that the MPU in the state or territory where the person resides and is believed to be missing from, is to be advised of the missing person occurrence; and

(iii) commence the QPRIME workflow to the MPU.

The MPU should:

(i) email details of the occurrence, including the QPRIME occurrence reference number, to the relevant state or territory for investigation:

(ii) update the QPRIME occurrence that the relevant state or territory has been advised; and

(iii) update the occurrence to reflect the missing person is recorded as a missing person in the relevant state or territory.

The missing person flag attached to the person will remain active pending the person being located. The investigating officer from the state or territory where the person resides and is believed to be missing from should maintain contact with the informant.

Queensland resident missing overseas

If the occurrence relates to a permanent resident of Queensland missing overseas, the case officer is to make thorough inquiries with the informant to establish that the:

(i) person is a missing person;

(ii) matter is not a simple lack of contact; and

(iii) informant is not seeking only to establish the whereabouts of a person.

If the case officer's inquiries establish the person is missing overseas, they should:

(i) complete a missing person occurrence in QPRIME;

(ii) include in the occurrence advice to the MPU that Interpol, Canberra is to be advised of the person missing overseas;

(iii) commence the QPRIME workflow to the MPU;

(iv) maintain contact with the informant as per the policies and procedures contained in the chapter; and

(v) if available, hand to the informant a copy of the webpage 'What to do when someone is missing overseas', issued by the Department of Foreign Affairs and Trade (DFAT) (www.smarttraveller.gov.au).

The MPU should:

(i) email particulars of the occurrence to Interpol, Canberra for referral to DFAT; and

(ii) update the occurrence to reflect the missing person is recorded as a missing person overseas and reported to Interpol for referral to DFAT.

The missing person flag attached to the person will remain active pending the person being located.

Interstate inquiries into a missing person

To assist members in the location of a missing person or investigation of a missing person report, information may be required from other government departments or interstate law enforcement agencies (see s. 7.2.4: 'Interstate law enforcement agencies' of the MSM).

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Before requesting information from another government department, agency or instrumentality members are to ensure information required is not available on internal Service sources or systems. For further guidance on interstate requests see s. 7.2.4: 'Interstate law enforcement agencies' of the MSM.

To assist other government departments or interstate law enforcement agencies a member can supply information (see s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM) to another government department, agency or relevant entity if the agency believes the use or disclosure of the information is reasonably necessary for one or more enforcement-related activities conducted by a law enforcement agency (see Schedule 3: 'Queensland Privacy Principles', 'QPP 6—use or disclosure of personal information' of the Information Privacy Act).

During investigations into missing children, the officer should be aware of:

(i) child abuse indicators (see Chapter 7: 'Child Harm' of this Manual);

(ii) whether the family is recorded on the Department of Families, Seniors, Disability Services and Child Safety, Child Protection Information System (see s. 7.3.6: 'Checks of Unify' of this Manual); and

(iii) any order or warrant which may be in existence under the provisions of the:

(a) *Family Law Act* (Cwlth);

(b) *Child Protection Act*; or

(c) *Public Health Act*.

12.4.5 Responsibilities of intelligence officers

Case officers are to engage with district intelligence officers to seek assistance with missing person investigations.

Intelligence officers are to analyse any trends relating to missing persons.

Where identified, the information is to be communicated to the district officer or patrol group inspector and the regional intelligence officer.

12.4.6 Report to coroner where missing person reasonably suspected of being dead

The State Coroner requires notification as soon as a missing person is reasonably suspected of being deceased. Investigating officers who reasonably suspect that a missing person is deceased are to consult with the MPU.

It is the responsibility of the MPU to provide notification by way of an initial advice report to the Coronial Support Unit as outlined in s. 8.13.12: 'Missing person reasonably suspected of being deceased' of this Manual.

See also s. 8: '*Reportable death* defined' of the *Coroners Act*.

Duties of Operations Leader, Missing Persons Unit

The Operations Leader, MPU upon receipt of a QP 0608, is to:

(i) review the contents of the QPRIME occurrence;

(ii) where considered necessary, initiate further inquiries;

(iii) where considered appropriate, complete a report with a request to the State Coroner to direct a coroner to hold an inquest into the cause and circumstances of the disappearance of the missing person (see s. 28: 'When inquest may be held' of the *Coroners Act*); and

(iv) forward that report together with recommendations to the State Coroner.

Where reports and forms are submitted and other actions are taken, the QPRIME occurrence is to be updated reflecting this fact.

12.5 Located missing persons

12.5.1 Responsibilities of officers regarding located missing persons

Child in care located by carer or child safety officer

There is no requirement for officers to sight and interview children in care who return to their placement or are otherwise located safe and well by the carer or child safety officer. The carer or child safety officer will advise police by telephone the child has been located.

An officer who receives information a missing child in care has been located and is satisfied the information is accurate is to enter the details regarding the location of the missing person and all relevant particulars on the QPRIME missing person occurrence prior to the termination of that shift, including:

(i) completing a QP 0653: 'Missing person located report', noting the details of the informant;

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(ii) expiring the missing person flag against the person;

(iii) changing the status of the missing person to Missing; Located; and

(iv) initiate the workflow to the Missing Persons Unit.

Located missing persons—general

Unless extenuating circumstances exist, an officer should sight a missing person (other than a child in care) prior to them being deemed a located missing person. An officer who locates a missing person or receives information a missing person has been located and is satisfied that the information is accurate, is to:

(i) whenever practicable, interview the located missing person to ascertain the circumstances surrounding the disappearance;

(ii) enter all relevant particulars of the location on the QPRIME missing person occurrence prior to the termination of shift, including:

(a) complete a QP 0653: 'Missing person located report';

(b) expiring the missing person flag against the person on the occurrence;

(c) changing the status of the missing person to Missing; Located; and

(d) initiating the workflow to the Missing Persons Unit;

(iii) if the missing person is a child:

(a) during the interview of the child, attempt to gain intelligence regarding where the child was, who the child had been with etc. which may assist future occurrences or investigations;

(b) following the interview, complete the QP 0653 including the location found, any known associates, linked addresses and any other relevant information;

(c) consider possible child harm indicators or possible offences and submit a child harm occurrence in QPRIME, include where possible, the reasons for the disappearance and link the child harm occurrence to the missing person occurrence and task it to the local CPIU for attention;

(d) and is at risk of harm (see s. 9: 'What is harm' of the *Child Protection Act*), remove the child to a place of safety and make an application for a temporary assessment order in accordance with s. 7.4.3: 'Assessment orders' of this Manual;

(e) submit a Police Referral (see s. 6.3.14: 'Police referrals' of this Manual) for counselling services, if considered appropriate;

(f) do not remove a child from the custody of one parent or guardian to give that child to the other parent or guardian when the child is not subject of a court order; and

(g) if the child is subject to a *Child Protection Act* order, immediately notify the location to the Child Safety Service Centre, or the Child Safety After Hours Service Centre;

(iv) modify any vehicle(s) or vessel(s) of interest entry in QPRIME;

(v) have the inquirer or parents advised that the missing person has been located, subject to the authority to disclose whereabouts; and

(vi) act in accordance with s. 13.18.12: 'Mental Health Act warrants' of this Manual, if the missing person is the subject of a *Mental Health Act* warrant.

12.5.2 Non-disclosure of the whereabouts of a missing person

When a missing person is located, an officer is to keep the whereabouts of that missing person confidential if:

(i) the missing person is of, or over the age of, eighteen years and requests confidentiality. There is no objection to advising the inquirer or parent that the missing person has been located safe and well; or

(ii) the missing person is under the age of eighteen years, and disclosure of the whereabouts may endanger the safety of that person, the officer is to seek a direction from the shift supervisor or OIC of the station or establishment.

A shift supervisor or an OIC of the station or establishment to whom a request is made not to disclose the whereabouts of a missing person under the age of eighteen years, is to:

(i) direct that the missing person's whereabouts be disclosed to the inquirer or parent if satisfied the disclosure would not endanger the missing person;

(ii) if it is considered disclosure of the whereabouts of the missing person may endanger that person, direct no such information be released, until the safety of the missing person can be ensured;

OPM Issue 113 Public Edition

(iii) if such danger exists, and satisfactory arrangements cannot be made with the inquirer or parent, cause the matter to be referred to the nearest Child Protection and Investigation Unit for attention, or consider action under the *Child Protection Act* (see Chapter 7: 'Child Harm' of this Manual); or

(iv) if the missing person is subject of a *Child Protection Act* order, advise the Child Safety service centre which has the responsibility for the care of the child.

12.6 Amber alerts

Definitions

For the purposes of this section:

Amber alert

means a process that involves the urgent broadcast of relevant information through the media and other means to the public to facilitate the search for, location and the safe recovery of an abducted child or high-risk missing child.

Abducted child

means a person under the age of eighteen years who:

(a) is reasonably suspected of having been abducted or taken away by a person; and

(b) there appears to be an imminent risk of death or serious harm to them.

It is irrelevant whether the person taking the child has lawful custody of the child, or whether the person has obtained the consent of a parent or guardian to take the child.

High-risk missing child

means a person under the age of eighteen years who:

(a) is missing in concerning or suspicious circumstances; and

(b) there appears to be an imminent risk of death or serious harm to them.

See s. 179C of the PPRA for when a missing person is high-risk for the purpose of a missing person warrant.

Rationale for an amber alert

An amber alert is intended for time critical situations. While it can be a very important tool in helping to locate a child, it is not always appropriate in every circumstance. The inappropriate use of amber alerts could undermine the credibility, integrity and effectiveness of the system.

When considering the activation of an amber alert, the circumstances and risk factors of each case should be appraised on its own merits.

For an alert to be issued there should be:

(i) sufficient descriptive information available to make an amber alert effective; and

(ii) reasonable grounds for believing an amber alert will assist in the location and safe recovery of the child.

See 'Amber alert message' on the Communications Group SharePoint page for further details.

12.6.1 First response officers

ORDER

When a report is received that a child is missing, the first response officer is to respond and investigate in accordance with the provisions of this chapter and s. 2.4: 'Incident management' of this Manual. Additionally, the first response officer is to establish whether the circumstances suggest an abducted child or high-risk missing child.

Suspected abduction or high-risk missing child

In cases of a suspected abducted child or high-risk missing child, the first response officer is to:

(i) obtain sufficient descriptive information about the child, abductor and any vehicle used;

(ii) treat the report as a major investigation; and

(iii) immediately notify the:

(a) regional duty officer (RDO);

(b) patrol group inspector; or

OPM Issue 113 Public Edition

(c) detective inspector.

Where practicable, investigating officers are to liaise with the child's parents, relatives or inquirer to obtain permission to release particulars of the child and other associated matters for an amber alert.

Officers are to advise the RDO, patrol group inspector or detective inspector if the child is subject of proceedings or orders under the *Child Protection Act*, DFVPA or *Family Law Act* (Cwlth) (see subsection 'Child in out of home care reported missing' of s. 12.4.1: 'Responsibility of case officer' of this chapter).

Members of the immediate family of the child, and the child, are victims under the *Victims of Crime Assistance Act*, and where appropriate officers are to comply with the provisions of this Act and s. 2.12: 'Victims of crime' of this Manual.

12.6.2 Regional duty officer, patrol group inspector or detective inspector

A RDO, patrol group inspector or detective inspector advised of a suspected abducted child or high-risk missing child is to:

(i) establish whether the report is an abducted child or high-risk missing child report based on the information available; and

(ii) consult with the regional crime coordinator (or if unavailable, a supervising superintendent) in each instance who will determine whether or not an amber alert is to be implemented.

Where a regional crime coordinator (or supervising superintendent) approves an amber alert, the RDO, patrol group inspector or detective inspector is to:

(i) make inquiries with the first response officer or immediate family, if known, to ascertain whether they have been subject to proceedings under the *Child Protection Act*, DFVPA, and *Family Law Act* (Cwlth), and also whether the child may be subject to the provisions of those Acts, and if so, how the child is subject to the provisions of those Acts;

(ii) contact the:

(a) State Duty Officer, Brisbane Police Communications Centre; and

(b) relevant police communications centre, or in areas not covered by a police communications centre, the OIC of the police station where the incident occurred, and

provide:

(a) advice that approval has been obtained from the regional crime coordinator (or supervising superintendent) to implement an amber alert;

(b) sufficient information relating to the alert;

(c) contact details of the appointed investigating officer and, where an investigation centre is established, those details; and

(d) advice that a broadcast is required to be sent via a local and state wide message relating to the amber alert including the contact details for incoming information, and to implement the applicable regional or district instructions relating to an amber alert.

Note: Depending on the location of the incident, it may be appropriate to contact more than one police communications centre, e.g., Brisbane, Logan, Gold Coast, VKG Newcastle;

(iii) contact QPS Media and Public Affairs and provide the relevant media officer with sufficient information to enable an amber alert to be implemented;

(iv) update the regional crime coordinator (or supervising superintendent) of the amber alert details and any other pertinent information;

(v) consider appointing an investigating officer, who has direct knowledge of the circumstances, as a dedicated liaison officer (see s. 12.6.4: 'Appointed liaison officer' of this chapter);

(vi) as the information surrounding the circumstances of the amber alert change, or the child is located, ensure that information and notification of the child's location are communicated promptly to:

(a) Media and Public Affairs; and

(b) the relevant police communications centre; or

(c) in areas not covered by a police communications centre, the officer in charge of the police station where the incident occurred;

(vii) ensure the QPRIME missing person occurrence is updated with all relevant information by members who have responsibilities under this policy. This should include whether the amber alert assisted in locating the child (e.g. information received from public who heard alert); and

(viii) ensure a significant event message is submitted in a timely manner.

OPM Issue 113 Public Edition

12.6.3 Regional crime coordinator (or supervising superintendent)

Regional crime coordinators (or if unavailable, a supervising superintendent) are responsible for:

(i) approving the activation of an amber alert;

(ii) advising the Detective Superintendent, Child Abuse and Sexual Crime Group, Crime Command that an alert is being initiated;

(iii) conducting a debrief of the amber alert with relevant stakeholders as per normal incident response improvement processes. The records relating to an amber alert debrief should be appropriately maintained; and

(iv) reporting the outcomes and recommendations (positive or negative) identified in the debrief to:

(a) their assistant commissioner;

(b) Detective Superintendent, Child Abuse and Sexual Crime Group, Crime Command; and

(c) Superintendent, Communications Group, Emergency Response and Coordination Command.

12.6.4 Appointed liaison officer

The appointed liaison officer is responsible for:

(i) relaying accurate and timely descriptive information to police communications centres and Media and Public Affairs; and

(ii) being the single point of contact to ensure alert information is clarified and that timely updates are provided.

12.6.5 Detective Superintendent, Child Abuse and Sexual Crime Group, Crime Command

When advised of a pending amber alert, the Detective Superintendent, Child Abuse and Sexual Crime Group, Crime Command should:

(i) provide assistance to the regional crime coordinator (or supervising superintendent) in the form of advice; and

(ii) provide staff to attend the Brisbane Police Communications Centre to establish a Minor Incident Room for the reviewing and processing of information received from the public about the amber alert.

12.6.6 Child Abuse and Sexual Crime Group, Crime Command officers

Officers requested by the Detective Superintendent, Child Abuse and Sexual Crime Group, Crime Command to assist with an amber alert, should:

(i) contact the State Duty Officer, Brisbane Police Communications Centre (BPCC) and request a Minor Incident Room be stood up and advise an estimated time of arrival for staffing;

(ii) attend the BPCC and staff the Minor Incident Room; and

(iii) assist regional investigators by reviewing and processing calls taken by BPCC or Policelink call-takers.

12.6.7 Police Communications Centres

Communications centres operating outside of the Brisbane metropolitan area (or in areas not covered by a police communications centre, the officers in charge of those police stations) are to ensure the State Duty Officer, Brisbane Police Communications Centre is advised of an impending amber alert immediately upon being notified by the regional duty officer, patrol group inspector or detective inspector.

12.6.8 Brisbane Police Communications Centre and Policelink

The State Duty Officer at the Brisbane Police Communications Centre (BPCC) advised of an impending amber alert is to ensure:

(i) local amber alert instructions developed by the Manager, BPCC are implemented when necessary;

(ii) the Minor Incident Room is stood up in preparation for attending Child Abuse and Sexual Crimes Group, Crime Command officers;

(iii) Policelink is advised of an impending amber alert and that call-takers may be required to resource their incident room;

(iv) the amber alert local instruction processes are monitored and working;

(v) the staffing levels in support of an alert at BPCC and Policelink are monitored;

(vi) the information taken by BPCC or Policelink is being transferred to the Minor Incident Room;

(vii) a local and, where appropriate, a statewide message is broadcast relating to the amber alert including the contact details for incoming information;

OPM Issue 113 Public Edition

(viii) liaison with QPS Media regarding the status of broadcasts; and

(ix) liaison with Policelink to ensure calls being taken by Policelink call-takers are being transferred to the Minor Incident Room at BPCC.

The Policelink supervisor advised of an impending amber alert is to:

(i) comply with local instructions regarding amber alert and disseminate information to the BPCC Minor Incident Room; and

(ii) liaise with the State Duty Officer, BPCC to ensure the systems and processes implemented are working effectively.

12.6.9 Media and Public Affairs

The Manager, QPS Media and Public Affairs is to ensure:

(i) protocols are developed, maintained, and reviewed as required, between the Service, the media, and other agencies and organisations which may be involved in amber alerts;

(ii) local instructions are developed to ensure that amber alerts are implemented without delay. The procedures should include the maintenance of contact lists of media and other agencies or organisations which may be involved in various localities, forms which are to be used to transfer information to the media, agencies or organisations, and other relevant matters;

(iii) consideration be given to the requirements of s. 12.3.3: Authority for media release' of this chapter; and

(iv) media officers with sufficient expertise or experience are made available to ensure that when a regional duty officer, patrol group inspector, detective inspector or regional crime coordinator (or supervising superintendent) contacts Media and Public Affairs for the purpose of implementing an amber alert, that media officer:

(a) confirms that the alert has been approved by a regional crime coordinator (or supervising superintendent);

(b) implements an alert without delay;

(c) maintains appropriate liaison with the regional duty officer, patrol group inspector, regional crime coordinator (or supervising superintendent) or appointed liaison officer and other areas of the Service whilst the alert is active; and

(d) consults with the regional duty officer, patrol group inspector, detective inspector, regional crime coordinator (or supervising superintendent) or appointed liaison officer in relation to the type of media and/or agencies/organisations to be provided with the information relating to the alert.

OPM Issue 113 Public Edition

12.7 Missing persons during disaster events

An event under the provisions of s. 16 of the *Disaster Management Act* may be natural or caused by human acts or omissions and is:

(i) a cyclone, earthquake, flood, storm, storm tide, tornado, tsunami, volcanic eruption or other natural happening;

(ii) an explosion or fire, a chemical, fuel or oil spill, or a gas leak;

(iii) an infestation, plague or epidemic;

(iv) a failure of, or disruption to, an essential service or infrastructure; or

(v) an attack against the State.

ORDER

Where there is a situation that constitutes one of the events as listed in s. 16 of the *Disaster Management Act* and concerns are held for the safety and whereabouts of a proportionate number of persons, investigating officers must contact the Detective Superintendent, Homicide Group, Crime Command, who will determine if the Missing Person Unit is to be deployed.

The Missing Person Unit upon deployment will be in charge of the investigation for the missing person and, where necessary, can request any other specialist support sections to assist them.

12.8 High-risk missing person warrants

Definition

For the purpose of this section:

Responsible officer

see s. 179A 'Definitions for part' of the PPRA.

In most missing person investigations, police are allowed by consent of an occupier to enter a high-risk missing person's residence, place of employment or another place to conduct an investigation. However, consent may not always be forthcoming.

Chapter 7, Part 3A: 'Searching places for high-risk missing persons' of the PPRA allows a police officer to establish a missing person scene at a place to search for the missing person or information about the person's disappearance.

A police officer can establish a missing person scene under a missing person warrant issued by a Supreme Court judge or a magistrate, or initially without warrant in urgent situations (see 'Urgent situations' of this chapter). In both situations an officer must obtain prior authorisation from a commissioned police officer.

12.8.1 Applying for a missing person warrant

A missing person warrant can only be applied for where the person is a high-risk missing person in accordance with s. 179C: 'When a missing person is high-risk' of the PPRA.

In such instances, the applicant police officer must be satisfied the missing person is:

(i) under 13 years of age; or

(ii) they reasonably suspect the missing person may suffer serious harm if not found as quickly as possible.

An officer, on approval from a commissioned officer, may apply for a missing person warrant where the officer reasonably suspects the occupier of the place cannot, or is unlikely to, provide consent for police to search the place for the high-risk missing person or for information about their disappearance.

Officers do not have to apply for a missing person warrant if the place is a public place while the public place is ordinarily open to the public. If in the course of a missing person investigation an officer is asked to leave a public place by the occupier, as the public place is no longer open to the public, the officer is to apply for a missing person warrant (see s. 179F: 'Responsibility after establishing missing person scene before obtaining missing person warrant' of the PPRA).

ORDER

As soon as reasonably practicable the responsible officer is to complete a QPRIME Investigative warrant occurrence [1687] (see s. 55: 'Exercises of powers under Act relating to missing person warrants' of the PRC).

Levels of requisite suspicion or belief for missing person warrants

When making application for a warrant to establish a missing person scene, officers are to:

(i) for the high-risk missing person's residence, place of employment or vehicle, hold a reasonable suspicion; and

(ii) for any other place, hold the higher-level suspicion of reasonable belief.

Urgent situations

Where it is necessary, as a matter of urgency, to establish a missing person scene before obtaining a missing person warrant, a commissioned officer may authorise the establishment of a missing person scene. In such circumstances, an officer must apply to a Supreme Court judge or a magistrate for a missing person warrant as soon as reasonably practicable after establishing the scene.

ORDER

Prior to an officer applying for a high-risk missing person warrant in non-urgent circumstances or establishing an urgent missing person scene before a warrant is obtained, an officer is to seek authorisation from a commissioned officer. See s. 12.8.3: 'Establishing an urgent missing person scene' of this chapter.

12.8.2 Non-urgent applications for a missing person warrant

When an officer seeks to apply for a missing person warrant (see s. 179J: 'Applying for a missing person warrant' of the PPRA) in non-urgent circumstances from a Supreme Court judge or a magistrate, they are to:

(i) ensure the missing person is a high-risk missing person (see s. 179C: 'When a missing person is high-risk' of the PPRA);

(ii) hold a reasonable suspicion that the occupier of the place cannot, or is unlikely to provide consent for police to search the place for the high-risk missing person or for information about their disappearance;

(iii) hold the requisite suspicion that the missing person may be at the place or an inspection of the place may provide information about the person's disappearance;

(iv) obtain authorisation from a commissioned officer prior to applying for the warrant;

(v) complete a form QP 1099: 'Application for a missing person warrant (issued by a Supreme Court judge or a magistrate) and form QP 1102: 'A missing person warrant' (see s. 179K of the PPRA);

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(vi) complete a form QP 1100: 'Notice to occupier of the making of an application for the issue of a missing person warrant by a Supreme Court Judge or a magistrate' and if reasonably practicable, (see s. 179J(5) of the PPRA, if giving notice would frustrate or otherwise hinder the investigation), give notice of the making of the application to the occupier of the place;

(vii) apply to a Supreme Court Judge or a magistrate for the missing person warrant;

(viii) create a QPRIME Investigative warrant occurrence;

(ix) execute the warrant and establish the missing person scene. If practicable, electronically record any exercise of missing person powers; and

(x) give a copy of both the missing person warrant and the Form 9: 'Statement to occupier' to the occupier as soon as reasonably practicable.

The commissioned officer authorising the application for a missing person warrant must:

(i) be satisfied the person is a high-risk missing person;

(ii) be satisfied there are sufficient grounds for the applicant officer to hold the requisite level of suspicion to search the place for the missing person or for information about their disappearance; and

(iii) be satisfied it is reasonably necessary to exercise missing person powers at the place to search for the missing person or to gather information about their disappearance.

12.8.3 Establishing an urgent missing person scene

Section 179E: 'Authorisation if, as a matter of urgency, it is necessary to establish missing person scene before obtaining missing person warrant' of the PPRA allows the establishment of a missing person scene if an urgent reason exists before applying for a missing person warrant.

When a police officer seeks to establish a missing person scene as a matter of urgency, they are to:

(i) ensure the missing person is a high-risk missing person;

(ii) hold a reasonable suspicion that the occupier of the place cannot, or is unlikely to provide consent for police to search the place for the high-risk missing person or for information about their disappearance;

(iii) hold the requisite suspicion that the missing person may be at the place or an inspection of the place may provide information about the person's disappearance;

(iv) obtain the authorisation from a commissioned officer prior to establishing the missing person;

(v) establish the missing person scene and if practicable, electronically record any exercise of missing person powers;

(vi) complete a form QP 1100 'Notice to occupier of the making of an application for the issue of a missing person warrant by a Supreme Court Judge or a magistrate and if reasonably practicable, give notice of the making of the application to the occupier of the place;

(vii) as soon as reasonably practicable after establishing the missing person scene, apply to a Supreme Court Judge or a magistrate for a missing person warrant by completing a form QP 1099: 'Application for a missing person warrant (issued by a Supreme Court judge or a magistrate) and a form QP 1102: 'A missing person warrant';

(viii) give a copy of both the missing person warrant and the form 9 'Statement to occupier' to the occupier as soon as reasonably practicable to do so (see s. 179O of the PPRA); and

(ix) create a QPRIME Investigative warrant occurrence;

The commissioned officer authorising the establishment of the missing person scene as a matter of urgency before a missing person warrant is applied for must:

(i) be satisfied the person is a high-risk missing person;

(ii) hold the requisite suspicion the person may be at the place or an inspection of the place may provide information about the person's disappearance;

(iii) be satisfied it is reasonably necessary to exercise missing person powers at the place to search for the missing person or to gather information about their disappearance; and

(iv) be satisfied as a matter of urgency that it is necessary to establish a missing person scene at the place before obtaining a missing person warrant.

OPM Issue 113 Public Edition

12.8.4 Powers at missing person scene

Section 179P: 'Power at missing person scene' of the PPRA outlines the powers of a responsible officer for a missing person scene, or a police officer acting under their direction. The relevant officer may do any of the following in relation to the scene:

(i) enter the scene;

(ii) if reasonably necessary, enter another place to gain access to the scene;

(iii) perform any necessary investigation, including, a search and inspection of the scene and anything in it for the missing person or to obtain information about the person's disappearance;

(iv) open anything at the scene that is locked;

(v) take electricity for use at the scene;

(vi) remove or cause to be removed an obstruction from the scene;

(vii) photograph the scene and anything in it;

(viii) seize all or part of a thing that may provide information about the missing person's disappearance.

However, if it is necessary to do anything at the missing person scene that may cause structural damage to a building, the thing must not be done unless a Supreme Court judge issues a missing person warrant before the thing is done and the warrant authorises the doing of the thing.

If practicable, police are to electronically record the exercise of any missing person powers.

For authorised assistant powers see s. 179P(3) of the PPRA.

12.8.5 Limitations of missing person scene

To ensure members of the public or other officers do not encroach into the missing persons scene, the responsible officer is to clearly:

(i) identify the missing person scene;

(ii) decide boundaries to protect the missing person scene; and

(iii) clearly identify the boundaries of the missing person scene,

when establishing the missing person scene.

The responsible officer is to clearly identify the boundaries to the missing person scene with signage or police crime scene tape and restrict access to the scene to authorised persons.

See s. 179G: 'Deciding limits of missing person scene' of the PPRA.

OPM Issue 113 Public Edition

12.8.6 Restricting access to missing person scene

When the responsible officer has established a missing person scene the officer is to:

(i) take reasonable steps to protect the place and anything at the scene from:

(a) being damaged; or

(b) interfered with; or

(c) destroyed.

(ii) ensure people (including officers) not involved in the investigation do not unnecessarily enter the scene;

(iii) prevent unnecessary movement inside the boundaries of the scene;

(iv) provide safe passage through the scene to avoid or reduce the risk of damage to the property.

The responsible officer is to ensure any person (including other officers) do not enter the missing person scene unless:

(i) the person has a special reason (associated with the investigation) for entering the scene;

(ii) the person is invited into the scene by the responsible or investigating officer;

(iii) the person is an authorised assistant (see s. 11: 'Authorised assistants—Act, sch 6' of the Responsibilities Code (RC);

(iv) the presence of the person is necessary to preserve life or property; or

(v) the person is authorised by the responsible officer to enter the scene.

See s. 179H: 'Restricting access to missing persons scene' of the PPRA.

ORDER

The responsible officer is to ensure a record is made of any person who was present when the missing person scene was established or enters the place and the purpose of entry.

See also s. 179Q 'Powers of direction etc. at missing person scene' of the PPRA.

12.8.7 When a place ceases to be a missing person scene

The responsible officer is to ensure all officers and persons aiding the investigation immediately leave the missing person scene:

(i) at the expiration of 48 hours after the scene was established, unless an extension is granted under s. 179M: 'Duration, extension and review of missing person warrant' of the PPRA;

(ii) if a judge or magistrates refuses to issue a missing person warrant for the place;

(iii) as soon as the responsible officer at the scene becomes aware the missing person:

(a) has been found; or

(b) is not a person who is likely to be high-risk; or

(iv) the responsible officer decides there is no longer a need to exercise missing person powers at the place.

See s. 179I: 'When place stops being missing person scene' of the PPRA.

12.8.8 Search warrants (administrative arrangements)

Officers who execute a high-risk missing person warrant are to complete the process as outlined in s. 2.8.8: 'Search warrants (administrative arrangements)' of this Manual.

OPM Issue 113 Public Edition

Chapter 13—Miscellaneous

13.1 Deleted 975

13.1.1 Deleted 975
13.1.2 Deleted 975
13.1.3 Deleted 975
13.1.4 Deleted 975
13.1.5 Deleted 975

13.2 Deleted 975

13.3 Public officials 975

13.3.1 Appointments as a public official 975
13.3.2 Helping public officials exercise powers under various Acts 976

13.4 Maintaining peace and good order 976

13.4.1 Peace and Good Behaviour Orders 976
13.4.2 Peaceful Assembly Act 978
13.4.3 Dangerous attachment devices 980
13.4.4 Deleted 981
13.4.5 Elections 981
13.4.6 Security providers 981
13.4.7 Receiving a complaint in relation to moveable dwelling (caravan/manufactured home) parks 982
13.4.8 Accommodation disputes 984
13.4.9 Breaches of the peace 988
13.4.10 Deleted 988
13.4.11 Deleted 989
13.4.12 Neighbourhood disputes 989
13.4.13 Out-of-control events 989

13.5 Correctional centres and incidents involving Queensland Corrective Services 991

13.5.1 Deleted 991
13.5.2 Offences under the Corrective Services Act 991
13.5.3 Corrective Services Investigation Unit to be advised 992
13.5.4 Queensland Corrective Services to be advised 992
13.5.5 Requests for information from Queensland Corrective Services 992
13.5.6 Supply of information impacting on the security classification, protection or security of prisoners to Queensland Corrective Services 992
13.5.7 Where a prisoner is unlawfully at large or escapes from a correctional centre 993
13.5.8 Where a prisoner who is unlawfully at large or escapee is located 993
13.5.9 Copy of occurrence report to be forwarded to Corrective Services Investigation Unit 993
13.5.10 Offences committed by prisoners prior to their admission to prisons 993
13.5.11 Declaration of emergency under the Corrective Services Act 993
13.5.12 Visiting a Queensland Corrective Services correctional centre 994

13.6 Unlawful taking of electricity 995

13.7 Liquor and licensed premises 995

13.7.1 Reporting incidents involving licensed premises 996
13.7.2 Exclusion options 997
13.7.3 Safe night precincts 997
13.7.4 Bail conditions relating to licensed premises 997
13.7.5 Police banning notices 998
13.7.6 Court-issued banning orders 1002
13.7.7 Imaged orders 1003
13.7.8 Distribution of imaged orders by police 1004
13.7.9 Intoxicated in a public place 1005
13.7.10 Issue of infringement notices under the Liquor Act 1005
13.7.11 Liquor and minors 1006
13.7.12 Seizure and disposal of liquor 1007

OPM Issue 113 Public Edition

13.7.13 Liquor Act exempt fundraising events and small regional shows 1007

13.8 Marine environment 1008

13.8.1 Deleted 1008
13.8.2 Maritime Safety Queensland 1008
13.8.3 Investigation of offences and marine incidents under the Transport Operations (Marine Safety) Act or Regulation 1009
13.8.4 Fisheries management (offences detected) 1013
13.8.5 Investigation of marine incidents involving members or Service vessels 1014
13.8.6 Deleted 1014
13.8.7 Marine towing incidents 1014

13.9 Secret ballots 1016

13.10 Objectionable literature, films and computer games 1016

13.10.1 Officers not to act as censors 1016
13.10.2 Classification Act offences 1016

13.11 Sex work industry 1017

13.11.1 Presence at sex work businesses 1017
13.11.2 Offences relating to unlawful commercial sexual services 1017
13.11.3 Permitting young person, etc. to be at place used for commercial sexual services 1018

13.12 Railways 1018

13.12.1 Exercise of powers on railways 1018
13.12.2 Additional powers for removal of offenders from a railway 1019
13.12.3 Joint operations on Citytrain network 1019
13.12.4 Safety on rail networks 1019

13.13 Second-hand Dealers and Pawnbrokers 1019

13.13.1 Application for licenses 1019
13.13.2 Licence particulars 1019
13.13.3 Deleted 1019
13.13.4 Stolen Property Investigation and Recovery System (SPIRS) 1019
13.13.5 Engagement with licensees to provide transaction data 1020
13.13.6 Deleted 1020
13.13.7 Stolen Property Investigation and Recovery System (SPIRS) property matches 1020
13.13.8 Licensee audits 1020
13.13.9 Deleted 1020
13.13.10 Deleted 1020
13.13.11 Enforcement powers 1020
13.13.12 Deleted 1021
13.13.13 Deleted 1021
13.13.14 Discontinuing arrest 1021

13.14 Stealing and like offences 1021

13.14.1 Director of Public Prosecutions (State) Guidelines 1021
13.14.2 Recovery of suspected stolen property from the Department of Education 1021
13.14.3 Principal offenders (receiving stolen property when the 'thief' is dealt with under Regulatory Offences Act) 1021

13.15 Issue of infringement notices generally 1021

13.15.1 Issuing infringement notices for public nuisance, public urination and associated offences 1024
13.15.2 Issuing infringement notices for contravention of an officer's direction or requirement 1026

13.16 Animals 1027

13.16.1 Cruelty to animals 1027
13.16.2 Dog attacks and regulated dogs 1027

OPM Issue 113 Public Edition

13.16.3 Providing relief to an animal at a place or vehicle 1028
13.16.4 Destruction of animals 1028
13.16.5 Animal welfare directions 1028
13.16.6 Failure to comply with an animal welfare direction 1029
13.16.7 Review and appeal of an animal welfare direction 1030
13.16.8 Providing assistance to the Department of Primary Industries and Royal Society for the Prevention of Cruelty to Animals Incorporated 1030
13.16.9 Dealing with an animal welfare incident 1030
13.16.10 Carcasses of animals on roads 1032

13.17 Trespass 1032

13.17.1 When to take action for trespass 1032
13.17.2 Requests to remove person(s) from a place, etc. for trespass or disorderly conduct 1032
13.17.3 Trespass (industrial disputes) 1033
13.17.4 Wheel clamping of motor vehicles 1035
13.17.5 Trespass in shopping centres 1036

13.18 Warrants 1036

13.18.1 Introduction 1036
13.18.2 Warrant types 1038
13.18.3 How a warrant may be finalised 1040
13.18.4 Executing and satisfying warrants 1040
13.18.5 Warrants requiring payment of money 1041
13.18.6 Warrants ordering incarceration 1041
13.18.7 Warrants ordering a person be brought before a court 1042
13.18.8 Management of warrants 1043
13.18.9 Obtaining and activating arrest warrants 1045
13.18.10 Warrants of execution 1045
13.18.11 Warrants of possession 1046
13.18.12 Mental Health Act warrants 1047
13.18.13 Assistance to the Department of Justice in the execution of civil enforcement warrants 1048
13.18.14 Defence Force warrants 1049
13.18.15 Execution of warrant on corrective service prisoner 1050
13.18.16 Assistance to the State Penalties Enforcement Registry for money lawfully in the possession of the Service 1050

13.19 Casinos, unlawful gaming and match-fixing 1052

13.19.1 Casino crime units and the Office of Liquor and Gaming Regulation 1052
13.19.2 Casino access 1053
13.19.3 Camera surveillance requests 1053
13.19.4 Exclusion of a specified person from a casino 1053
13.19.5 Office of Liquor and Gaming Regulation 1055
13.19.6 Unlawful gaming 1055
13.19.7 Match-fixing 1056

13.20 Compensation awarded to police officers 1057

13.20.1 Procedures for officers seeking criminal compensation 1057
13.20.2 Damages or penalties awarded to police officers 1058

13.21 Judicial review 1058

13.21.1 Statement of reasons 1058
13.21.2 Statutory order of review 1058
13.21.3 Time limits 1058

13.22 Explosives 1059

13.22.1 Issuing, suspension or cancelling authorities 1059
13.22.2 Incidents involving explosives 1060
13.22.3 Entry to explosives factories and magazines 1060
13.22.4 Assistance to explosives inspectors 1060
13.22.5 Proceeding for an explosives offence 1060

OPM Issue 113 Public Edition

13.22.6 Handling explosives 1060

13.23 Move-on power 1061

13.23.1 Directions to move on 1062
13.23.2 When do move on powers apply 1062
13.23.3 Giving a move on direction 1063
13.23.4 Failure to comply with move on directions 1064
13.23.5 Inspection of the Register of directions given 1064

13.24 Directions in state buildings 1064

13.25 Environmental (State parks and wildlife) 1066

13.25.1 Appointment of conservation officers, inspectors and authorised officers 1066
13.25.2 Investigation and prosecution of offences relating to State parks and wildlife issues 1066
13.25.3 Reporting wildlife offences 1067
13.25.4 Death or injury in National Parks 1068
13.25.5 Deleted 1068
13.25.6 Aboriginal Cultural Heritage Act 1068
13.25.7 Dams 1068

13.26 Racial, religious, sexuality, sex characteristics or gender identity vilification (Anti-Discrimination Act) 1068

13.27 Personal Injuries Proceedings Act 1070

13.27.1 Section 10(1): 'Person to whom notice of a claim is given must give preliminary response to claimant' of the Act 1071
13.27.2 Section 67: 'Prohibition of touting at scene of incident or at any time' of the Act 1071
13.27.3 Dealing with offences against the Personal Injuries Proceedings Act 1071

13.28 Education (General Provisions) Act 1072

13.28.1 Directions and offences under the Education (General Provisions) Act 1072
13.28.2 Powers under the Police Powers and Responsibilities Act 1073
13.28.3 Dealing with offences relating to State instructional institutions and non-State schools 1074
13.28.4 Compulsory schooling and participation in education and training 1074

13.29 Noise complaints 1075

13.29.1 Investigation and first direction 1076
13.29.2 Additional powers of police officers on later investigation 1078
13.29.3 Property seized and removed under s. 583(2) of the Police Powers and Responsibilities Act 1078
13.29.4 Motorbike noise abatement orders 1079
13.29.5 Duties of police prosecutors and officers in charge after the application for a motorbike noise abatement order is determined 1081
13.29.6 Appeals against motorbike noise abatement order 1081
13.29.7 Offences/powers 1081
13.29.8 Other noise complaints 1081

13.30 Starting a civil proceeding 1082

13.31 Electronic service of prescribed (and related) documents 1083

13.31.1 Authorised prescribed document 1084
13.31.2 Methods of electronic service 1084
13.31.3 Considerations for electronic service of prescribed (and related) documents 1085
13.31.4 Suitability assessment to eServe prescribed (and related) documents 1086
13.31.5 Explaining and recording of consent 1087
13.31.6 Considerations when obtaining a unique electronic address 1088
13.31.7 Action where a person has consented to eServe and has since been detained 1089
13.31.8 eServe related documents 1089
13.31.9 Requests to change unique electronic address 1090
13.31.10 Withdrawal of consent from eServe methods 1090
13.31.11 When eServe is effected (evidentiary certificate) 1091

OPM Issue 113 Public Edition

13.31.12 Statement of police service—eServed DFV documents 1091
13.31.13 Where eServe fails 1091
13.31.14 Replacement of prescribed (or related) documents 1092
13.31.15 Incorrectly received eServed documents 1092
13.31.16 Using eSend report to give other documents 1092

13.32 Electronic signatures 1092

13.33 Social media 1093

13.34 Removal of particular online content 1093

13.35 Designated business and community precincts 1096

Appendix 13.1 Suggested format for letter under Police Powers and Responsibilities Act 1099

Appendix 13.2 Deleted 1100

Appendix 13.3 Deleted 1100

Appendix 13.4 Deleted 1100

Appendix 13.5 Suggested format for advice regarding a complaint of an offence against s. 52A of the Criminal Code 1101

Appendix 13.6 Environmental nuisance caused by noise—flow chart 1 1102

Appendix 13.7 Environmental nuisance caused by noise—flow chart 2 1103

Appendix 13.8 Environmental nuisance caused by noise—flow chart 3 1104

Appendix 13.9 Example of a completed Form 5—Originating application 1105

Appendix 13.10 Example of a completed Form 46—Affidavit by reporting officer 1106

Appendix 13.11 Example affidavit in support of an application under s. 694 of the Police Powers and Responsibilities Act 1107

Appendix 13.12 Example of completed affidavit of service 1108

Appendix 13.13 Example of a completed Form 9—Application 1109

Appendix 13.14 Example of completed Form 46—Affidavit by reporting officer (for s. 694 of the Police Powers and Responsibilities Act) 1110

Appendix 13.15 Example of completed Form 46—Affidavit by reporting officer (for application for substituted service under s. 57 of Child Protection (Offender Reporting and Offender Prohibition Order) Act) 1111

Appendix 13.16 Deleted 1112

OPM Issue 113 Public Edition

13.1 Deleted

13.1.1 Deleted

13.1.2 Deleted

13.1.3 Deleted

13.1.4 Deleted

13.1.5 Deleted

13.2 Deleted

13.3 Public officials

Chapter 1, Part 3, ss. 13–18: 'Appointment as, and helping, public officials' of the PPRA outlines provisions when a police officer may be appointed as a public official and circumstances under which a police officer may help a public official, who is not a police officer, under an Act (authorising law) which authorises a public official to perform functions in relation to a person or thing.

13.3.1 Appointments as a public official

Under various authorising laws, an officer may be appointed as a public official. For example pursuant to s. 4C: 'Analysts' of the *Drugs Misuse Act*, the Minister may by gazette notice appoint as an analyst, a person the Minister is satisfied has the qualifications, standing and experience necessary to be an analyst for the Act.

Also an authorising law may expressly provide that an officer is a public official. For example under s. 4: 'Officers' of the *Brands Act*, all officers are ex officio and without further or other appointment, authorised officers.

However, any such appointments or express provisions apply subject to:

(i) s. 13: 'Appointment of police officers as public officials for other Acts' of the PPRA, which provides that despite the authorising law, the appointer may appoint an officer as a public official for the authorising law only with the Commissioner's written approval to the proposed appointment; or

(ii) s. 14: 'Declarations of police officers as public officials' of the PPRA, which provides that despite the authorising law, the officer may exercise the powers of the public official only to the extent that the Commissioner first approves the exercise of the powers.

POLICY

The Commissioner has delegated the Commissioner's powers under ss. 13 and 14 of the PPRA to assistant commissioners.

Officers who have a need to be appointed as public officials under an authorising law, which:

(i) authorises someone (appointer) to appoint public officials for giving effect to the authorising law; and

(ii) an officer may be appointed as a public official,

are to furnish a report through their officer in charge to their assistant commissioner. The report is to include the following information:

(i) the circumstances giving rise to the need to be appointed as a public official;

(ii) whether the officer has:

(a) the necessary experience or expertise to be a public official for the authorising law. In this regard the report is to outline the experience or expertise the officer has relating to the particular public official appointment; or

(b) satisfactorily completed a course of training approved by the Commissioner, and if so identify the course of training and time of attendance and completion;

(iii) in cases where only certain powers need to be exercised, identification of the public official's powers to be exercised by the police officer; and

(iv) any other information considered relevant.

OPM Issue 113 Public Edition

Assistant commissioners may approve appointments of officers as public officials under authorising laws subject to and in accordance with the conditions of Delegation D 24.5. Any approval of appointment as a public official is to be communicated by the relevant assistant commissioner to the appointer.

Officers may exercise powers as a public official under an authorising law only if and to the extent the relevant assistant commissioner has approved the police officer's appointment under s. 13 of the PPRA, and following the appointment made by the appointer.

For the power to approve appointments as analysts pursuant to s. 4C: 'Analysts' of the *Drugs Misuse Act* see s. 2.19.6: 'Forensic Services Group' of this Manual and Delegation D 24.5.

In accordance with s. 14 of the PPRA, when under an express provision of an authorising law, officers are public officials, they are not to exercise the powers of the public official except to the extent that the Commissioner first approves the exercise of the powers.

Officers who have or identify a need to exercise the powers of a public official under an authorising law, wherein by express provision therein police officers are public officials, are to furnish a report through their officer in charge to their assistant commissioner. The report is to include the following information:

(i) the authorising law is to be identified;

(ii) whether all of the public official's powers under the authorising law are to be exercised or in cases where only certain powers need to be exercised, identification of the public official's powers to be exercised by the police officer;

(iii) whether the officer has:

(a) the necessary experience or expertise to exercise the powers of the public official for the authorising law. In this regard the report is to outline the experience or expertise the officer has relating to the particular public official's powers; or

(b) satisfactorily completed a course of training approved by the Commissioner, and if so identify the course of training and time of attendance and completion; and

(iv) any other information considered relevant.

Assistant commissioners may approve officers to exercise powers of a public official under an authorising law under Delegation D 24.6. Approvals issued under s. 14 are to be in writing and communicated to the police officer being approved.

13.3.2 Helping public officials exercise powers under various Acts

POLICY

If an authorising law authorises a public official to perform functions in relation to a person or thing and the public official asks a police officer, who is not a public official for the authorising law, to help the public official perform the public official's functions under the authorising law, the police officer may help the public official. However before the police officer helps the public official, the police officer is to:

(i) establish that the person concerned is in fact a public official under the authorising law; and

(ii) ask the public official to explain to the officer the powers the public official has under the authorising law.

If the public official does not explain to the police officer the powers the public official has under the authorising law, the police officer is not obliged to help the public official. Also if the public official is not present or will not be present when the help is to be given, the police officer may give the help only if the police officer is satisfied giving the help in the public official's absence is reasonably necessary in the particular circumstances.

Police officers have, while helping a public official, the same powers and protection under the authorising law as the public official (see s. 16 of the PPRA).

See also ss. 17: 'Steps police officer may take for failure to give name and address etc. to public official' and 18: 'Steps police officer may take for obstruction of public official' of the PPRA. Note, these two sections do not apply if the public official is a police officer.

See also s. 3.4.7: 'Assisting court staff' of this Manual for assistance to courts in relation to the safe custody and welfare of prisoners and in assisting bailiffs to protect juries.

13.4 Maintaining peace and good order

13.4.1 Peace and Good Behaviour Orders

For Service policy in relation to:

(i) public safety orders;

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(ii) restricted premises orders; and

(iii) fortification removal,

issued under the *Peace and Good Behaviour Act* (PGBA), see s. 2.31: 'Policing of serious and organised crime' of this Manual.

A person may lodge a complaint in writing to a court where they are in fear of another person who has threatened to:

(i) assault or to do any bodily injury to them or to any person under their care or charge;

(ii) destroy or damage any property of theirs; or

(iii) procure another to do the acts above,

(see s. 5: 'Complaint in respect of breach of the peace' of the PGBA).

A justice of the peace may issue a summons or warrant for the defendant to appear or be brought before a court.

When advised of an incident which constitutes one or more relevant matters under s. 5, officers should advise the complainant of the provisions of the PGBA and how to make application for a peace and good behaviour order. The person should be referred to a convenient courthouse to seek further information and make the application.

Warrants under the Peace and Good Behaviour Act

Officers who receive a warrant for the apprehension of a person to be brought before a magistrate to answer a complaint under the PGBA should execute the warrant as soon as practicable (see s. 13.18.4: 'Executing and satisfying warrants' of this chapter).

ORDER

Officers who have executed a warrant issued under the PGBA are to:

(i) convey the defendant to the nearest watch-house;

(ii) if required by the court, complete a Bench Charge Sheet using the following wording:

That on the [day] day of [month] [year] at [suburb] in the State of Queensland [defendant] apprehended by virtue of Warrant No. [insert number] issued under section [5(2A)(b) or 8(1)(a)] of the Peace and Good Behaviour Act 1982 by the [insert court] Court on the [insert date].

Warrant produced. [Defendant] [admits/does not admit] that [he/she] is the person named in such warrant.

There is no requirement for a Court Brief (QP9) to be furnished;

(iii) notify the complainant or the complainant's solicitor of the execution of the warrant;

(iv) notify the appropriate police prosecution corps of the time and date the matter will be before the court; and

(v) supply a copy of the bench charge sheet to the prosecutor.

The prosecutor is to represent the Service at the first appearance and seek the leave of the court to withdraw from the proceedings.

Breach of Peace and Good Behaviour Order

Officers identifying breaches of orders made under s. 7: 'Magistrates Court may make order' of the PGBA may institute proceedings against the offender by:

(i) issuing a notice to appear or by arrest under the PPRA; or

(ii) issuing a caution or undertaking the restorative justice process under the *Youth Justice Act* (see ss. 5.3: 'Cautioning of children' and 5.4: 'Restorative justice processes' of this Manual).

In respect of a breach of an order under the PGBA, the prosecutor is to represent the Service until the matter has been finalised.

Mediation

In accordance with s. 5(c) of the PGBA, with the complainant's consent, the court may order the complainant to submit the matter for mediation at a dispute resolution centre, under the *Dispute Resolution Centres Act*.

There are dispute resolution centres located throughout the State and contact can be made with the Dispute Resolution Branch of Department of Justice to find the nearest location (see SMCD).

Mediation at dispute resolution centres is not undertaken where parties are not willing to negotiate, ongoing criminal cases, or where legislation or court orders would otherwise be breached.

Officers should advise the complainant of the avenue of redress through mediation where applicable.

See also s. 13.4.12: 'Neighbourhood disputes' of this chapter where disputes relate to dividing fences or overhanging trees.

OPM Issue 113 Public Edition

13.4.2 Peaceful Assembly Act

The *Peaceful Assembly Act* (PAA) ensures the right of a person to assemble peacefully with others in a public place subject to the restrictions set down in s. 5(2) and 5(3): 'Right of peaceful assembly' of the Act.

In accordance with the PAA, people should ordinarily be able to exercise this right without restriction.

The PAA allows organisers of assemblies to give notice to police and local authorities of the proposed assembly. It also allows for the settlement of the authority to hold the public assembly when mediation has failed.

Where an assembly notice is given, and the public assembly is taken to have been approved in conformity with the provisions of the PAA, the assembly then becomes an authorised public assembly. Providing that the assembly is peaceful and is held substantially in accordance with the relevant particulars and conditions, participants in that assembly do not, merely because of their participation, incur any civil or criminal liability because of the obstruction of a public place (note ss. 6 to 10 of the PAA).

For the purposes of this section and in accordance with s. 17: 'Limitation on delegation' of the PAA, reference to the OIC or the delegated officer means an officer at the rank of sergeant or higher.

Notice of intention to hold assembly

To obtain approval for an authorised assembly, the organiser is to give notice of intention to hold the assembly in compliance with s. 9: 'Requirements for assembly notice' of the PAA to the Commissioner and, depending on the intended location of the proposed assembly, the local authority having jurisdiction in relation to the place.

The PAA does not provide for a notice to be in a specific form, however, where possible, organisers should be encouraged to use a QP 0802: 'Notice of intention to hold a public assembly' (on Forms Select & QPS internet).

Consideration of assembly notice

ORDER

Overall responsibility for the consideration of any assembly notice rests with the OIC or delegated officer of the police division in which the peaceful assembly is to take place (see Delegation D 7.2).

A member who receives a notice of intention to hold an assembly is to ensure that the notice applies to their division and forward the notice to the OIC or delegated officer.

Where the intended assembly lies outside of the relevant division, the organiser or person lodging the notice on their behalf is to be advised of the relevant police station or establishment where the notice is to be lodged.

Where a notice of intention to hold a public assembly is requesting variances of dates and/or times, the OIC or delegated officer is to consider if a notice of intention should be made for each variance, for example:

> The same public assembly intended to be held for three Saturday mornings in the month of September 2019 (therefore different dates), specifying different times, but the location and route remain the same.

When the OIC or delegated officer receives a notice of intention to hold a public assembly, they are to:

(i) consider the application, ensuring all particulars as stated in s. 9(2) of the PAA, have been included;

(ii) be aware of the five business days requirement for submission and approval of notice applications (where the application notice is less than five business days see subsection 'less than five business days notice' of this section); and

(iii) consider whether grounds exist which make it necessary for the Commissioner to 'oppose' the holding of the assembly (where grounds exist see subsection 'Opposing the holding of an assembly' of this section).

When the OIC or delegated officer approves the notice, the organiser is to be given a QP 0803: 'Notice of permission to hold a public assembly'.

The OIC or delegated officer is to make appropriate arrangements to ensure the safe conduct of the assembly.

Opposing the holding of an assembly

Should there be a reason to oppose the holding of a public assembly, the OIC or delegated officer is to:

(i) contact the organiser;

(ii) discuss the concerns;

(iii) discuss the imposition of terms and/or conditions that will allow the assembly to be held; and

(iv) if agreement on the terms and conditions is reached, obtain agreement in writing from the organiser by issuing a QP 0803 'Notice of permission to hold a public assembly' to the organiser, incorporating the agreed terms and/or conditions.

Should the organiser of an assembly not agree to the terms and/or conditions, the OIC or delegated officer is to complete and forward a QP 0804: 'Objection to application to hold a public assembly' to a commissioned officer, who is responsible for the mediation between the organiser and the opposing OIC or delegated officer, and will:

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(i) contact the organiser of the assembly, advising of the arrangements for the mediation session; and

(ii) the making of a final determination regarding the terms and/or conditions (if agreement on the terms and/or conditions is reached, obtain agreement in writing by issuing the organiser with a QP0803 incorporating the agreed terms and/or conditions).

Should the mediation process fail:

(i) in cases involving notices given not less than five business days before the proposed date of the public assembly, the OIC or delegated officer is to:

(a) apply for an order refusing to authorise the holding of the assembly to the magistrates court in the district where the proposed assembly is to be held, for a hearing before a magistrate;

(b) make every effort to advise the organiser of the arrangements for the hearing;

(c) advise the relevant police prosecution corps of the hearing arrangements;

(d) arrange for a police prosecutor to appear at the hearing;

(e) personally attend the hearing to provide evidence as required by the prosecutor and court;

(f) prepare a typewritten statement for the prosecutor, outlining the details of the steps taken when considering the notice and the grounds for opposing the holding of the assembly;

(g) seek an order from the magistrate refusing to authorise the holding of the assembly; and

(h) should the magistrate refuse to authorise the assembly and the organiser proceeds with the assembly, make arrangements, which may include the option to prevent the holding of the assembly that are in keeping with the objects of the PAA; or

(ii) where an assembly notice is given less than five business days before the day of the proposed public assembly, and following mediation approval has not been given, the organiser may apply to a magistrates court for an order authorising the holding of the assembly. If the organiser applies for such an order, the superintendent of traffic upon being notified of the application is to:

(a) advise the prosecution corps in the relevant magistrates court district of the hearing arrangements;

(b) arrange for a prosecutor to appear at the hearing;

(c) prepare a typewritten statement for the prosecutor, outlining the details of the steps taken in considering the notice and the grounds for opposing the holding of the assembly; and

(d) whether or not the assembly is authorised and if applicable make necessary arrangements, which may include the prevention of the assembly, in keeping with the objects of the PAA.

ORDER

At the conclusion of the process, the OIC or delegated officer is to:

(i) ensure that the QP 0802 is completed; and

(ii) retain the QP 0802, with a copy of the QP 0803 and any other correspondence at the station or establishment where the application was made.

Conduct of the assembly

Whenever a public assembly is held and it is necessary to exercise the powers provided for by Acts such as the PPRA, officers are to exercise those powers during the conduct of the assembly, regardless of whether the assembly is authorised or not, e.g. where an emergency vehicle needs to proceed through an authorised assembly, a direction may still be given to assembly participants to allow the vehicle to proceed.

However, officers are not to give participants in an authorised public assembly any direction under s. 48: 'Direction may be given to person' of the PPRA (a **'move-on direction'**) (see ss. 45, 46 & 48 of the PPRA).

Should the public assembly, whether authorised or not, is in conflict with the terms and/or conditions stated in the QP 0803 is in conflict with s. 5 of the PAA, the senior officer at the scene is to (if it is believed that it is necessary in all the circumstances to do so) make a statement to the whole assembly to the effect that:

'in the interests of public safety/public order/protection of the rights and freedoms of others this assembly cannot continue in its present form'.

Participants may then be given a direction under s. 59: 'Power for regulating vehicular and pedestrian traffic' of the PPRA to move to the footpath or to re-form to allow for public safety, public order or the protection of the rights and freedoms of other persons to be maintained.

Conducive with the objectives of the PAA and wherever practicable, subject to the participants complying with any direction or request to modify the manner in which they are assembling, the assembly is to be allowed to continue. For example, where the assembly is a street march blocking an entire street, an opportunity is to be extended to continue the march provided that it is reformed to allow traffic to pass.

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Persons taking part in public assemblies who commit offences are to be dealt with in the same manner as they would if the offence was committed in other circumstances. That is, if an offence is committed, officers are to deal with those persons according to law.

Officers are to use their discretion in exercising their power of arrest during the conduct of a public assembly as the process of arresting a person for an offence of a minor nature may cause an otherwise peaceful assembly to escalate into a serious situation. The more serious the offence committed, the more likely it is that an arrest will take place.

Unlawful Assembly

Where an officer is investigating a complaint of three or more persons gathering unlawfully together on land related to animal keeping or other agricultural processes and their conduct taken together would;

(i) cause a person in the vicinity to reasonably fear that violence will be used; or

(ii) cause a risk to the safety of a person or food; or

(iii) cause a risk to animal welfare or biosecurity (e.g. transmission of animal diseases, pests or contaminants); or

(iv) cause reasonable risk of economic loss,

officers are to consider offences under s. 10A: 'Unlawful assembly' of the *Summary Offences Act*.

Dangerous attachment devices

Officers are to be aware that offence provisions exist in certain circumstances where a person uses a dangerous attachment device to disrupt relevant lawful activities.

Where an officer reasonably suspects a person or vehicle has something that may be a dangerous attachment device that has been used or is to be used to disrupt a relevant lawful activity, officers may stop, detain and search the person or vehicle for the device. (see s. 13.4.3: 'Dangerous attachment devices' of this Manual).

13.4.3 Dangerous attachment devices

Definitions

For the purposes of this section:

Relevant lawful activity

means:

(i) the ordinary operation of transport infrastructure within the meaning of Schedule 6 of the *Transport Infrastructure Act*;

(ii) persons entering or leaving a place of business; or

(iii) the ordinary operation of plant or equipment.

Attachment device

means a device that reasonably appears to be constructed or modified to enable a person using the device to resist being safely removed from a place or safely separated from a thing (see s. 14A: 'What is an attachment device' of the *Summary Offences Act* (SOA)).

Dangerous attachment device

means an attachment device which is also:

(i) a thing mentioned in s. 14B: 'What is a dangerous attachment device' of the SOA;

(ii) a device that reasonably appears to be constructed or modified to cause injury to any person if a person interferes or attempts to interfere with the device; or

(iii) a device that incorporates a dangerous substance or thing.

Use of dangerous attachment devices to disrupt lawful activities

The *Peaceful Assembly Act* (PAA) provides that a person has the right to assemble peacefully with others in a public place. This right is subject only to those necessary and reasonable restrictions required to ensure public safety, public order; or the protection of the rights and freedoms of other persons. Peaceful assembly may be authorised or unauthorised under the PAA and may involve the use of attachment devices to disrupt relevant lawful activities.

The right to peaceful assembly however does not extend to the use of dangerous attachment devices (DAD) to disrupt relevant lawful activities (See s. 14C: 'Use of dangerous attachment device to disrupt lawful activities' of the SOA).

Officers are to be aware that:

(i) it is not an offence to merely possess a DAD; and

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(ii) an exception applies in certain situations for the use of a monopole or tripod that does not incorporate a dangerous substance or thing see s. 14C(3) of the SOA.

Searching persons and vehicles without warrant

Where an officer reasonably suspects that a person has in their possession, or a vehicle contains something that may be a DAD, that has been used or is to be used to disrupt a relevant lawful activity, the officer may stop, detain and search for the thing without warrant see ss. 29: 'Searching persons without warrant' and 31: 'Searching vehicles without warrant' of the PPRA.

Where an officer uses search powers in relation to a person or vehicle, the officer is to apply the relevant PPRA safeguards (see Chapter 20: 'Other standard safeguards' of the PPRA) and make an entry in the enforcement register (see s. 2.1.2: 'Registers required to be kept' of this Manual).

Seizure and disposal of dangerous attachment devices

Where an officer finds a DAD and reasonably suspects it has been or is to be used to disrupt a relevant lawful activity, the officer may:

(i) deactivate or disassemble the DAD; and/or

(ii) seize all or parts of the DAD.

If a DAD or parts of a device are seized they are immediately forfeited to the State (see s. 53AA: 'Seizure and disposal of dangerous attachment devices' of the PPRA) and a QPB 32A: 'Field Property Receipt' is to be issued to the person from whom the device is seized. The property is to be immediately disposed of in accordance with the provisions contained in Chapter 4 of this Manual.

Commencing proceedings and infringement notices

Where an officer reasonably suspects a person has committed an offence against ss. 14C(1) or 14C(2) of the SOA, they may commence proceedings by way of arrest or notice to appear in accordance with the provisions of Chapter 3 of this Manual.

As an alternative to commencing a proceeding, an officer may issue an infringement notice for the offences.

13.4.4 Deleted

13.4.5 Elections

Federal/State/local government elections

ORDER

Officers are not to act as poll clerks in connection with Federal, State or local government elections.

13.4.6 Security providers

Section 4: 'Who is a security provider' of the *Security Providers Act* (SPA) provides a:

(i) bodyguard;

(ii) crowd controller;

(iii) private investigator;

(iv) security adviser;

(v) security equipment installer;

(vi) security officer; or

(vii) security firm,

is a security provider under the Act.

The Office of Fair Trading is primarily responsible for enforcing the SPA, which regulates security industry licensing and compliance. Under SPA and the Security Providers Regulation, security providers are commercial licensees who protect people and property. They hold no special police or extra-legal powers; their authority is generally limited to that of an ordinary citizen, combined with the rights of the property owner or occupier they represent.

When enforcing certain provisions of the SPA and the Security Providers Regulation, officers may exercise the general investigative powers conferred by the PPRA. For example, an officer can require a security provider to state their name and address where the officer finds the person committing an offence or reasonably suspects the person has committed an offence (see ss. 40: 'Person may be required to state name and address' and 41: 'Prescribed circumstances for requiring name and address' of the PPRA).

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In addition, the SPA is a relevant law (see 'relevant law' in Schedule 6 of the PPRA and s. 35: 'Relevant laws—Act, sch 6' of the PPRR). Accordingly, officers may exercise the powers available under s. 22: 'Power to enter etc. for relevant laws' of the PPRA.

Identification to be worn by crowd controllers

When performing the functions of a crowd controller, a licensed crowd controller must wear the prescribed identification on their chest so that it is clearly visible (see s. 47: 'Identification to be worn by crowd controller' of the SPA).

The identification must comply with the prescribed specifications set out in s. 25: 'Crowd controller's identification—Act, s 47' of the Regulation.

This requirement does not apply to a person acting as a bodyguard.

Prohibition on chequerboard hats

A security provider must not wear, display, or permit the display of, a chequerboard hat. For the purposes of this section, a 'chequerboard hat' means a hat displaying a chequerboard design, including a hat with a chequerboard hatband (see s. 24: 'Security provider not to wear or display chequerboard hat' of the Regulation).

Investigation of offences

Where officers detect offences against the SPA or the Security Providers Regulation they should, where appropriate, commence proceedings against the offender or, where authorised, issue an infringement notice.

Information relevant to security provider licensing

Where an officer reasonably suspects that a person is the holder of, or an applicant for, a security provider licence, and the officer holds information relevant to that person's continued eligibility or appropriateness to hold a licence,, the officer is to submit a report outlining the relevant information to the OIC of the region or command.

The OIC of a region or command is to consider whether the information may be disclosed to the Office of Fair Trading in accordance with the SPA, any applicable information sharing arrangement, and relevant Service delegations and information release requirements.

Officers are to note that information about a charge for a disqualifying offence is to be disclosed only where authorised by law. In considering any proposed disclosure, officers are to have regard to ss. 12, 12A, 12B and 48 of the SPA, Delegation D 3.1 and D 3.2.

Fingerprinting of Security Providers

Section 27: 'Fingerprints to be taken' of the SPA provides for circumstances in which a security provider or an applicant for a security provider licence, may be required to provide fingerprints to an officer, see s. 2.26.5: 'Taking fingerprints for occupational licensing' of this Manual.

13.4.7 Receiving a complaint in relation to moveable dwelling (caravan/manufactured home) parks

Officers who receive a complaint of a serious nuisance being caused at a moveable dwelling park (MDP) are to record the following details and advise the officer(s) responding to the incident:

(i) the informant's name, address and contact telephone number;

(ii) the exact location of the incident;

(iii) the identity if known, or the description, of the persons involved in the incident;

(iv) the nature of the disturbance (i.e. the type of serious nuisance being caused); and

(v) if any hazardous or dangerous situations exist that attending officers should be made aware of.

Officers receiving a complaint are to establish from records in the register, which is required to be maintained, whether an initial or final nuisance direction has previously been given and advise the responding officers.

Investigating a complaint

Before exercising powers under Chapter 19, Part 4: 'Powers relating to nuisance in moveable dwelling parks' of the PPRA, responding officers should take up personally with the complainant to satisfy themselves reasonable grounds exist to suspect:

(i) the person to whom the serious nuisance is being or has been caused is a resident of or anyone else in the park;

(ii) the behaviour complained of is of the same or similar nature to those behaviours given as examples of a serious nuisance in s. 592: 'Behaviour in moveable dwelling park causing serious nuisance' of the PPRA;

(iii) the reported behaviour is occurring or has just occurred in the park.

Officers who are satisfied that the above criteria has been meet may in accordance with the PPRA sections:

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(i) 593: 'Power to enter moveable dwelling'—enter a moveable dwelling in an MDP without warrant if the officer reasonably suspects there is a person in the dwelling who is causing or has just caused a serious nuisance;

(ii) 594: 'Initial direction about serious nuisance'—issue an initial nuisance direction (IND), either orally or by written notice, to a person to stop causing and/or not cause another serious nuisance in the MDP;

(iii) 595: 'Direction to leave park'—issue a final nuisance direction (FND) if the person has contravened within 24 hours the IND, either orally or by written notice, to a person to leave and not re-enter the park for a period not longer than 24 hours for non-compliance with an IND; and

(iv) 40: 'Person may be required to state name and address' and 41: 'Prescribed circumstances for requiring name and address'—require persons to whom an IND or FND is about to be given, is being given or has been given to state their name and address or provide evidence of the correctness of their stated name and address.

Initial nuisance direction (IND)

Officers who:

(i) find a person causing a serious nuisance occurring in an MDP; or

(ii) suspect on reasonable grounds that a person has just caused a serious nuisance in an MDP;

may issue an IND to that person to immediately stop causing the nuisance (if applicable) and/or not cause another serious nuisance in the MDP. This direction may be given in writing or orally.

This direction should generally be given in the form:

I have found you causing (or I suspect on reasonable grounds that you have just caused) a serious nuisance by (outline offending behaviour). I now direct you to immediately stop that serious nuisance and not to commit another serious nuisance in the park (or in cases where the person is not found causing a serious nuisance, not to commit another serious nuisance in the park). If you contravene this direction you may be directed to leave this park.

Officers who give persons an IND should warn the persons that if they contravene the direction they may be directed to leave the park.

Final nuisance direction (FND)

Officers attending to a complaint of a serious nuisance at an MDP where the person causing the serious nuisance has previously been given an IND within the preceding 24 hours should:

(i) establish that a serious nuisance is being or has just been caused by the person in that park subsequent to the IND being given; and

(ii) establish from their local police communications centre (PCC) or station and by questioning of the persons involved whether the person suspected of causing the serious nuisance has been given an IND within the previous 24 hours.

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Officers who suspect on reasonable grounds that a person who has been given an IND and contravened it within 24 hours of that direction being given may then give the person an FND requiring the person to leave the park and not re-enter it for a period of up to 24 hours.

An FND may be given orally or in writing.

Officers giving an FND should generally give the direction in the following form:

I suspect on reasonable grounds that you have contravened an initial nuisance direction given to you within the preceding twenty-four hours. I direct you to leave this park and not re-enter it for a period of up to twenty-four hours commencing from now. If you contravene this direction you will be committing an offence for which you may be prosecuted.

Officers who give a person an FND should warn the person that it is an offence to contravene a direction.

Records and registers

Officers who give an IND or an FND to a person are to:

(i) record, in their official police notebook or on the ITAS occurrence log:

(a) the name and address of the person;

(b) the moveable dwelling park where the serious nuisance was caused;

(c) the time and date of giving the direction;

(d) the substance of the direction; and

(e) the nature of the behaviour causing the serious nuisance; and

(ii) ensure the details of the IND or FND are recorded in the persons QPRIME record as a direction flag by notifying PCC or updating QPRIME.

Contravention of officers' directions and tribunal's orders

Where a person has been given an FND and contravenes the FND either by failing to leave the park or by re-entering the park within the stated period, that person may commit an offence under s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA.

Section 456(6): 'Order of tribunal excluding person from park' of the *Residential Tenancies and Rooming Accommodation Act* (RTRAA) provides an offence for a contravention of an order made by a tribunal prohibiting a person from entering or being in a MDP without reasonable excuse.

Officers investigating a complaint that a person has contravened an order of a tribunal by entering or being in an MDP should take up with the owner of the park and sight a copy of the order before commencing any enforcement action.

Proceedings for offences

Officers should supply details of the time, date and place of a proceeding for an offence against s. 791 of the PPRA to the owner of the MDP at which the offence occurred upon the request of that owner.

Section 511(1): 'Attempts to commit offences' of the RTRAA provides an offence for attempting to commit an offence against that Act. Section 4: 'Attempts to commit offences' of the Criminal Code applies to the RTRAA.

Warrants of possession

Where officers are approached by an authorised person to assist in the execution of a warrant of possession, which is:

(i) not directed to an officer, they should accompany the authorised person to ensure that no breaches of the peace occur (see s. 13.4.9: 'Breaches of the peace' of this chapter); or

(ii) directed to an officer, they are to comply with s. 13.18.11: 'Warrants of possession' of this chapter.

Assisting lessors to gain entry to premises

A lessor or a lessor's agent may enter premises, which include residential premises, caravans, manufactured homes, houseboats and the sites upon which these may be situated if the lessor or lessor's agent believes on reasonable grounds that the entry is necessary to protect the property or its inclusions (things supplied with the premises) from imminent or further damage (see s. 192(1)(l): 'Grounds for entry' of the RTRAA). In these circumstances an officer may accompany the lessor or the lessor's agent (see s. 194(2): 'Entry by lessor or lessor's agent with another person' of the RTRAA).

Officers who are requested to accompany a lessor or a lessor's agent to enter premises should satisfy themselves:

(i) the person seeking to gain entry is the lessor or the lessor's agent;

(ii) the premises is one to which a residential tenancy agreement under the RTRAA applies; and

(iii) as to the reasonableness of the grounds for suspecting that the entry is necessary,

and if satisfied, accompany the lessor into the premises to ensure no breach of the peace occurs.

Officers who assist a lessor or lessor's agent in entering a premises under the provisions of s. 194(2) of the RTRAA should not cause any damage or actually effect a forcible entry.

Other offences and processes under the RTRAA

Officers receiving complaints regarding breaches or inquiries under the RTRAA should refer complainants and inquirers to the Residential Tenancies Authority. Officers should direct all public inquiries relating to the RTRAA to the Residential Tenancies Authority (see SMCD).

13.4.8 Accommodation disputes

The priority for officers called to incidents that involve accommodation disputes are to preserve peace, to prevent crime and detect offences. To assist occupiers or be present whilst occupiers of a place remove persons in accommodation disputes should not be considered unless the officer is satisfied a clear legislative authority to do so exists.

Unless a clear legislative authority to remove a person in an accommodation dispute exists, officers can attempt to resolve these disputes by seeking an agreement from one of the parties to leave the premises voluntarily or refer participants involved to appropriate agencies for legal advice and dispute resolution.

Assisting the occupier of a place to remove other parties (as a trespasser) in accommodation disputes except where a clear legislative authority exists, should only be as a last resort. Officers should request advice from the RDO, DDO, patrol group inspector or shift supervisors based on the specific circumstances of the situation prior to taking this course of action.

Officers are not to provide legal advice to the parties involved in any accommodation dispute.

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For relevant definitions members should consult the *Residential Tenancies and Rooming Accommodation Act* (RTRAA) and *Residential Services (Accreditation) Act* (RS(A)A).

Residential tenancy or rooming accommodation agreements

The RTRAA provides for a lessor and a tenant to enter into a residential tenancy agreement (RTA) or for a provider and a resident to enter into a rooming accommodation agreement (RAA). These agreements may be entirely in writing, entirely oral or entirely implied, or partly in one of these forms and partly in one or both of the other forms.

The RTRAA provides for:

(i) the giving of notices in approved forms to:

(a) remedy breaches of agreements (see ss. 280, 301, 368, 378); and

(b) require the tenant/resident to leave the rental premises for failing to remedy a breach (see ss. 281, 302, 369, 379); and

(ii) applications to be made for termination of RTA or RAA for:

(a) failure to remedy breaches (see ss. 309 and 379); and

(b) repeated breaches (see ss. 299, 315, 376, 382).

Rooming accommodation agreements (RAA) and removal of residents

Section 375: 'Power to remove resident' of the RTRAA makes it lawful for a provider and anyone helping the provider to use necessary and reasonable force to remove the resident and the resident's property from the rental premises. Necessary and reasonable force can only be used if:

(i) the provider has given the resident a written notice under Chapter 5, Part 2: 'Ending of rooming accommodation agreements' of the RTRAA;

(a) requiring the resident to leave the rental premises and the due day for leaving has passed; or

(b) terminating the RAA and the agreement has ended;

(ii) the resident refuses to leave the premises;

(iii) a police officer is present; and

(iv) the force used does not include force that is likely to cause bodily harm to the resident or damage to the resident's property.

Specifically applying to RAA as defined in ss. 16: 'Rooming accommodation agreement' of the RTRAA and 611: 'Attendance at rental premises while person or property is removed' of the PPRA provides that at the request of a provider, an officer may enter and stay in a person's room in rental premises while the provider, or someone helping the provider, exercises a power under s. 375 of the RTRAA to remove the person or the person's property from the rental premises.

This entry power is subject to a request from the provider for assistance and the existence of all criteria required in s. 375 of the RTRAA.

As outlined in s. 611(2) of the PPRA, s. 611(1) does not limit any other power of an officer under another Act or law. As such, officers may be required to use other legislative powers while monitoring the removal of a resident including arrest and search powers. Officers should also consider using power under s. 52: 'Prevention of offences—general' of the PPRA where appropriate.

Under Chapter 6, Part 1: 'Conciliation process for residential tenancy disputes and rooming accommodation disputes' and Part 2: 'Applications to tribunals' of the RTRAA, residents and providers may use conciliation, dispute resolution processes and ultimately the Queensland Civil and Administrative Tribunal to rectify disputes.

Officers tasked to attend and be present while a provider exercises a power under s. 375 of the RTRAA, are to make inquiries with a view to ascertaining that the provisions of the Act apply.

Providers are able to obtain an approved 'Notice to leave' document from the Residential Tenancies Authority, Queensland.

Officers should be mindful that a provider might not have a copy of the written notice that was provided to the resident. RTRAA does not require the provider to retain a copy of the notice. As such the inability of a provider to produce a copy of the notice does not in itself show the notice has not been given to the resident. In these instances, officers should seek other corroborating evidence that the notice has been given to the resident (e.g. copies of rent receipts, copies of periodic rental agreements, information from other residents, etc.).

Officers should not become involved in the removal of residents or residents' property. Attending officers should remind providers that the primary role of police is to ensure the safety of all persons and to prevent offences.

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When it is established that the provisions of s. 375 of the RTRAA are not applicable, the officer is not to make an entry of the resident's room under s. 611 of the PPRA. The provider should be advised to seek advice about the requirements under s. 375 of the RTRAA (see SMCD).

Recording use of entry power

Upon making an entry to a resident's room in rental premises under s. 611 of the PPRA, officers should make a record of the entry. If the entry relates to a QPRIME occurrence, then record the details in the general report of the relevant occurrence, or an entry in the officer's official police notebook.

Residential tenancy agreements (RTA) and removal of tenants

A warrant of possession is a warrant issued under s. 350: 'Issue of warrant of possession' of the RTRAA which allows the lessor of premises rented under an RTA to regain possession of those premises. See s. 13.18.11: 'Warrants of possession' of this chapter for information on execution of these warrants.

Applicability of the Residential Services (Accreditation) Act

A residential service is defined in s. 4: 'Meaning of residential service' of the RS(A)A. A residential service can include, for example:

(i) a boarding house in which each resident occupies a room and shares a bathroom, kitchen, dining room and common room with other residents; or

(ii) a service providing rental accommodation to older persons, where each resident occupies a self-contained unit and is provided with food and personal care services.

The RS(A)A does not apply to premises providing accommodation where the room or rooms are occupied, or available for occupation, in the course of the service by less than 4 residents. Additionally, s. 4(5) of the RS(A)A specifically identifies a number of services that are not residential services. Services such as an aged care service, hotel, motel, backpacker hostels and the supported accommodation assistance program are not residential services.

Residential services are regulated under the RS(A)A through a registration and accreditation system where services must be provided to meet minimum standards. Further, residential services may be regulated by the RS(A)A as most persons using residential services will also be subject to either an RTA or a RAA.

Persons who reside in residential services that are not subject to either an RTA or a RAA, will be covered by some form of a licence to occupy. The person's ability to remain in the place by virtue of the licence to occupy may be subject to control by another Act e.g. the *Retirement Villages Act* (RVA) or the person may become a resident of rooming accommodation which does not come within a RAA or may be a boarder or lodger.

Applicability of the RTRAA

Section 32: 'Boarders and lodgers' of the RTRAA provides that the RTRAA does not apply to an RTA if the tenant is a boarder or lodger.

However, if a rental bond is paid for a RTA under which the tenant is a boarder or lodger, the provisions of the RTRAA about rental bonds apply to the agreement.

Section 44: 'Rooming accommodation agreements to which Act does not apply' of the RTRAA provides that the RTRAA does not apply to a RAA relating to the following rooming accommodation:

(i) accommodation provided by a person in premises if:

(a) the premises are the person's only or main place of residence; and

(b) not more than three rooms in the premises are occupied, or available for occupation, by residents;

(ii) aged care accommodation provided by an approved provider under the *Aged Care Act* (Cwlth);

(iii) accommodation provided at an authorised mental health service under the *Mental Health Act*;

(iv) accommodation provided in a private hospital under a licence in force under the *Private Health Facilities Act*;

(v) accommodation for school students:

(a) provided as part of, or under an agreement with, a school; or

(b) arranged by a school for students of another school; or

(c) provided with financial assistance from the education department;

(vi) accommodation for students within the external boundaries of a university's campus provided:

(a) by the university; or

(b) by an entity, other than the university, if the accommodation is provided other than for the purpose of making a profit;

(vii) accommodation provided to holiday makers or travellers (not normally longer than six weeks);

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(viii) accommodation provided under the program known as the Supported Accommodation Assistance Program;

(ix) accommodation provided under funding given by, or in premises owned by, Aboriginal Hostels Limited ACN 008 504 587;

(x) accommodation for a person at a retirement village if the person resides in the accommodation under:

(a) a residence contract under the RVA; or

(b) s. 70B of the RVA; and

(xi) other accommodation prescribed under a regulation not to be rooming accommodation.

If a rental bond is paid for rooming accommodation within the external boundary of a university's campus, the provisions of the RTRAA about rental bonds apply to the agreement.

Attendance at disputes (establish status of person obtaining accommodation)

Officers attending accommodation disputes should establish if the person obtaining the accommodation is a:

(i) tenant within the meaning of s. 13 of the RTRAA;

(ii) boarder/lodger;

(iii) resident in rooming accommodation within the meaning of s. 14 of the RTRAA;

(iv) resident in rooming accommodation which does not come within an RAA and is not regulated by another act; or

(v) resident in rooming accommodation regulated by another act such as the *Private Health Facilities Act*.

In determining whether a person is a:

(i) tenant, an RTA should exist. Normally these agreements should be in writing, however they can be verbal or implied, which can complicate the determination;

(ii) resident for rooming accommodation under the meaning of s. 14 of the RTRAA—a RAA should exist. Normally these agreements should be in writing, however they can be verbal or implied, which can complicate the determination;

(iii) resident of rooming accommodation, to which the RTRAA does not apply and may be regulated by another Act—see s. 44(1)(a) to (k) of the RTRAA; or

(iv) boarder or lodger—officers should consider:

(a) if there is another type of contract or agreement (not an RTA or RAA) to occupy the premises, and if so, the conditions in the agreement, (including any termination clause);

(b) whether other guests are allowed to stay in the premises;

(c) the amount of rent, the method of payment and the continuity of occupation;

(d) the intention of both parties on entering into the agreement;

(e) whether the occupant has control over the premises or part of the premises or whether control remains with the owner or manager;

(f) whether the owner/manager resides on the premises;

(g) the provision of services by the owner/manager, such as cleaning and meals;

(h) what do the premises consist of; what are the inclusions in the premises as part of the occupancy; and

(i) whether there are shared facilities such as bathrooms and kitchens.

Generally, if the occupant of the premises has control over all of the facilities associated with the accommodation (bedroom, kitchen, shower and toilet) it may be that the occupant is a tenant and the tenancy of the residential premises is subject to the provisions of the RTRAA and an RTA.

Attendance at disputes (action to take once status of person obtaining accommodation is established)

When an officer has made a determination about the person obtaining accommodation in an accommodation dispute, and that the person is considered a:

(i) tenant within the meaning of the RTRAA—officers are to see subsection 'Residential tenancy agreements (RTA) and removal of residents' above or refer participants to other agencies listed below for dispute resolution and advice;

(ii) resident for rooming accommodation under the meaning of s. 14 of the RTRAA—officers are to see subsection 'Rooming accommodation agreements (RAA) and removal of residents' above or refer participants to other agencies listed below for dispute resolution and advice;

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(iii) resident of rooming accommodation which does not come within an RAA but is regulated by another act—officers are to refer participants to other agencies listed below;

(iv) resident of rooming accommodation which does not come within an RAA and is not regulated by another act or is a boarder/lodger, where:

(a) the person's licence to occupy the premises has been validly revoked; and

(b) the person fails to leave after having been asked to by the owner/manager of the premises,

that person may become a trespasser. If so, on the expiration or withdrawal of the licence to occupy, trespassing occupants should be given a reasonable time to leave and to remove their possessions. The provisions of s. 13.17.2: 'Requests to remove person(s) from a place, etc. for trespass or disorderly conduct' of this chapter apply.

Referral agencies

Appropriate referral agencies for dispute resolution or advice may include:

(i) the Residential Tenancies Authority, for matters that are or are believed to be pursuant to the RTRAA;

(ii) the Tenants Union of Queensland;

(iii) Services Australia for aged care accommodation provided by an approved provider under the *Aged Care Act* (Cwlth);

(iv) Queensland Health—Mental Health Branch for accommodation provided at an authorised mental health service under the *Mental Health Act*;

(v) the Office of Fair Trading for student accommodation;

(vi) the Department of Social Services (Cwlth) for accommodation provided under the program known as the Supported Accommodation Assistance Program (also known as the National Affordable Housing Agreement);

(vii) the Department of Housing and Public Works, the Department of Women, Aboriginal and Torres Strait Islander Partnerships and Multiculturalism, or the Office of Fair Trading for accommodation provided under funding given by, or in premises owned by, Aboriginal Hostels Limited; and

(viii) the Department of Families, Seniors, Disability Services and Child Safety—Legal and Support Service Centres or the Office of Fair Trading for accommodation for a person at a retirement village if the person resides in the accommodation under the RVA.

Contact details for the relevant agencies are included in the SMCD.

OPM Issue 113 Public Edition

13.4.9 Breaches of the peace

What constitutes a breach of the peace will generally depend on the conduct of the person(s), the location where the conduct is occurring and the circumstances surrounding the conduct taking place. See the Prosecution Services Reference Note 30: 'Move-on Powers and Breach of the Peace' on the Service Intranet for a detailed discussion.

POLICY

When a person has been detained under s. 50: 'Dealing with breach of the peace' of the PPRA the detention will be lawful providing that the required reasonable suspicion under s. 50(1) continues to exist. In appropriate circumstances it is lawful for a person detained under s. 50 of the PPRA to be taken to a watch-house or other place (e.g. holding cell) providing that the watch-house manager or other officer in charge holds the required reasonable suspicion.

Once the relevant breach of the peace has been prevented from happening or continuing, or the conduct that is the breach of the peace has been prevented from again happening, the person is to be released from detention.

Where a person is detained under s. 50 of the PPRA and taken to a watch-house or other place (e.g. holding cell):

(i) an entry is to be made in QPRIME (see s. 16.8: 'QPRIME custody, search and property reports' of this Manual); and

(ii) no clear authority exists to search such person, unless by consent (s. 443: 'Police officer may search person in custody of the PPRA does not apply).

Persons detained under s. 50 of the PPRA are:

(i) to be detained for the minimum time necessary;

(ii) to be monitored/supervised constantly;

(iii) not to be placed with other prisoners who have been searched; and

(iv) to be segregated where possible from all other prisoners,

until released from custody or arrested for an offence.

13.4.10 Deleted

13.4.11 Deleted

13.4.12 Neighbourhood disputes

The *Neighbourhood Disputes (Dividing Fences and Trees) Act* (ND(DFT)A) provides options for neighbours to resolve issues about trees and fences. This section will provide officers with information to assist the involved parties when attending disputes relating to dividing fences and overhanging trees.

Disputes in relation to pool barriers which make up the common boundary are managed under Chapter 8, Part 2A: 'Neighbours' rights and responsibilities for particular dividing fences' of the *Building Act*.

In all instances the adjoining neighbours need to agree on the common boundary or arrange for a qualified surveyor to identify the boundary. Officers should be aware fences may not be constructed on the true boundary line.

POLICY

Officers should advise the involved parties of the options to resolve the dispute through the provisions of the ND(DFT)A in appropriate circumstances. It is not the role of the Service to act as mediators or decision-makers between neighbours as dividing fence and tree disputes are resolved through QCAT.

Information to assist and guide neighbours:

(i) relating to dividing fences (which do not make part of a pool barrier) and overhanging trees is available on the Department of Justice website and includes:

(a) contact advice about free mediation services provided by Dispute Resolution Centres;

(b) contact advice about free legal advice through Legal Advice Queensland or a local Community Legal Centres; and

(c) guidance on the ND(DFT)A; or

(ii) relating to pool barriers which make part of a dividing fence is available on the Department of Housing and Public Works website.

13.4.13 Out-of-control events

For the purpose of this section:

Event authorisation

means authority is provided by the senior officer for out-of-control event powers to be enacted.

Out-of-control events typically involve a large gathering of people whose conduct results in persons fearing physical violence or damage to property.

For an event to be an out-of-control event there must be:

(i) twelve or more persons gathered together;

(ii) three or more persons associated with the event, either collectively or individually, engaging in out-of-control conduct (see s. 53BC: 'What is out-of-control conduct' of the PPRA); and

(iii) out-of-control conduct that would cause a person, at or near the event, reasonable fear of violence, damage to property or suffer substantial interference to rights, freedoms, peaceful passage or enjoyment in a public place.

It is immaterial whether a person is present to suffer fear or interference.

Events held on premises subject to specified licensed events, political, industrial or protest actions are not out-of-control events.

Cost orders may be sought in relation to reasonable costs for an out-of-control event, against a person, including a child, either by application or upon the court's own initiative (see Subdivision 2: 'Costs orders' of the PPRA, ss. 53BK–53BN).

Initial response

An officer attending a suspected out-of-control event:

(i) is to assess the situation to satisfy themselves that the event has become, or is likely to become, an out-of-control event; and

(ii) where the officer is satisfied the event has or is likely to become an out-of-control event, the officer (if not a sergeant or above) is to contact a senior officer (see SMD) and seek an event authorisation.

When a senior officer receives a request for an event authorisation, the senior officer is to satisfy themselves the event has become or is likely to become an out-of-control event. Where the senior officer believes the event has or is likely to become an out-of-control event, the senior officer is to:

(i) advise the senior on scene officer at the event location (either in person or by radio, telephone etc.):

OPM Issue 113 Public Edition

(a) that an event authorisation has been issued;

(b) the duration of the event authorisation; and

(c) any restrictions on the use of powers available under s. 53BG: 'Taking action for out-of-control events' of the PPRA;

(ii) create a written record of the event authorisation at the earliest opportunity, which may be recorded in the relevant QPRIME occurrence. The record is to include as a minimum:

(a) time and date of the event authorisation;

(b) the location of the event;

(c) the duration of the event authorisation;

(d) the basis for declaring the event to be an out-of-control event; and

(e) any restrictions included in the event authorisation on how the out-of-control event powers would be used.

ORDER

To ensure compliance with s. 678: 'Register of enforcement acts' of the PPRA, the authorising officer is to ensure a QPRIME 'Out of control event' occurrence [1680] is entered as soon as reasonably practicable.

Out-of-control event powers

When an event authorisation has been issued, officers have additional powers under s. 53BG: 'Taking action for out-of-control events' of the PPRA, namely:

(i) the power to stop a vehicle or enter a place without a warrant;

(ii) give a person or group of persons a direction to:

(a) stop any conduct;

(b) immediately leave a place; or

(c) not to return to a place within a stated period of not more than twenty four hours, unless the person or group resides at the place; and

(iii) take any other steps reasonably necessary,

to stop or prevent the out-of-control event from continuing.

ORDER

An officer is not to use out-of-control event powers unless an event authorisation has been issued by a senior officer.

Out-of-control event directions

Where an officer is authorised to use out-of-control event powers and they intend to give a person or a group of persons a direction under s. 53BG(2)(b) of the PPRA, the officer should, where practical use the following template:

I am [name, rank] of [name of police station/establishment].

An out-of-control event authorisation has been issued regarding this location.

I now direct you [indicate person or group or name of person if known] to immediately:

(i) stop [identify out-of-control conduct];

(ii) leave/move [distance] from [identify place/location]; and

(iii) you are not to [return/be within (distance) of place/location] for a period of [not longer than 24 hours],

(as appropriate to resolve the event).

If you fail to comply with this direction you will be committing an offence for which you may be arrested.

Officers who give a person or group of persons a direction are to:

(i) provide the following details to the communications officer for logging against the job number; and

(ii) at the earliest opportunity, include the following details in a supplementary report within the relevant QPRIME occurrence created by the authorising senior officer to record the out-of-control event authorisation, the:

(a) time and date the direction was given;

(b) location of the person or group when the direction was given;

(c) name and address, if known, of the person or persons given the direction or a description of the person given the direction, including age, sex and ethnic background; and

OPM Issue 113 Public Edition

(d) terms of the direction given.

Failure to comply with out-of-control event directions

Prior to taking any enforcement action against a person who is reasonably suspected of having contravened a direction, officers are to satisfy themselves that the person:

(i) is a person to whom a direction was given;

(ii) has contravened the direction;

(iii) has been warned, where practicable, that it is an offence to fail to comply and that they may be arrested for the offence;

(iv) has been given a reasonable opportunity to comply with the direction; and

(v) has no reasonable excuse for contravening the direction,

see s. 633: 'Safeguards for oral directions or requirements' of the PPRA.

Out-of-control event related offences

Where an out-of-control event occurs, a person may commit an offence by:

(i) organising an out-of-control event (see s. 53BH: 'Organising an out-of-control event' of the PPRA);

(ii) causing an event to become out-of-control (see s. 53BI: 'Causing an out-of-control event' of the PPRA); or

(iii) disobeying an out-of-control event direction (see s. 53BJ: 'Offence to contravene direction' of the PPRA).

The officer responsible for investigating an offence under s. 53BH of the PPRA is to be the:

(i) senior officer who issued the event authorisation; or

(ii) most senior officer at the event scene where the event authorisation was provided remotely.

Costs associated with an out-of-control event

Where an offender is found guilty of an offence under ss. 53BH, 53BI, or 53BJ of the PPRA, the person may be ordered by a court to pay some or all of the Service's costs associated with policing the out-of-control event.

Where a person is charged with an out-of-control event related offence:

(i) the investigating officer is to consider whether it is appropriate to make an application for costs against the person if they are found guilty of the offence; and

(ii) the commissioned officer directly supervising the investigating officer is to prepare the quantum of any costs associated with an out-of-control event.

The costs are to be calculated for the actual time officers were involved in managing the incident, as per the 'QPS Schedule of Fees and Charges' special service rates (available on the Finance and Procurement Division, Receiving Money SharePoint page). Officers are to consider other reasonable costs incurred e.g. police helicopter or police vehicles. The time periods can be obtained from CAD records or ITAS patrol logs.

Wherever practicable, the Service's costs are to be calculated and included in the relevant QPRIME occurrence on the same shift where the event occurred. In any instance, the costs are to be calculated prior to the offender(s) first court appearance.

OPM Issue 113 Public Edition

13.5 Correctional centres and incidents involving Queensland Corrective Services

All correctional centres in Queensland are under the control of Queensland Corrective Services (QCS) whether they are operated by the QCS or by private contractors.

13.5.1 Deleted

13.5.2 Offences under the Corrective Services Act

The most likely simple offences under the *Corrective Services Act* (CSA) to come to the attention of officers are:

(i) s. 84: 'Prisoner's duties while on leave';

(ii) ss. 124(a), (e) and (k): 'Other offences';

(iii) s. 126: 'Helping prisoner at large'; and

(iv) s. 128(1)(c) and (d): 'Taking prohibited thing into corrective services facility or giving prohibited thing to prisoner'.

Section 142: 'Escape by persons in lawful custody' of the Criminal Code is also applicable to offences in this chapter and is classified as a crime.

Sections 365: 'Arrest without warrant' and 366: 'Arrest of escapees etc.' of the PPRA, specifically s. 366(2), provides the power of arrest for offences relating to prisoners unlawfully at large within the meaning of the CSA.

See s. 3.4.19: 'Charges against prisoners' of this Manual when further charges are to be preferred against a prisoner who is currently serving a term of imprisonment.

13.5.3 Corrective Services Investigation Unit to be advised

POLICY

First response officers are to contact the Corrective Services Investigation Unit (CSIU) when a:

(i) major incident occurs within a Queensland correctional centre (CC), including where a death occurs;

(ii) correctional services officer or other staff member of a CC is involved in any:

(a) criminal activity; or

(b) corrupt conduct;

(iii) breach of a work order under s. 66(1): 'Work order' of the *Corrective Services Act* relating to security and supervision has occurred;

(iv) criminal offence has been committed by a prisoner, and QCS is not required to be notified under s. 13.5.4: 'Queensland Corrective Services to be advised' of this chapter; or

(v) prisoner escapes.

See s. 3.4.19: 'Charges against prisoners' of this Manual when further charges are to be preferred against a prisoner who is currently serving a term of imprisonment.

The Officer in Charge, CSIU, is to notify the relevant district officer or equivalent as to whether any of the above matters are to be investigated by officers from the CSIU or local officers. Officers who are detailed to investigate a matter involving a correctional centre or a prisoner in accordance with such notification are to keep both the CSIU and the relevant district officer informed of the progress of the investigation.

13.5.4 Queensland Corrective Services to be advised

Queensland Corrective Services (QCS) provides the Service with information from their Integrated Offender Management System (IOMS), concerning persons who are subject to:

(i) a parole order;

(ii) a probation order;

(iii) a community service order; or

(iv) an intensive correction order.

This IOMS information is transferred electronically to the Service and is entered into QPRIME as a 'Flag'.

Officers who commence a prosecution against a person who has IOMS information in QPRIME are to contact QCS, by telephoning the Assistant Commissioner, Community Corrections (see SMCD).

Officers who otherwise deal with such a person in circumstances where they consider QCS should be notified, are to contact QCS via e-mail, to the Assistant Commissioner, Community Corrections and provide the following information:

(i) name and date of birth of the subject person;

(ii) the IOMS ID number of the person, which is recorded in QPRIME; and

(iii) contact details of the responsible officer.

13.5.5 Requests for information from Queensland Corrective Services

POLICY

The Corrective Services Investigation Unit (CSIU) should be the first contact point for officers to make official inquiries with Queensland Corrective Services (QCS). A State Intelligence Group analyst is permanently stationed at the CSIU and has access to the QCS database and prison network systems.

13.5.6 Supply of information impacting on the security classification, protection or security of prisoners to Queensland Corrective Services

Officers may on occasions be required to provide information to Queensland Corrective Services (QCS) which may impact on the security classification, protection or security of prisoners or the security or good order of correctional facilities.

OPM Issue 113 Public Edition

Where an officer has information which may relate to:

(i) the safety, security classification or placement of a prisoner; and/or

(ii) the security and good order of a correctional facility (including threats to QCS staff),

the officer is to ensure this information is provided to QCS.

All information provided to QCS which may relate to the security classification, protection or security of prisoners, and or the security or good order of correctional facilities, is to be:

(i) entered in QPRIME as an intelligence submission; and

(ii) assigned as a task by the relevant intelligence office to the organisational unit, Corrective Services Investigation Unit (CSIU).

The Inspector, CSIU, is to ensure any information received in this manner is provided to the appropriate person within QCS.

In emergent circumstances, a commissioned officer may authorise that such information be provided directly to QCS Intelligence and Investigations Branch Intelligence Group (see SMCD). However, information thus provided should be entered in QPRIME as an intelligence submission and tasked to CSIU at the first available opportunity.

See ss. 3.4.18: 'Supply of information where court outcome requires action by Queensland Corrective Services or Youth Justice Services' and 3.4.36: 'Notification of Chief Executive, Queensland Corrective Services, regarding committal, conviction, etc. of relevant person' of this Manual when information is to be supplied to QCS other than information relating to the security classification, protection or security of prisoners.

QCS may request information about a current criminal investigation of a QCS employee for disciplinary purposes (see s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the MSM).

13.5.7 Where a prisoner is unlawfully at large or escapes from a correctional centre

ORDER

In addition to the provisions contained in Chapter 2: 'Investigative Process' of this Manual, first response officers receiving a complaint that a prisoner is unlawfully at large or has escaped from a correctional centre are responsible for:

(i) the initial inquiries and circulation of the prisoner's description, etc.; and

(ii) recording the offence with Policelink as required in s. 1.11.2: 'Recording an offence in QPRIME' of this Manual.

13.5.8 Where a prisoner who is unlawfully at large or escapee is located

ORDER

Officers who locate, or are assigned responsibility for a located prisoner who is unlawfully at large or an escapee, are to ensure that the prisoner is returned to safe custody as soon as practicable and to ensure the relevant QPRIME occurrence is updated as required in s. 1.11.7: 'Prosecution of offender' of this Manual. Officers who locate a prisoner are to ensure advice of the prisoner's recapture, by e-mail message, is forwarded as soon as possible to the:

(i) Officer in Charge, Corrective Services Investigation Unit (CSIU) at SCC CSIU; and

(ii) Duty Officer, Police Communications Centre (PCC) at PCC Duty Officer [MCD].

The Duty Officer, PCC is to advise the on-call officer, CSIU by pager as soon as practicable after that prisoner has been recaptured.

13.5.9 Copy of occurrence report to be forwarded to Corrective Services Investigation Unit

ORDER

When an officer submits an occurrence report or any other documentation which relates to a prisoner, a correctional centre or personnel of Queensland Corrective Services and the original is not sent to the Corrective Services Investigation Unit (CSIU) for attention, shift supervisors or officers in charge of stations or establishments are to ensure that a copy of the occurrence report or other relevant documentation is promptly forwarded to the Officer in Charge, CSIU.

13.5.10 Offences committed by prisoners prior to their admission to prisons

POLICY

Criminal offences committed by prisoners prior to their admission to prison should continue to be investigated by local police unless circumstances warrant the attention of the Corrective Services Investigation Unit.

13.5.11 Declaration of emergency under the Corrective Services Act

The Chief Executive, Queensland Corrective Services may with the Minister's approval in certain circumstances under s. 268: 'Declaration of Emergency' of the *Corrective Services Act* declare that an emergency exists in relation to a prison

OPM Issue 113 Public Edition

for a stated period, not more than three days. While the declaration is in force, the Chief Executive may authorise officers to perform a function or exercise a power of a corrective services officer, under the direction of the senior officer present.

Section 797: 'Helping during declaration of emergency under Corrective Services Act' of the PPRA, further states that the police officer authorised by the Chief Executive must perform the function or exercise the power of a corrective services officer under the direction of the senior officer present at the prison for which the corrective services emergency declaration is in force.

POLICY

Where officers are authorised to perform a function or exercise a power of a corrective services officer under the direction of a senior police officer, senior police officers are to inform police officers of their functions and powers under the *Corrective Services Act* before police officers are required to perform those functions and powers.

See Chapter 2: 'Prisoners', Chapter 3: 'Breaches of discipline and offences' and Chapter 4: 'Corrective services facilities' of the *Corrective Services Act* for the functions and powers performed by corrective services officers.

13.5.12 Visiting a Queensland Corrective Services correctional centre

A member wishing to visit a Queensland Corrective Services (QCS) corrective service facility (CSF) for business purposes is to contact the facility a minimum of 24 hours before to arrange a visit. In exceptional circumstances, applications providing less than 24 hours' notice may be approved. Officers from the Corrective Services Investigation Unit (CSIU) are not subject to providing minimum notice on visits to a CSF and are to visit as required.

All visitors to correctional centres will be subject to security clearance and must complete and sign an appropriate form before entry is permitted. Visitors may also be required to submit to a search before entering a CSF. All members visiting a CSF for business purposes are to be in possession of their official photographic identification.

All members who visit a CSF are to comply with all provisions of the *Corrective Services Act* (CSA) and all lawful directions given by any corrective services officer, where the directions are given for the security or good order of the facility or for a person's safety (see Chapter 3, Part 3: 'General offences' of the CSA).

Officers are not to:

(i) take, or attempt to take a prohibited thing into a CSF; or

(ii) give or attempt to give a prisoner in a CSF a prohibited thing,

(see s. 128: 'Taking prohibited thing into corrective services facility or giving prohibited thing to prisoner' of the CSA)

A prohibited thing within a CSF includes:

(i) weapons;

(ii) money;

(iii) a communication device (including mobile phones); and

(iv) electronic storage devices.

Officers may show prisoners court documents (such as notices to appear, statements, protection orders, summons of a witness) but are not to not leave such documents with the prisoner. Instead, officers should request a corrective services intelligence officer or a corrective services custodial supervisor to arrange to place the items in the prisoner's reception property (see s. 19: 'Prohibited things—Act, s 123' of the Corrective Services Regulation).

Officers should, however, carry essential resources, equipment and accoutrements into a CSF for official duties. This includes the following items:

(i) electronic tablets (e.g. iPads, QLiTE devices);

(ii) laptops;

(iii) mobile telephones;

(iv) two-way radios;

(v) digital video cameras;

(vi) body worn cameras;

(vii) electronic storage media to assist with access and transfer of investigative material;

(viii) mechanical restraints; and

(ix) chemical agents.

Officers are not permitted to carry personal electronic devices, only those used for official duties. Officers must comply with any corrective service procedure (i.e. completing a register or similar, for any prohibited thing being brought into a CSF).

OPM Issue 113 Public Edition

Officers should be aware that the above list of items that may be carried into a CSF is based on advice from QCS and may be subject to change and officers should always follow the directions of QCS when entering any CSF.

Officers may take handcuffs into a corrective services facility but are not permitted to take a firearm, conducted energy weapon (Taser) or baton into a CSF. These items must be stored prior to entering the secure area of a CSF.

Interviewing a prisoner

Officers can visit a CSF to interview a prisoner. A prisoner may refuse to see the officer or agree to see them but refuse to answer any questions. Officers visiting a CSF to interview prisoners are to comply with all QCS procedures, including:

(i) completing any forms required by QCS;

(ii) not allowing a prisoner unsupervised access to any communication device; and

(iii) the monitoring, recording and/or authorisation of all telephone calls made by prisoners,

(see s. 167: 'Law enforcement visitor' of the CSA).

To assist an officer in meeting their obligations under ss. 418: 'Right to communicate with friend, relative or lawyer' and 434: 'Right of visiting foreign national to communicate with embassy etc.' of the PPRA, an officer can provide a prisoner with a mobile telephone to enable them to contact a lawyer of the prisoner's choice or an embassy prior to questioning them for an indictable offence. The officer is to:

(i) only provide access to a telecommunication device that is for official use and owned by the Service or QCS;

(ii) ensure the prisoner cannot operate or redivert the telephone;

(iii) notify the correctional centre intelligence manager that the prisoner has been provided with the call including the date and time of the call;

(iv) prior to making the call:

(a) verify the number to be called;

(b) verify the intended recipient; and

(c) record these details in their official police notebook and/or diary;

(v) dial the intended number themselves and verify the recipient before providing the telecommunications device to the prisoner; and

(vi) ensure the prisoner does not:

(a) breach any court order when contacting a friend/relative; or

(b) contact a civilian with whom QCS has prohibited contact.

OPM Issue 113 Public Edition

13.6 Unlawful taking of electricity

Police officers are not authorised persons under the provisions of the *Electricity Act* and have no powers under that Act. Officers do, however, have general powers under the PPRA to investigate offences.

Offences relating to the unlawful taking of electricity and other related offences should be investigated and prosecutions commenced by electricity officers of the local electricity authority.

In cases involving clandestine illicit drug laboratories or hydroponic cannabis crops, police officers should investigate the possible fraudulent appropriation of power and commence proceedings under the Criminal Code where appropriate. In instances where offences against the *Electricity Act* are investigated by officers, the provisions of the PPRA are to be complied with. Wherever required, the expert assistance of electricity officers of the local electricity authority should be sought.

Except for cases of suspected fraudulent appropriation of power involving clandestine illicit drug laboratories or hydroponic cannabis crops or instances where the offence is of a non-technical nature e.g. a breach of s. 235: 'Unlawful taking of electricity' of the *Electricity Act*, officers who become aware of *Electricity Act* related offences should refer the matter to the relevant electricity authority for investigation and prosecution.

See also ss. 2.6.6: 'Clandestine illicit drug laboratories' and 2.6.7: 'Illicit drug crops' of this Manual.

13.7 Liquor and licensed premises

Authority to investigate offences under the Liquor Act

In accordance with s. 4: 'Definitions' of the *Liquor Act* (LA), a:

(i) police officer; and

(ii) community police officer (see s. 4 of the LA),

are investigators for the purpose of exercising the powers of the Act (see Approval D 27.3).

Liquor seizure and disposal

In addition to powers under the LA:

(i) s. 53: 'Prevention of particular offences relating to liquor'; and

(ii) s. 53A: 'Seizure of liquor from a minor in particular circumstances',

of the PPRA authorise officers to seize and dispose of the liquor in a way the officer considers reasonably necessary. This includes the power to immediately dispose of the liquor (e.g. empty the alcohol from the container onto the ground) or lodge the liquor at a property point.

Seized and forfeited liquor is to be disposed of in accordance with s. 13.7.12: 'Seizure and disposal of liquor' of this chapter.

Property seized under the Liquor Act

Within Part 7: 'Investigators and their powers' of the LA, specific powers are provided to investigators relating to the seizure of vehicles, boats, aircraft, animals and other things the investigator knows or reasonably suspects is or has been involved in the sale, consumption, possession or carriage for sale of liquor in contravention of the Act.

Where an officer seizes property under Part 7 of the LA and the property is to be:

(i) forfeited to the State by a court order under s. 187F: 'Forfeiture on conviction' of the LA; or

(ii) returned to the owner or otherwise disposed, in accordance with the PPRA,

(see s. 187A(2): 'Application' of the LA).

Officers intending to seize and tow away a vehicle under the provisions of the LA should ensure the required permission has been obtained (see s. 4.12.5: 'Abandoned vehicles (as distinct from being stolen and abandoned)' of this Manual).

Preparing comments on applications relating to the Liquor Act

The Office of Liquor and Gaming Regulation is required under the provisions of the LA, to seek comment from the Service on certain applications made under the Act. A guide for preparing comments on applications is available on the Liquor Section SharePoint page.

OPM Issue 113 Public Edition

13.7.1 Reporting incidents involving licensed premises

Minor incidents at licensed premises, considered in isolation, may not warrant breach action or reporting to the Office of Liquor and Gaming Regulation (OLGR) for investigation. However, a succession of minor 'one-off' incidents may be precursors to significant incidents resulting in injury to members of the public and officers.

The OLGR maintains a central record of all incidents reported by officers whether or not breach action has been taken. The recording of incidents enables the OLGR to identify any trends at licensed premises which may require proactive negotiations with the licensee of the premises aimed at curtailing potential significant incidents.

Officers who attend or become aware of any incidents involving licensed premises, where:

(i) a QPRIME occurrence has not been created; or

(ii) additional information in relation to the incident needs to be reported,

should create a 'Liquor Incident Report' (LIR) in QPRIME as an 'intelligence/Street Check Report' and not a 'general report' or supplementary report'.

When completing a LIR in QPRIME officers are to ensure accurate information is recorded in the entry and in accordance with the QPRIME user guide as this data/evidence is forwarded externally to OLGR.

A task should be forwarded to:

(i) the local liquor unit;

(ii) the officer responsible for coordination of liquor incidents; or

(iii) their OIC where a local liquor unit or an officer responsible for coordination of liquor incidents has not been appointed.

The Manager of the Drug and Alcohol Coordination Unit (DACU), Domestic, Family Violence and Community Engagement Group (DFVCE) is to download QPRIME Liquor Incident Report on a weekly basis and forward the reports to the OLGR for their attention.

Where officers attend a serious incident, or receive information requiring an urgent response from OLGR, the investigating officer is to:

(i) create a 'Liquor Incident Report' in QPRIME;

(ii) complete a QP 0489: 'Liquor incident report';

(iii) save the completed QP 0489 in the relevant QPRIME occurrence;

(iv) forward by email the completed QP 0489 to the relevant Compliance Unit—OLGR (see SMCD); and

(v) forward a QPRIME task to the local liquor unit, or the officer responsible for coordination of liquor incidents (if appointed), or their OIC.

Linking an offence to a licensed premises

Where an offence is related to a licensed premises, members are to ensure the appropriate fields of the QPRIME occurrence are completed to:

(i) indicate the offence is related to a licensed premises;

(ii) record the relevant statistics; and

(iii) identify and record any nexus between the incident and the related licensed premises.

Where a relevant assault offence is related to licensed premises, in addition to recording the information above in the relevant QPRIME occurrence, officers should record in the Occurrence MO that a certificate has been issued following breath, saliva, blood or urine analysis for a relevant assault offence obtained and the results of the analysis (see s. 2.32: 'Prescribed offences and relevant assault offences' of this Manual). Section 233(2)(ba): 'Evidentiary provisions' of the *Liquor Act* provides the certificate is admissible as evidence of an offence under the Act.

13.7.2 Exclusion options

There are a number of options available for licensees, liquor licensing officials and police officers to exclude persons from licensed premises and their adjacent areas including:

(i) licensees right to provide a safe premises under ss. 260: 'Preventing a breach of the peace' and 277: 'Defence of premises against trespassers—removal of disorderly persons' of the CC;

(ii) licensees refusing a person entry or removing a person from a specific licensed premises (see ss. 165–165B of the *Liquor Act* (LA));

(iii) licensees refusing a person entry or removing a person from a specific licensed premises, where the person is wearing or carrying a prohibited item indicating membership or association with a declared criminal organisation (see ss. 173EA–173ED of the LA);

(iv) a police officer under s. 184(1)(d): 'Other powers of investigators' of the LA, refusing a person entry or removing a person from a specific licensed premises (see ss. 165–165B of the LA);

(v) police move-on powers to prohibit a person from returning to a specified area for up to 24 hours (see s. 13.23: 'Move-on power' of this chapter);

(vi) police banning notice issued by an officer to prohibit a person from a relevant public place for the period of time stated on the notice (see s. 13.7.5: 'Police banning notices' of this chapter);

(vii) special conditions under s. 11(3): 'Conditions of release on bail' of the *Bail Act* prohibiting a defendant from entering or remaining in a specified place (see s. 13.7.4: 'Bail conditions relating to licensed premises' of this chapter and s. 16.20.2: 'Prescribed police officer's (PPO) responsibilities' of this Manual); and

(viii) a banning order issued by a sentencing court at the conclusion of proceedings involving violence within or in the vicinity of licensed premises (see s. 13.7.6: 'Court-issued banning orders' of this chapter).

13.7.3 Safe night precincts

Safe night precincts (SNPs) are created under Part 6AB: 'Safe night precincts' of the *Liquor Act* for the purpose of minimising:

(i) harm and the potential for harm from the abuse and misuse of alcohol and drugs and associated violence; and

(ii) alcohol and drug-related disturbances, or public disorder.

Each safe night precinct may have a local board established to achieve the purposes of the precinct. Service representatives may attend local board meetings as a member of the board's Public Safety Consultative Committee.

SNPs are regulated in s. 173NC(1): 'Safe night precincts and local boards' of the *Liquor Act* with 'Safe night precinct' maps displaying the declared areas located in Schedule 2 to Schedule 16 of the Liquor Regulation.

13.7.4 Bail conditions relating to licensed premises

Where a person is charged with an offence related to licensed premises, special bail conditions may be issued by the prescribed police officer at a watch-house or by a court under s. 11(3): 'Conditions of release on bail' of the *Bail Act* (BA) (see s. 16.20.2: 'Prescribed police officer's (PPO) responsibilities' of this Manual).

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Where a defendant is subject to a special bail condition under s. 11(3) of the BA, in accordance with s. 602S: 'Power to detain and photograph' of the PPRA, the defendant is to be photographed prior to release (see s. 13.7.7: 'Imaged orders' of this chapter).

Where the prescribed officer issues a Form 7: 'Undertaking to bail' (available in QPRIME) including conditions relating to licensed premises under s. 11(3) of the BA, the officer is to send a QPRIME 'for your information' task to:

(i) the local liquor unit, or the officer responsible for coordination of liquor incidents (if appointed); and

(ii) the OIC of the division where the licensed premise is located.

13.7.5 Police banning notices

In accordance with Chapter 19, Part 5A: 'Police banning notices' of the PPRA, officers may issue a police banning notice, prohibiting a person from entering, attending or remaining in:

(i) licensed premises or class of licensed premises;

(ii) a public place in a safe night precinct (including all licensed premises) or a designated business and community precinct;

(iii) an event in a public place where liquor is being sold for consumption; or

(iv) stated areas in the vicinity of (i) to (iii) above,

for a stated period of time.

To manage the various processes linked to a police banning notice, when a Form 400: 'Initial police banning notice' is issued, officers are to:

(i) record the police banning notice in the QPRIME occurrence; or

(ii) where no other relevant occurrence has been created an 'Initial police banning notice' [1699] is to be created and include:

(a) imaged orders;

(b) copies of the initial police banning notice issued; and

(c) any other processes to be conducted within the person record in an occurrence using the banning order plug-in form.

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Recording of banning notices in QPRIME

Officers are to consult 'Basics: Banning provisions' of the QPRIME User Guide to determine how the banning notice should be recorded in QPRIME. Any amendments, extensions, cancellations, recording of court-issued banning orders or special bail conditions are to also be recorded in QPRIME in accordance with 'Banning Provisions' of the QPRIME User Guide.

Initial police banning notice

In accordance with s. 602C: 'Police officer may give initial notice' of the PPRA, an officer may issue a Form 400: 'Initial police banning notice' to an adult or child.

Officers should note that police banning notices can be issued to children aged 14 years and above, between 10 years and 14 years only where an officer can establish the child has the requisite capacity to understand the conditions of the banning notice and could be held criminally responsible for a breach under s. 29(2): 'Immature age' of the CC.

Before issuing a Form 400: 'Initial police banning notice', officers must seek the approval of an officer of the rank of sergeant or above, unless the officer giving the notice has that rank (see s. 602C(2) of the PPRA).

When a Form 400 'Initial police banning notice' is issued, a banning order photograph may be taken of the respondent to create an imaged order (see s. 13.7.7: 'Imaged orders' of this chapter). Officers are to use the photograph taken specifically for the banning notice and are to not use any other photographs in QPRIME that were captured for different purposes.

Approval for a Form 400: 'Initial police banning notice' may be given verbally, including by telephone, radio, internet, electronic communication or other similar facility.

Both the officer giving the Form 400: 'Initial police banning notice', and approving officer are to be reasonably satisfied the:

(i) person behaved in a disorderly, offensive, threatening or violent way (for examples see s. 602C of the PPRA); and

(ii) behaviour was at or in the vicinity of a relevant public place; and

(iii) person's ongoing presence or presence in the immediate future, at the relevant public place and any other place stated in the notice, poses an unacceptable risk of:

(a) causing violence at a place;

(b) impacting on the safety of other persons attending; or

(c) disrupting or interfering with the peaceful passage, or reasonable enjoyment of other persons,

at the place.

Within a designated business and community precinct, the officer may also give a police banning notice if satisfied that the:

(i) person including a child contravened a move on direction that relates to the designated business and community precinct; or

(ii) person including a child was given a move on direction in relation to the same designated business and community precinct in the previous 7 days; and

(a) the person including a child's current behaviour in the designated business and community precinct meets the criteria in s. 46: 'When power applies to behaviour' of the PPRA; or

(b) the person including a child's current presence in the designated business and community precinct meets the criteria in s. 47: 'When power applies to a person's presence' of the PPRA.

ORDER

The authority to issue a move on direction or a police banning notice in a DBCP is not intended for use in addressing the mere passive presence or existence of persons experiencing homelessness in that precinct.

If called to move on or ban persons from a DBCP in such circumstances (i.e. in the absence of related anti-social behaviour), officers are to consider alternative action where appropriate (such as offering referrals or referring the matter to the local government authority).

See ss. 1.2: 'Human rights and policing', 6.3.11: 'Homeless persons' and 6.3.14: 'Police Referrals' of this Manual.

Information to be uploaded into QPRIME prior to the issuing officer terminating shift

Where an officer has issued an initial police banning notice, an occurrence containing the ban details is to be entered in QPRIME either through the banning order plug-in form or via QLiTE as soon as reasonably practicable but before termination of duty. QPRIME will automatically transfer police banning data and photo for people who are 18 years or older and banned from a licensed premises, SNP or event where alcohol is sold to approved ID scanners in all regulated licenced premises. Failure to upload the information in QPRIME (see QPRIME User Guide: 'Banning Provisions') will allow a banned person to enter, attend or remain in a regulated licensed premises in contravention of the notice.

A Form 400: 'Initial police banning notice' remains in effect from the time of service on the respondent until:

(i) where there is no stated event, midnight on the day stated in the notice (not more than one month after the day the notice takes effect); or

(ii) for a stated event, the end of the day (midnight) the event ends,

(see s. 602D: 'Duration of initial notice' of the PPRA).

Notice to be explained

An officer giving an initial police banning notice is to comply with s. 602E: 'Notice to be explained' of the PPRA.

Written record of approving officer

Pursuant to s. 602I: 'Written record for notices' of the PPRA, the officer approving the giving of a Form 400: 'Initial police banning notice' is to make a written record of the:

(i) decision and reasons to approve the Form 400: 'Initial police banning notice';

(ii) date and time of the decision; and

(iii) name, rank, registered number and station of the officer,

at the time of granting approval or at the first reasonable opportunity after the notice is given. The written record is to be made in their official police notebook, patrol log or within the relevant QPRIME occurrence and should be completed by the end of the approving officer's shift.

Extending police banning notices

Section 602F: 'Extended police banning notice' of the PPRA authorises an officer of the rank of senior sergeant or above (the **relevant officer**) to give the respondent a Form 401: 'Extended police banning notice'. The decision is to be made at least 3 days before the expiry of the Form 400: 'Initial police banning notice' and may make one or more of the following changes to:

(i) extend the duration of the Form 400: 'Initial police banning notice' to a day ending at midnight no later than 3 months after the start time of the Form 400: 'Initial police banning notice'; and

OPM Issue 113 Public Edition

(ii) include additional:

(a) relevant public places (see SMD); and

(b) days ending at midnight, prohibiting a person from entering, attending or remaining in relevant public places.

When the relevant officer is reasonably satisfied the extended police banning notice is necessary, the relevant officer is to provide written details on the Form 401: 'Extended police banning notice' of their decision and the reasons for their decision to extend the notice.

Before making a decision to issue an extended police banning notice the relevant officer is to consider s. 602F(4): 'Extended police banning notice' of the PPRA.

When an extended police banning notice is issued, the relevant officer is to update the original banning notice via the banning order plug-in form contained in the relevant QPRIME occurrence relating to the Form 400: 'Initial police banning notice'.

How police banning notice may be given (initial and extended)

An officer serving a police banning notice is to comply with s. 602G: 'How police banning notices may be given' of the PPRA.

An initial police banning notice is to be personally served on the person, and if serving to a child and it is reasonably practicable to do so the officer must give a copy of the notice to:

(i) the chief executive (Department of Families, Seniors, Disability Services and Child Safety), or

(ii) the child's parent or guardian.

Officers should note that police banning notices can be issued to children aged 10 years and above, however should only be issued for a child between 10 years and 14 years where an officer can establish the child has the requisite capacity to understand the conditions of the banning notice and could be held criminally responsible for a breach under s. 29(2): 'Immature age' of the CC.

An extended police banning notice is to be served by:

(i) personally serving the notice on the person; or

(ii) sending by electronic communication to a unique electronic address (email) nominated by the respondent. Officers are to be aware that the nominated email is to be a personal email and not a work or group email for the person.

Officers should note that an initial police banning notice may also be served by email provided the person is present at the time.

A police banning notice sent by an officer to the nominated email address, is taken to have been received by the respondent on the day and at the time the notice is sent, unless proven otherwise.

Officers considering electronic service of documents for initial police banning notice offences are to establish the eligibility and suitability of a person to receive documents utilising the QLiTE 'Serve/Deliver' capability (see s. 13.31.16: 'Using eSend report to give other documents' of this Manual).

If the officer is satisfied the respondent is able to be electronically served and understands the initial police banning notice, officers should ask the respondent whether they are willing to volunteer their:

(i) email address; or

(ii) mobile phone number,

for the purpose of serving the Initial Banning Notice and if a unique electronic address is:

(i) freely provided—enter the details in the appropriate sections of the QLiTE 'Serve/Deliver' when creating the initial police banning notice; or

(ii) not freely nominated—are to revert to using a hardcopy Form 400: 'Initial Police Banning Notice'.

Cancellation of police banning notice (initial or extended)

Before cancelling a police banning notice, officers are to comply with s. 602JA: 'Cancellation of police banning notices by police officers' of the PPRA.

Where the relevant officer (senior sergeant or above) cancels a Form 400: 'Initial police banning notice' or Form 401: 'Extended police banning notice' the officer is to:

(i) as soon as reasonably practicable, give the respondent named in the Form 400: 'Initial police banning notice' or Form 401: 'Extended police banning notice' a QP 0980: 'Notice of cancellation—police banning notice'; and

(ii) modify the relevant QPRIME person record within the occurrence to detail the reasons for cancelling the Form 400: 'Initial police banning notice' or Form 401: 'Extended police banning notice'.

OPM Issue 113 Public Edition

Where a Form 400: 'Initial police banning notice' or Form 401: 'Extended police banning notice' is cancelled after distribution to relevant licensees, approved managers or responsible persons has occurred, the relevant officer is to provide notice of cancellation of the Form 400: 'Initial police banning notice' or Form 401: 'Extended police banning notice' to the previously advised persons (see s. 13.7.8: 'Distribution of imaged orders by police' of this chapter).

Respondent's application to amend or cancel a police banning notice

In accordance with s. 602N: 'Internal review for police banning notices' of the PPRA, a respondent for a police banning notice may apply to have the notice amended or cancelled:

(i) within 15 days after the notice takes effect; or

(ii) at any time for an extended police banning notice.

An application to amend or cancel a police banning notice is to be made on a Form 405: 'Application to amend or cancel a police banning notice' (available on the QPS Internet).

Where a Form 405 is received from a respondent, s. 602O: 'Commissioner's decisions about notices' of the PPRA requires the Commissioner to make a decision regarding the application:

(i) as soon as reasonably practical; and

(ii) if the application relates to an extended police banning notice within 5 business days of receiving the application.

The Commissioner has delegated the authority to receive and determine applications to amend or cancel police banning notices to commissioned officers (see Delegation D 24.69).

Commissioned officers receiving an application to amend or cancel a police banning notice are to refer to the 'Guide to review a police banning notice (application to amend or cancel): guide for commissioned officers' available on the 'Police Banning Notices' page of the Drug and Alcohol Coordination Unit (DACU) SharePoint page.

The commissioned officer is to, as soon as reasonably practicable after deciding to:

(i) cancel;

(ii) amend; or

(iii) not change,

the police banning notice, ensure the respondent is given a QP 0981: 'Decision (internal review—extended police banning notice)' or QP 0982: 'Decision (internal review—initial police banning notice)'.

Where a police banning notice is cancelled, officers are to update the relevant banning notice in QPRIME via the plug-in form to reflect the cancellation.

Where a police banning notice is amended or cancelled after distribution to relevant licensees, approved managers or responsible persons has occurred, the relevant officer is to provide notice of amendment or cancellation of the police banning notice to the previously advised persons (see s. 13.7.8: 'Distribution of imaged orders by police' of this chapter).

Amendment or cancellation if court banning order made

Section 43J: 'Making a banning order' of the *Penalties and Sentences Act* (PSA) provides where a court issues a banning order, the court may decide to amend or cancel an initial police banning notice or extended police banning notice.

Pursuant to s. 602K: 'Amendment or cancellation if court banning order made' of the PPRA, where a court banning order is received for the amendment or cancellation of a police banning notice, the Commissioner will give the respondent a QP 0999: 'Notice of amended or cancelled police banning notice (court order)' detailing the amendment or cancellation. The Commissioner has delegated the authority to:

(i) receive court banning orders; and

(ii) give the QP 0999 to the respondent,

to OICs of police stations or establishments (see Delegation D 24.68).

(See s. 13.7.8: 'Distribution of imaged orders by police' of this chapter).

Where a court banning order is received by DACU for the cancellation or amendment of a police banning notice, a QPRIME task will be forwarded to the OIC of the station or establishment where the original police banning notice was issued.

The OIC of the station or establishment is to:

(i) ensure a QP 0999 is completed within 2 business days of receiving the court-issued banning order and is given to the respondent as soon as reasonably practicable; and

(ii) modify the banning order plug-in form in the QPRIME person record within the occurrence relating to the relevant Form 400: 'Initial police banning notice' to record the court banning order (see the 'Revoke or expired

OPM Issue 113 Public Edition

Police Banning Notice QPRIME flowchart' available on the Police Banning Notices page of the DACU SharePoint page).

Breach of police banning notice

If a banned person breaches a condition of a police banning notice without reasonable excuse, they commit an offence under s. 602Q: 'Offence to contravene notice' of the PPRA.

A police banning notice does not prohibit the respondent from entering or remaining in their own residence, place of employment or place of education (see s. 602J: 'Actions not prohibited by notice' of the PPRA). A person will have a reasonable excuse under s. 602Q of the PPRA if they enter the place to undertake a necessary task; and it is impracticable for the person to undertake the necessary task outside of the place; and the person remains in the place only for the period necessary to undertake the necessary task and then immediately leave the place.

A necessary task means any of the following:

(i) receive medical treatment;

(ii) comply with an obligation imposed by law;

(iii) access a service provided by, or on behalf of, a government;

(iv) access a support service;

(v) obtain food, medicine or petrol;

(vi) use a banking service;

(vii) access public transport;

(viii) travel through a relevant public place to access another place outside the

(ix) relevant public place; and

(x) includes a task undertaken for the welfare of a person or animal in the care of the person undertaking the task.

Obligation imposed by law includes an obligation imposed on a person by a court or tribunal, including, for example, any of the following:

(i) a community based order within the meaning of the *Youth Justice Act*;

(ii) a restorative justice process within the meaning of the *Youth Justice Act*;

(iii) a community based sentence within the meaning of the *Community Based Sentences (Interstate Transfer) Act*;

(iv) a requirement for a person to appear before a court or tribunal;

(v) an obligation imposed on a person under an Act; and

(vi) for a person released on bail or parole—a condition of that bail or parole.

support service means a service provided by an organisation and intended to provide a person with counselling, housing, protection or other assistance.

Where a police banning notice is breached by the respondent:

(i) being required to attend a court or government agency within the banned area;

(ii) peacefully accessing public transport travelling through the banned area; or

(iii) travelling peacefully through a banned area by a main road to a location beyond the area,

it would not be in the public interest to commence a prosecution (see s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual).

Where a licensee, permittee, manager or employee of licensed premises knowingly allows a banned person to enter licensed premises, an offence under s. 142ZZB: 'Providing a safe environment and preserving amenity' of the *Liquor Act* may be committed (see s. 13.7.1: 'Reporting incidents involving licensed premises' of this chapter).

A QPRIME generated 'Liquor Incident Report' is to be furnished outlining the circumstances of the matter, with a view to possible show cause or prosecution action being taken by Office of Liquor and Gaming Regulation if a prosecution is not commenced by the investigating officer (see s. 13.7.1: 'Reporting incidents involving licenced premises' of this chapter).

13.7.6 Court-issued banning orders

At the conclusion of a proceeding, a court may issue a banning order under s. 43J: 'Making a banning order' of the *Penalties and Sentences Act* (PSA) if:

(i) the offender has been found guilty of an offence:

OPM Issue 113 Public Edition

(a) that involved the use, threatened use, or attempted use of unlawful violence to a person or property; or

(b) against ss. 5: 'Trafficking in dangerous drugs' and 6: 'Supplying dangerous drugs' of the *Drugs Misuse Act*;

(ii) the court is satisfied that the offence was committed in licensed premises or in the vicinity of licensed premises; and

(iii) the court is satisfied that, unless the order was made the offender would pose an unacceptable risk to:

(a) the good order of licensed premises and areas in the vicinity of licensed premises; or

(b) the safety and wellbeing of persons attending licensed premises and areas in the vicinity of licensed premises.

A court may make a banning order:

(i) in addition to any other order made under the PSA or any other Act; and

(ii) whether or not a conviction was recorded for the relevant offence.

A court may:

(i) cancel or amend a current police banning notice issued to the offender; or

(ii) direct an offender to attend a police station within 48 hours to be photographed in accordance with Chapter 19, Part 5B: 'Photographing persons and distributing orders and images' of the PPRA (see s. 13.7.7: 'Imaged orders' of this chapter).

Officers should note the court may make additional conditions or exemptions in the order to allow the person reasonable access to licensed premises or their vicinity.

Where the provisions of s. 43J: 'Making a banning order' of the PSA apply, investigating officers should request the prosecutor make a submission for the issue of a court banning order (see also s. 3.7.19: 'Banning orders' of this Manual).

When a banning order is to be sought, investigating officers are to complete a QP 0875: 'Instructions to prosecutor for a banning order submission' and attach a copy of the completed document to the Court Brief (QP9) or full brief (see s. 3.7.19 of this Manual). An electronic copy of the completed QP 0875 is to be uploaded into the QPRIME occurrence relating to the submission.

Banning order issued by a Magistrates Court

A banning order issued by a Magistrates Court will be forwarded (within 48 hours) to Drug and Alcohol Coordination Unit (DACU) via the Queensland Wide Interlinked Courts System (QWIC) within a QPRIME task. Any further court documentation will be emailed by the relevant court to DACU within 48 hours of the order being issued.

DACU is responsible for recording all statewide liquor related court issued banning orders in QPRIME and any relevant workflows, which are to be completed within one business day of the order being received from the issuing court.

Banning order not received within 48 hours from the court

A member of DACU is to contact the relevant court, if a court banning order document has not been received via email within 48 hours of it being issued.

Breach of banning order

If a banned person breaches a condition of a court-issued banning order without reasonable excuse, they commit an offence and may be charged under s. 43O: 'Contravention of a banning order' if an order under the PSA is in place.

Where a licensee, permittee, manager or employee of licensed premises knowingly allows a banned person to enter licensed premises, an offence under s. 142ZZB: 'Providing a safe environment and preserving amenity' of the *Liquor Act* may be committed.

A QPRIME generated Liquor Incident Report is to be furnished outlining the circumstances of the matter, with a view to possible show cause or prosecution action being taken by Office of Liquor and Gaming Regulation if a prosecution is not commenced by the investigating police officer (see s. 13.7.1: 'Reporting incidents involving licensed premises' of this chapter).

Appeals and applications to vary or revoke banning orders

An application to vary or revoke a court-issued banning order may be made by the offender named in a banning order under s. 43L: 'Amending or revoking banning order' of the PSA or a police officer to a magistrates court. The person named in the order may apply to have the order varied or revoked only after it has been in force for 6 months.

13.7.7 Imaged orders

An officer may detain a person for a reasonable time to take a banning order photograph (and other prescribed reasons) at a Service vehicle, watch-house or station (see s. 602S: 'Power to detain and photograph' of the PPRA).

OPM Issue 113 Public Edition

A banning order photograph taken for a particular banning order may be attached to a different banning order, for the relevant person (see s. 13.7.8: 'Distribution of imaged orders by police' of this chapter).

Where an officer has a camera or QLiTE device in their possession, a banning order photograph can be taken at the time of issuing a Form 400: 'Initial police banning notice'.

An officer who takes a banning order photograph is to:

(i) upload the photograph into the Police Banning Notice plug-in form in the person record of the relevant QPRIME occurrence (see 'Police Banning Notices' on the Drug and Alcohol Coordination Unit SharePoint page; and

(ii) create a custody report within the relevant QPRIME occurrence.

Destruction of banning order photographs

Where an officer becomes aware a banning order has expired and the banning order photograph has not been deleted from QPRIME, a QPRIME 'QPS Request correction to record(s)' task is to be sent from the relevant occurrence to the Data Investigation Team [3270] (see s. 602V: 'Commissioner to destroy image' of the PPRA).

13.7.8 Distribution of imaged orders by police

In accordance with s. 602U: 'Distribution of imaged order or police banning notice' of the PPRA, an officer may distribute an imaged order to:

(i) the licensee or approved manager of any licensed premises stated in the order;

(ii) the licensee or approved manager of any licensed premises within a class of licensed premises stated in the order;

(iii) the approved manager or the person authorised to sell liquor for consumption at an event stated in the order;

(iv) the Commissioner for Liquor and Gaming; and

(v) an approved operator for an approved ID scanning system (see s. 173EE: 'Definitions for pt 6AA' of the *Liquor Act*).

The authority to distribute the imaged order has been delegated by the Commissioner to:

(i) the Manager, Police Information Centre (for distributing imaged orders to ID scanners);

(ii) the State Liquor Unit Coordinator (DACU);

(iii) a regional, district or divisional liquor unit representative;

(iv) any commissioned officer;

(v) the OIC of a station or establishment; or

(vi) a shift supervisor,

(see Delegations D 2.4 and D 124.1).

OPM Issue 113 Public Edition

Process for distributing imaged orders (police banning notices, court banning orders and bail condition bans)

The Service is responsible for providing imaged orders to the Office of Liquor and Gaming Regulations (OLGR). Through QPRIME this information is electronically distributed to the approved ID scanners located in regulated premises every 30 minutes. For banning data to transfer successfully to the approved ID Scanners data is to be correctly entered into QPRIME (see QPRIME User Guide: 'Banning Provisions' for further information on how to enter a Police Banning Notice).

At licensed premises or events where approved ID scanning systems are not in operation, imaged orders may be distributed to licensed premises or events by other methods such as email or physical delivery.

Where a licensed premises, class of licensed premises or event is named or described in an imaged order an officer may distribute the imaged order to the licensee, approved manager or authorised person of the licensed premises or event either personally or electronically.

The officer distributing the imaged order is to inform the licensee, approved manager or authorised person the imaged order is:

(i) to be destroyed as soon as practicable after the order expires; and

(ii) not to be used for a purpose other than preventing entry of the named person to the premises or event,

(see s. 602W: 'Other persons who must destroy imaged order or police banning notice' of the PPRA).

Letters and emails for the distribution of imaged orders are to be prepared in accordance with the proforma documents available from the 'Police Banning Notices' on the Drug and Alcohol Coordination Unit SharePoint page.

Where an officer identifies any issues with the distribution of any imaged orders relevant to a licensed premises or safe night precinct or event, the officer is to contact the Drug and Alcohol Coordination Unit (DACU), Domestic, Family Violence and Community Engagement Group.

ORDER

Officers not to distribute imaged orders directly to an approved operator

Officers are not to distribute imaged orders directly to an approved operator (ID Scanner Company) for them to investigate, upload or record on any approved ID Scanning System.

Officers not to distribute banning order details of children

Photographs of children taken under police banning notice powers are to be treated as sensitive identifying information, requiring strict safeguards beyond general operational use. While the PPRA permits photographing for enforcement, the *Child Protection Act* imposes confidentiality obligations and requires that any information sharing be lawful, necessary and proportionate. The *Human Rights Act* further requires officers to act compatibly with rights, including the child's privacy, reputation and best interests. Distribution of a child's photograph to third party systems (e.g. ID scanners or licensed venues) introduces significant risk, including loss of control over personal information, unnecessary identification and potential harm or stigma.

13.7.9 Intoxicated in a public place

Being intoxicated in a public place has been decriminalised, officers dealing with intoxicated person in a public place are to comply with the provisions of s. 16.6.3: 'Intoxication' of this Manual.

Part 8: 'Power to detain particular intoxicated persons' of the PPRA, provides officers with powers to detain and transport intoxicated persons in order to find a place of safety. The purpose of this detention power is to allow officers, if necessary, to transport an intoxicated person to a place of safety so that the person can safely recover from the adverse effects of the intoxicating substance.

Officers should be mindful that a number of medical conditions may produce signs and symptoms similar to intoxication (see Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this Manual).

13.7.10 Issue of infringement notices under the Liquor Act

Issuing liquor infringement notices is restricted to relevant offences listed in Schedule 1: 'Infringement notice offences and fines for nominated laws' of the State Penalties Enforcement Regulation. Officers should focus on offences related to the preservation of peace and good order.

Officers may forward information by submitting a Liquor Incident Report to the Office of Liquor and Gaming Regulation (OLGR) concerning offences under the *Liquor Act* (LA) that may not warrant immediate police action for the purposes of having action taken by that agency (see s. 13.7.1: 'Reporting incidents involving licensed premises' of this chapter).

The roles of the Office of Liquor and Gaming Regulation and State Penalties Enforcement Register

The OLGR is the data collection agency and payment receipt authority for infringement notices under the LA and Liquor Regulation up to the point when the notices are forwarded to the State Penalties Enforcement Registry (SPER). The OLGR will accept payment up to the 28th day after their reminder notice has been issued, after which, the matter is transferred to the control of SPER.

Requests for infringement notices books are to be made direct to OLGR (see SMCD).

Further information with respect to the issue of infringement notices under the LA is available from the SPER Enforcement Officer, OLGR (see SMCD).

Issuing of infringement notices

Infringement notices against the LA should be issued in accordance with s. 13.15: 'Issue of infringement notices generally'. of this chapter.

The issue of infringement notices to an offender is restricted to a maximum of three infringement notices for offences against the LA at any one time. If more than three offences against the LA are detected for which an infringement notice can be issued to an offender, see 'Limit on number of infringements issued' of s. 13.15: 'Issue of infringement notices generally' of this chapter.

Distribution of infringement notices

Distribution of infringement notices is as follows:

(i) white original prosecutions copy to be forwarded by the relevant OIC to OLGR within five days of issue, with an acknowledgement slip;

(ii) blue duplicate office copy to be filed at issuing officers station; and

(iii) yellow triplicate copy to be given to offender.

OPM Issue 113 Public Edition

13.7.11 Liquor and minors

Investigations of offences against s. 156A of the Liquor Act

Where a minor is detected in possession of alcohol at a private place and is not in the company of a responsible adult, officers should consider the offences against s. 156A: 'Irresponsible supply of liquor to a minor at a private place etc.' of the *Liquor Act* (LA).

While the detection of a minor in possession of alcohol may indicate an offence against s. 156A: 'Irresponsible supply of liquor to a minor at a private place' of the LA, officers should also consider the possibility that the alcohol may have been:

(i) stolen, or otherwise taken by the minor without the owner's consent or knowledge;

(ii) fraudulently obtained by the child (i.e. obtained from a licensed liquor supplier while purporting to be an adult); or

(iii) given to the child outside of Queensland (no offence may have been committed in this jurisdiction).

It is a reasonable excuse for a person to fail to answer a question if answering the question might tend to incriminate the person however, it is immaterial of whether it may tend to incriminate another person (e.g. a child incriminating the adult who supplied the alcohol) (see s. 183: 'Power to require answers to questions' of the LA).

Where officers are investigating an offence against s. 156A: 'Irresponsible supply of liquor to a minor at a private place' of the LA, in accordance with s. 53A: 'Seizure of liquor from a minor in particular circumstances' of the PPRA, officers may seize and dispose of the liquor in a way the officer considers reasonably necessary.

Where the liquor has been stolen, fraudulently obtained or otherwise taken without the knowledge or consent of the rightful owner, officers may consider returning the liquor as opposed to seizing or immediately disposing of it.

Upon seizing liquor under the provisions of s. 53A: 'Seizure of liquor from a minor in particular circumstances' of the PPRA, officers are to:

(i) comply with s. 13.7.12: 'Seizure and disposal of liquor' of this chapter; and

(ii) create a 'Liquor' type intelligence/street check report in QPRIME detailing the circumstances of the seizure and amount of liquor seized. The words 'PPRA s53A' are to be recorded in the 'Summary' field of the QPRIME record.

Investigations of offences under s. 157(2) of the Liquor Act

Where a minor is detected in possession of alcohol in licensed premises or a public place, officers should conduct investigations under s. 157(2): 'Prohibitions affecting minors' of the LA. In addition to any investigation under the LA, s. 53: 'Prevention of particular offences relating to liquor' of the PPRA authorises officers to immediately seize and dispose of the liquor in a way the officer considers reasonably necessary.

Upon seizing liquor under the provisions of s. 53 of the PPRA, officers:

(i) are to comply with s. 13.7.12: 'Seizure and disposal of liquor' of this chapter; and

(ii) should create a 'Liquor' type intelligence/street check report in QPRIME detailing the circumstances of the seizure and amount of liquor seized.

Considerations under ss. 53 and 53A of the Police Powers and Responsibilities Act

Officers should note the following points:

(i) an officer is to be lawfully at a private place to utilise the powers under s. 53A: 'Seizure of liquor from a minor in particular circumstances' of the PPRA;

(ii) ss. 53 or 53A of the PPRA does not provide a power to search a person, vehicle or place;

(iii) seizure of liquor under ss. 53 or 53A of the PPRA is not a prescribed circumstance for the purpose of s. 60: 'Stopping vehicles for prescribed purposes' of the Act; and

(iv) while s. 53B: 'Entry powers for vehicles referred to in ss. 53 and 53A' of the PPRA provides a power to enter a vehicle in certain circumstances, the application is limited to situations where an officer is outside a vehicle, which is not being used as a dwelling, and is already exercising a power at the place under ss. 53 or 53A of the PPRA; and

(v) enforcement register entries do not apply to the seizure of liquor from a minor under ss. 53 or 53A of the PPRA.

OPM Issue 113 Public Edition

13.7.12 Seizure and disposal of liquor

Liquor Act

Where liquor is seized as part of an investigation under the *Liquor Act*, a QPB32A: 'Field Property Receipt' should be issued and the liquor lodged at a property point and disposed of in accordance with s. 4.6.3: 'Direction for disposal of forfeited property' of this Manual.

Police Powers and Responsibilities Act

Where liquor is seized from a person under:

(i) s. 53: 'Prevention of particular offences relating to liquor'; or

(ii) s. 53A: 'Seizure of liquor from a minor in particular circumstances',

of the PPRA, it is immediately forfeited to the State and may be disposed of in a way the officer considers reasonably necessary.

Liquor seizure

Notwithstanding ss. 53(4)(b) and 53A(5)(b) of the PPRA, generally, officers have two options with respect to the liquor seized under the PPRA, namely:

(i) immediate disposal of the liquor (e.g. empty the alcohol from the container onto the ground); or

(ii) lodging liquor at a property point and disposal in accordance with this section.

Where liquor is immediately disposed of, officers should:

(i) make a record of:

(a) the place where the liquor was seized and whether it is a public place or not;

(b) the name of the person who the liquor was seized from;

(c) the type and quantity of liquor destroyed;

(d) how the liquor was destroyed; and

(e) if practicable, the signature of the person the liquor was seized from adopting a record of its destruction,

in their official police notebook; and

(ii) dispose of the liquor by emptying it from its containers in a suitable area at or near the place of seizure and dispose of the containers in an appropriate manner (e.g. rubbish bin).

Where liquor is seized and lodged at a property point, a Field Property Receipt should be issued and the liquor should be disposed of in accordance with this section.

OPM Issue 113 Public Edition

Disposal of liquor

For the purposes of this section:

Saleable liquor

means liquor which is in a sealed container which can be legally sold in Queensland (not home-made or prohibited liquors).

Other than liquor seized and immediately disposed of under ss. 53 or 53A of the PPRA, saleable liquor is to be disposed of by public auction (see s. 4.6.18: 'Public auction procedures' of this Manual).

Unsaleable liquor is to be destroyed in accordance with 'Disposal by way of destruction' of s. 4.6: 'Disposal of property' of this Manual.

13.7.13 Liquor Act exempt fundraising events and small regional shows

Section 13: 'Exemption for the sale of liquor at fundraising event' of the *Liquor Act* (LA) authorises eligible entities holding low-risk community fundraising events and small regional shows to sell liquor without a liquor licence or permit under the Act. There is no requirement for event organisers to provide notification to the Service.

Members of the public organising a LA exempt fundraising event or small regional show may register their event with the Service through Policelink or QPS Internet website (see s. 1.7.7: 'Party Safe' of this Manual).

Members receiving a request from a member of the public:

(i) for information on whether an event is a LA exempt fundraising event or small regional show are to refer them to the Office of Liquor and Gaming Regulation; and

(ii) to register an event in person are to refer the person to the 'Event Safe' webpage on the QPS Internet website or to telephone Policelink.

OICs of a station receiving notification of a registered Event Safe event for a LA exempt fundraising event or small regional show should refer to the 'Divisional guide for responding to Liquor Act exempt fundraising events', available on the Drug and Alcohol Coordination Unit webpage on the Service Intranet under guides.

13.8 Marine environment

13.8.1 Deleted

13.8.2 Maritime Safety Queensland

Maritime Safety Queensland (MSQ) is a Queensland Government law enforcement agency. Its key strategic outcomes are the safety of:

(i) vessels and their operations;

(ii) vessel movements; and

(iii) the environment through the prevention of marine pollution.

Among other things, MSQ regulates the marine industry to ensure marine safety and administers the:

(i) *Transport Operations (Marine Safety) Act* (TO(MS)A);

(ii) Transport Operations (Marine Safety) Regulation (TO(MS)R);

(iii) *Transport Operations (Marine Pollution) Act* (TO(MP)A);

(iv) Transport Operations (Marine Pollution) Regulation (TO(MP)R).

Maritime Safety Queensland has specialist personnel that may be able to assist the Service in the investigation of maritime incidents, for example:

(i) determining the seaworthiness of vessels;

(ii) conducting stability tests;

(iii) ship surveys or advice on safety standards;

(iv) navigation and navigational aides; and

(v) the presentation of court cases.

Service requests for such assistance are to be directed to the Manager, MSQ Compliance Unit or the Director, Executive Services and Compliance (see SMCD).

Maritime Safety Queensland shipping inspectors have the power to board, enter, search, inspect, remove items, make inquiries and seize evidence concerning a ship, vehicle or place pursuant to the provisions of TO(MS)A.

Maritime Safety Queensland authorised officers have the power to board, enter, search, inspect, remove items, make inquiries and seize evidence concerning a ship, vehicle or place pursuant to the provisions of TO(MP)A.

POLICY

Where a MSQ shipping inspector or authorised officer seeks assistance from the Service to exercise these powers, in accordance with s. 16: 'Helping public officials exercise powers under other Acts' of the PPRA, officers are to assist to the extent they are able.

Liaison and consultation

POLICY

Maritime Safety Queensland and water police officers are jointly responsible for conducting operations and ongoing consultation with regard to marine safety and enforcement.

The Service and MSQ should conduct:

(i) an annual management review of jointly operated enforcement and safety processes;

(ii) a monthly reporting of data relevant to marine law enforcement including the number of:

(a) ship intercepts;

(b) marine incidents investigated;

(c) marine incidents prosecuted, including results; and

(d) Marine Infringement Notices (MIN) issued (see s. 13.15: 'Issue of infringement notices generally' of this chapter),

(iii) consultation regarding the development and implementation of:

OPM Issue 113 Public Edition

(a) policies and procedures;

(b) enforcement strategies; and

(c) education and technical training strategies for both officers and the general public, relating to marine safety and maritime enforcement; and

(iv) marine incident investigations in consultation between the organisations whenever appropriate (see s. 13.8.3: 'Investigation of offences and marine incidents under the Transport Operations (Marine Safety) Act or Regulation').

ORDER

An officer in charge of a water police establishment or an area with marine enforcement responsibilities is to, whenever appropriate or possible, work in consultation with the relevant regional MSQ office.

13.8.3 Investigation of offences and marine incidents under the Transport Operations (Marine Safety) Act or Regulation

Shipping inspectors

Investigations into offences under the *Transport Operations (Marine Safety) Act* (TO(MS)A) are to be carried out by persons appointed as shipping inspectors under the Act.

The General Manager, Maritime Safety Queensland (MSQ) may appoint officers or a class of officers as shipping inspectors (see s. 157: 'Appointment of shipping inspectors' of the TO(MS)A). Such appointments may only be made with the written approval of the Commissioner (see s. 13: 'Appointment of police officers as public officials for other Acts' of the PPRA).

Officers attached to water establishments will generally be individually appointed as shipping inspectors and may perform all functions of that role, including the investigation of marine incidents.

Other officers, who have completed an approved training course, may be appointed as a shipping inspector, but are generally restricted from investigating marine incidents (see s. 156: 'Limitation on powers of a shipping inspector' of the TO(MS)A).

All Queensland Boating and Fisheries Patrol officers, many MSQ officers and certain Department of Transport and Main Roads officers are appointed as shipping inspectors.

Only officers who have been appointed as shipping inspectors under the TO(MS)A should conduct investigations which require the exercising of powers of a shipping inspector.

Marine offences

Officers appointed as shipping inspectors who detect an offence against the provisions of the TO(MS)A or Transport Operations (Marine Safety) Regulation (TO(MS)R) and are of the opinion that a prosecution should be considered, should:

(i) if appropriate, issue a TMR Form F3463: 'Infringement Notice (Marine)' (see s. 13.15: 'Issue of infringement notices generally' of this chapter); or

(ii) commence proceedings in relation to an offence against TO(MS)A or TO(MS)R by way of NTA, complaint and summons or by arrest, where authorised under the provisions of the PPRA. A copy of the Court Brief (QP9) is to be forwarded to the Manager, Compliance Unit, MSQ (see SMCD).

Officers not appointed as shipping inspectors who detect an offence against the provisions of the TO(MS)A or TO(MS)R and are of the opinion that a prosecution should be considered, should furnish a report outlining the circumstances surrounding the offence through their OIC for referral to:

(i) if practicable, the nearest water police establishment within their region, if further investigations requiring the powers of a shipping inspector are required; or

(ii) otherwise, the Manager, Compliance Unit, MSQ.

The report should include:

(i) the identity of any witnesses;

(ii) any conversation with the offender in relation to the specific offence, related in the third person;

(iii) the circumstances of the offence; and

(iv) full details of vessel(s) used in the commission of the offence, which may include make, size, type of vessel and motor and registration number.

Where an officer is unsure whether an offence has been committed against the provisions of TO(MS)A, inquiries should be conducted with a water police establishment, MSQ regional office or the Manager, Compliance Unit, MSQ (see SMCD).

OPM Issue 113 Public Edition

It is permissible for officers not appointed as shipping inspectors to commence proceedings in relation to an offence against the TO(MS)A or the TO(MS)R by way of NTA, complaint and summons or by arrest, where authorised under the provisions of the PPRA and if the circumstances necessitate such action.

If time permits, officers should liaise with officers attached to the Compliance Unit, MSQ prior to commencing such prosecutions. Officers commencing proceedings against a person for an offence under the TO(MS)A or TO(MS)R should:

(i) notify the Manager, Compliance Unit, MSQ or

(ii) if the proceedings relate to an offence(s) detected during an investigation of a marine incident—the relevant harbourmaster;

of any action taken within 28 days. Officers should also forward to this person a copy of the relevant Court Brief (QP9) endorsed with the court result at the conclusion of any proceeding commenced under this policy.

Marine incidents

Marine incidents relate to incidents involving ships. Section 10(1): 'Meaning of *ship*' of the TO(MS)A defines the term 'ship' as:

'...any kind of boat or other vessel used, or intended to be used, in navigation by water or for any other purpose on water.'

The broad application of the term 'ship' under the TO(MS)A means that a marine incident may involve a minor collision between 2 dinghies being used for recreational fishing, or a life endangering collision between 2 commercial ships, such as a fuel tanker and a container or car carrier, of many thousands of tons displacement each.

Officers should be aware that an incident on any watercourse in the state is deemed to be a marine incident. A boating incident on an inland waterway requires the same reporting to MSQ as an incident on Moreton Bay.

Because of the broad range of circumstances which may constitute a marine incident, the investigation of them may involve a number of different state and commonwealth agencies. Cooperation with these agencies is essential to ensure every aspect of a marine incident is thoroughly investigated.

Officers who attend marine incidents when:

(i) the incident involves:

(a) the loss of a person from a ship;

(b) a death or when there is a likelihood of death resulting from injuries received;

(c) injuries where grievous bodily harm is caused or likely to be caused; or

(ii) the incident involves or may involve indictable criminal offences; or

(iii) MSQ shipping inspectors request assistance,

are to create an occurrence in QPRIME.

Any investigations involving the Service and MSQ shipping inspectors are to:

(i) be conducted in liaison with the shipping inspector; and

(ii) include regular briefings with the shipping inspector outlining of the status of any investigations and prosecutions undertaken.

Officers requiring information on the status of any investigation or prosecution undertaken by MSQ shipping inspectors should contact the:

(i) relevant shipping inspector conducting the investigation;

(ii) MSQ regional office conducting the investigation; or

(iii) Manager, Compliance Unit or the Director, Executive Services and Compliance.

Pursuant to s. 126: 'Investigation process into marine incident' of the TO(MS)A, the General Manager may require a shipping inspector to investigate a marine incident. Upon such a requirement, after finishing the investigation the shipping inspector must report the results of the investigation to the General Manager.

ORDER

A police officer appointed as a shipping inspector should only investigate marine incidents:

(i) involving the loss of a person from a ship;

(ii) involving a death or when there is a likelihood of death resulting from injuries received;

(iii) involving injuries where grievous bodily harm is caused or likely to be caused;

(iv) where the incident involves or may involve indictable criminal offences; or

OPM Issue 113 Public Edition

(v) where the Service has determined an investigation is to be conducted by a police officer.

If it is not considered appropriate for an officer appointed as a shipping inspector to conduct an investigation into a marine incident, the investigating officer is to ensure, wherever practicable, that an officer appointed as a shipping inspector assists in such investigation.

If it is not practicable for an officer appointed as a shipping inspector to assist in the investigation of a marine incident, the investigating officer is to ensure that the OIC of the nearest regional water police establishment to the location where the incident occurred is advised of the investigation as soon as practicable after the decision to conduct the investigation has been made.

Officers who become aware of marine incidents where any person has been killed, injured, lost at sea, or where there has been damage to property, are to ensure that the following agencies are advised of the incident:

(i) the respective regional harbour master (contact through the relevant MSQ regional office) and/or the Manager, Compliance Unit MSQ if the incident involves a ship connected to Queensland (see s. 6: 'Meaning of ship *connected with Queensland*' of the Act). The regional office boundaries are listed on the MSQ website;

(ii) the Duty Officer, Australian Transport Safety Bureau (ATSB), if the incident involves an interstate or overseas trading vessel (Marine Safety Investigation in Australia);

(iii) the Duty Officer, Australian Maritime Safety Authority (AMSA) if the marine incident (including pollution incidents) occurs in the outer adjacent area (see s. 2.5.9: 'Offences committed at sea' of this Manual) and involve an Australian or foreign ship;

(iv) if the marine incident may have occurred at a workplace (see s. 8: 'Meaning of *workplace*' of the *Work Health and Safety Act*), a local work health and safety inspector.

Contact details for the relevant agencies are included in the SMCD.

The Service is responsible for the investigation of marine incidents involving death, serious injury or criminal offences. Maritime Safety Queensland will provide support and technical assistance to the Service as required throughout the investigation. Through negotiation MSQ may assume the primary investigation role of marine incidents involving serious injury or fire where no criminality or other police investigation is required.

When advised by a member of the Service, the:

(i) regional harbour master or Manager, Compliance Unit MSQ;

(ii) Duty Officer, ATSB;

(iii) Duty Officer, AMSA; and

(iv) local work health and safety inspector, Department of Justice,

will notify the member, as to whether they will be conducting an investigation into the incident.

Where an external investigator advises they will attend the incident, officers are to ensure the scene of the incident is preserved.

Where an external investigator is unable to attend the marine incident site within a reasonable time, officers are to undertake preliminary investigations on behalf of the relevant investigator, if requested. Preliminary investigations may include the collection of photographs of the scene, witness statements, collection of evidence and notations on observations of the scene. What constitutes a reasonable time will depend on the individual circumstances of the incident and location.

The respective regional harbour master and/or the Manager, Compliance Unit MSQ will:

(i) advise the Service whether they will be conducting a complementary and/or a separate investigation into the incident;

(ii) as is reasonably practicable, provide the Service with assistance including post incident investigative and specialist advice and maritime support services;

(iii) in order to optimise resources, to ensure public safety and to best serve the interests of the community, consideration may be given to the Service and MSQ conducting a conjoint investigation. For example, a fatal marine incident where a coronial inquest is likely will include potential maritime safety as well as criminal liability factors.

The ATSB has the function of investigating the circumstances surrounding any marine incident to prevent the occurrence of other incidents. In practice, the ATSB reviews the nature and circumstances of any marine accident or incident reported to it and determine the probable safety value in conducting an on-site investigation. Australian Transport Safety Bureau investigators do not investigate marine incidents with a view to apportioning blame or liability. Consequently the report of an ATSB investigator may not address the issues of interest to an investigating police officer. Australian Transport Safety Bureau investigators may assist officers with advice, but they cannot be compelled to appear in court, or provide 'restricted information' to investigators (see s. 60: 'Limitations on disclosure etc. of restricted information' of the *Transport Safety Investigation Act* (Cwlth).

OPM Issue 113 Public Edition

The AMSA:

(i) administers and regulates marine safety legislation on the Commonwealth waters which border Queensland waters;

(ii) monitors compliance with marine environment protection and response to marine environment pollution; and

(iii) provides maritime and aviation search and rescue services.

Its powers lay in the *Navigation Act* (Cwlth) and the *Protection of the Sea (Prevention of Pollution from Ships) Act* (Cwlth).

See s. 8.13.3: 'Fatal workplace or electrical incidents' of this Manual for policy and procedures relating to conducting investigations in liaison with work health and safety inspectors.

See s. 2.5.9: 'Offences committed at sea' of this Manual for policy, procedures and intergovernmental agreements relating to the investigation of offences occurring at sea.

Officers intending to investigate a marine incident should:

(i) if the incident involves a commercial or recreational ship:

(a) if it is considered that the incident can be adequately investigated by a police officer appointed as a shipping inspector—investigate the matter, taking any necessary enforcement action, and ensure that the relevant harbour master is notified of the incident as soon as practicable; or

(b) if it is considered that aspects of the incident require investigation by persons with particular skills and/or authority not available to police (e.g. MSQ officers investigate the aspects which can be adequately investigated by police (e.g. suspect UIL); and

(c) make preliminary inquiries into the remaining aspects and ensure that the relevant harbour master is notified of the incident as soon as practicable. In such a case, and if appropriate, the relevant harbour master may refer the matter for investigation to a suitable agency or agencies; and

(ii) in addition to conducting any investigations and taking any necessary enforcement action with respect to the marine incident, advise the owner or master of the vessel concerned that they are required to complete a Form F3071: 'Marine Incident Report' and deliver it to a MSQ regional office (see SMCD) within 48 hours of the incident.

A Form F3071 can be downloaded from the MSQ marine incident website or is available at all water police establishments, Queensland Boating and Fisheries Patrol stations, and MSQ regional offices.

Additionally, if the marine incident involves (a '**Category 1 marine incident'**):

(i) total loss or theft of any ship more than 15 metres long;

(ii) stranding, collision or major fire on board a passenger ship or any ship more than 24 metres long;

(iii) missing persons, or serious injury or death of any person;

(iv) a ship under the command of a marine pilot, harbour master, or master exempted from requiring a marine pilot whilst the ship is in a marine pilotage area; or

(v) any other incident considered to be of major significance,

officers becoming aware of the incident should, as soon as possible, notify the relevant harbourmaster, by telephone or email (during business hours), of the marine incident.

In such a case, notification to a work health and safety inspector may also be required (see s. 8.13.3: 'Fatal workplace or electrical incidents' of this Manual). For a marine incident involving the death of a person, see s. 8.13.4: 'Deaths on board vessels' of this Manual.

Officers not appointed as shipping inspectors who detect or become aware of a marine incident should ensure that the OIC of the water police establishment and MSQ regional office (MSQ regional office boundaries) nearest to the location where the incident happened is advised of the marine incident:

(i) within 48 hours after they become aware of the incident happening; or

(ii) if the incident is a Category 1 marine incident—as soon as possible after becoming aware of the marine incident happening.

Where a marine incident involves a police officer or Service vessel, see s. 13.8.5: 'Investigation of marine incidents involving officers or Service vessels' of this chapter.

Information exchange

In the course of an investigation of a marine incident, MSQ shipping inspectors may request information held by the Service. Information held by the Service must be accessed for official purposes only. When supplying information to MSQ, officers are to comply with s. 5.6.15: 'Requests for information from other law enforcement agencies' of the Management Support Manual and s. 13.8.2: 'Maritime Safety Queensland' of this chapter.

OPM Issue 113 Public Edition

Material relating to an investigation that may be requested includes:

(i) witness statements;

(ii) photographs of the scene;

(iii) sketches and notes made at/of the scene;

(iv) police officer's statements;

(v) measurements and other tests/examinations performed;

(vi) any other facts relating to the incident;

(vii) documents obtained that are required to be kept under any Service policy, procedures or legislation;

(viii) legal, statutory or other privileged documents, e.g. expert reports (any legal advice the release to be approved by a deputy commissioner);

(ix) commercially sensitive material, e.g. tender documents, project specifications, contracts and safety plans;

(x) documents that have been received from another department or agency; and

(xi) documents that contain statements provided 'In confidence', e.g. where a person wants their confidentiality to be maintained.

Generally, any material that contains facts relating to a marine incident (items (i) to (vi) listed above) can be forwarded directly through the OIC of the station or establishment to the MSQ shipping inspector requesting the material.

If information sought by MSQ is confidential, likely to impact on Service operations in some adverse manner or subject to legal, statutory or other privilege, (material in items (vii) to (xi) above) or in the situation where the Service is the employer in relation to the marine incident, the OIC of the region or command must give approval for the information to be released.

Both the Service and MSQ shipping inspectors have power to seize property as evidence during an investigation. Reasonable access to the evidence seized by the Service during the course of investigating a marine incident is to be granted to MSQ shipping inspectors when requested. Members of the Service wanting to access exhibits held by MSQ are to contact the relevant MSQ inspector.

Evidence seized from a marine incident may require an external examination or test to be performed for investigative or court purposes. If the Service requires the examination, the Service is to pay the associated costs.

If MSQ shipping inspectors require the external examination, the costs are to be met by their agency regardless of the fact the Service may hold possession of the evidence.

If the Service and MSQ shipping inspectors require an external examination on any evidence, the cost may be shared between agencies.

OPM Issue 113 Public Edition

13.8.4 Fisheries management (offences detected)

Police officers may only exercise the powers of an Inspector under the *Fisheries Act* (FA) if they:

(i) have been appointed as an Inspector pursuant to s. 140: 'Appointment' of the FA; and

(ii) that appointment has been approved by the commissioner pursuant to s. 13: 'Appointment of police officers as public officials for other Acts' of the PPRA.

Police officers however may exercise their general powers under the PPRA when investigating offences against the FA.

Investigations and prosecutions should normally be undertaken by officers of the Department of Primary Industries (DPI) or police officers who are appointed as Inspectors under the FA.

When police officers detect an offence committed against the provisions of the FA and are of the opinion that a prosecution should be considered, they are to furnish a Court Brief (QP9) through their officer in charge to the Manager, Statutory Compliance and Investigations, DPI. The Court Brief (QP9) should include:

(i) the identity of any witnesses;

(ii) any conversation with the offender in relation to the specific offence, related in the third person;

(iii) the circumstances of the offence; and

(iv) details of any instruments seized.

The matter will be considered with further action being taken by DPI officers, where applicable.

Generally, police officers should liaise with staff from the Statutory Compliance and Investigations, DPI prior to instituting any proceedings. However, it is permissible for police officers to institute proceedings if circumstances necessitate such action. Such circumstances may include instances where the suspect is transient and/or is being arrested for other matters.

Where circumstances necessitate action to be taken by police prior to appropriate liaison with the Statutory Compliance and Investigations, officers are to notify the Statutory Compliance and Investigations, DPI of such action, as soon as practicable and prior to the first court appearance of the defendant.

13.8.5 Investigation of marine incidents involving members or Service vessels

POLICY

Investigations of marine incidents involving Service vessels are to be overseen by the officer in charge of the region or command to which the involved vessel is attached.

The oversight of an investigation into a marine incident may be delegated by an officer in charge of a region or command to a commissioned officer.

Officers in charge of regions and commands who are responsible for Service vessels, should ensure that local instructions are established within their area of responsibility to provide procedures for the attendance, where practicable, of officers at marine incident scenes and for the investigation of marine incidents involving Service vessels. Such procedures should include a list of persons with suitable marine qualifications or experience who may be relied upon to conduct and/or assist in such investigations (e.g. officers appointed as shipping inspectors).

Members who are in charge of Service vessels which are involved in marine incidents are to:

(i) in the case of incidents occurring in areas where a Police Communications Centre (PCC) exists, advise the relevant PCC of the nature and location of the incident as soon as practicable; or

(ii) in the case of incidents occurring in other locations, advise their officer in charge of the nature and location of the incident as soon as practicable.

Members who receive advice that a Service vessel has been involved in a marine incident are to arrange for a commissioned officer to be notified of the incident.

Commissioned officers who are notified of marine incidents involving Service vessels are to ensure that:

(i) an investigation of the incident is commenced forthwith (see s. 13.8.3: 'Investigation of offences and marine incidents under the Transport Operations (Marine Safety) Act or Regulation' of this chapter);

(ii) offences pursuant to s. 79: 'Vehicle offences involving liquor or other drugs' of the *Transport Operations (Road Use Management) Act* are appropriately investigated; and

(iii) the incident is reported to MSQ within 48 hours of occurring pursuant to s. 125: 'Marine incidents must be reported' of the *Transport Operations (Marine Safety) Act*.

Officers investigating marine incidents involving Service vessels are to ensure a completed copy of the Transport and Main Roads (TMR) Form F 3071: 'Marine Incident Report' (available from MSQ) is provided to the relevant overseeing officer, as part of the investigation report into the incident.

Commissioned officers who receive reports involving Service vessels are to:

(i) ensure that any disciplinary breaches committed by officers are investigated; and

(ii) make recommendations to the relevant assistant commissioner as to any further action which should be taken in respect of the incident.

OPM Issue 113 Public Edition

Investigation of serious marine incidents involving members or Service vessels

POLICY

The provisions of s. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (Police related incidents)' of this Manual apply in cases of marine incidents involving Service vessels in which a person is killed or seriously injured.

The provisions of s. 17.5: 'Search and Rescue' of this Manual relating to marine search and rescue incidents may also apply in cases of marine incidents involving Service vessels.

13.8.6 Deleted

13.8.7 Marine towing incidents

The provisions of this section do not apply to any incident which constitutes a marine search and rescue operation (see s. 17.5: 'Search and rescue' of this Manual).

Requests to tow a ship

Service vessels (excluding Marine Rescue Queensland (MRQ) vessels, see MRQ Manual for relevant policy) are not to be used for towing ships which are not subject of a marine towing incident.

Members, other than members attached to a water police establishment, who receive a request for assistance to tow a ship, are to relay the details of the request to their local police communications centre (PCC) as soon as practicable after receiving the request.

The OIC of a PCC, or a member attached to a water police establishment who, receives a request for assistance to tow a ship are to ensure that information is relayed as soon as practicable to:

(i) the OIC of the water police establishment;

(ii) the shift supervisor or district duty officer of the water police establishment;

(iii) the master of a Service vessel; or

(iv) a search and rescue mission coordinator (SARMC), or assistant search and rescue mission coordinator (ASARMC) (see s. 17.5: 'Search and rescue' of this Manual);

with responsibility for the area in which the ship requiring a tow is located (the **'relevant officer'**).

A relevant officer who receives a request to tow a ship is to, as soon as practicable after receiving the request, ensure a suitable response to the request is undertaken or, if considered necessary, relay the details of the request to a more appropriate relevant officer for suitable response.

A relevant officer responding to a request to tow a ship is to decide whether the incident constitutes a marine towing incident.

Where a marine towing incident exists, the relevant officer is to:

(i) decide whether to use Service or other suitable resources to respond to the request; and

(ii) take any necessary action to ensure appropriate assistance is provided to the ship and/or persons on board as soon as practicable.

In determining the level of response to a marine towing incident, relevant officers are to consider:

(i) the danger or potential danger to the ship or any person on board the ship;

(ii) the current and forecast weather and sea conditions;

(iii) the time of day, including amount of remaining daylight;

(iv) whether the ship is at anchor or drifting;

(v) the location of the ship;

(vi) the condition of the ship;

(vii) the experience of the persons on board the ship; and

(viii) the proximity of the ship to available assistance.

OPM Issue 113 Public Edition

Where it is decided a request to tow a ship does not constitute a marine towing incident, the relevant officer is to ensure the person making the request is advised to make private arrangements for the tow.

Responsibility for determining extent of tow

Generally, a ship that is to be towed by a Service vessel is to be towed to a safe haven nearest to the location where the tow commenced.

Where a tow of a ship is being, or is to be performed by a Service vessel, the master of the Service vessel is responsible for determining:

(i) whether to commence or continue with the tow; and

(ii) whether to tow the ship to a safe haven other than the safe haven nearest to the location at which the tow commenced. In making such a determination, the officer is to consider, in addition to environmental and physical factors already considered with respect to the incident:

(a) whether the additional time taken for the tow will interfere with operational requirements;

(b) the financial cost to the Service; and

(c) whether the tow from the nearest safe haven to another safe haven could be readily performed by a suitable volunteer or commercial organisation.

Recovery of costs for tows

Volunteer marine rescue organisations including MRQ are responsible for the cost incurred when responding to marine towing incidents as a result of information received from members of the Service.

Recovery of costs by the Service associated with towing of ships by Service vessel should be considered in circumstances where:

(i) there is no danger or potential danger to the ship and/or any person on board the ship to be towed; and

(ii) the tow:

(a) involves a response to a marine towing incident where the services of a Service vessel have been requested in preference to other available towing services; or

(b) is to a safe haven nominated by the master or owner of the ship towed which is not the nearest safe haven to the location at which the tow commenced.

Calculation of costs for towing of a ship by a Service vessel is to be made using the special services charge out rate for officers involved (see s. 4.1.3: 'Accounting for special services revenue practice' of the Financial Management Practice Manual) and operating costs for the Service vessel as per the Schedule of Fees as approved annually by the Commissioner and published on the Financial Operations 'Receiving Money' webpage on the Service Intranet.

Prior to commencing the tow of a ship by a Service vessel, the master of the Service vessel is to consider if the tow should be subject to cost recovery. Where it is considered that the tow should be subject to cost recovery, before commencing the tow the master of the Service vessel should:

(i) advise the person making the request for the tow of an estimate of the cost of the tow; and

(ii) obtain a signed written agreement in their official police notebook from that person to pay all reasonable costs associated with the tow.

As soon as practicable after conducting a tow considered to be subject of cost recovery, the master of the Service vessel is to submit a report to their OIC outlining the circumstances of the tow and including a calculation of the costs incurred.

Where considered suitable, OICs should seek recovery of costs for a tow by a Service vessel.

District or local instructions

OICs of stations or establishments responsible for policing marine environments are to ensure district or local instructions are developed for responding to requests to tow ships within their area of responsibility. Such procedures are to include:

(i) contact details for volunteer marine rescue organisations and marine salvage operators; and

(ii) identification of safe havens;

within the relevant area of responsibility, and where applicable, current costs of special services charge out rates and operating costs of Service vessels.

OPM Issue 113 Public Edition

13.9 Secret ballots

POLICY

The district officer or supervising commissioned officer should be notified of any police attention or police action contemplated, considered or required for the purpose of keeping law and order in connection with the holding of secret ballots in terms of the *Industrial Relations Act* prior to any action being taken.

Any subsequent police action should be directed and supervised by a commissioned officer.

Relevant legislative provisions are contained in s. 235: 'Secret ballot on strike action' and s. 285: 'Conducting a secret ballot' of the *Industrial Relations Act*.

13.10 Objectionable literature, films and computer games

The *Classification of Publications Act*, the *Classification of Films Act* and the *Classification of Computer Games and Images Act* (the **'Classification Acts'**), control the censorship, distribution, sale and possession of publications, computer games and films in Queensland. These Classification Acts contain offences relating to the production, sale and possession of objectionable material, including child pornography and abuse. However, offences relating to obscene publications and exhibitions and the production, sale and possession of child exploitation material are also contained in the Criminal Code.

13.10.1 Officers not to act as censors

POLICY

Officers should not act as a censor of community standards in respect to publications, computer games and films.

13.10.2 Classification Act offences

Officers who receive a complaint or suspect an offence has been committed under the Classification Acts should:

(i) contact Strategic Policy, Department of Justice, which is the agency responsible for the administration and enforcement of the Classification Acts; and

(ii) generally not investigate the offence unless the complaint involves suspected child exploitation material (e.g. a child abuse film, publication or computer game).

13.11 Sex work industry

The sex work industry was decriminalised on 2 August 2024, including the repeal of Chapter 22A: 'Prostitution' of the Criminal Code, the *Prostitution Act* and the Prostitution Regulation through the *Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Act 2024*.

The sex work industry operates under the same frameworks which apply to other businesses operating in Queensland.

Local government authorities are responsible for establishing local laws. However, a local law must not be made which prohibits or regulates sex work or the conduct of a sex work business.

Definitions

For the purposes of this section:

Commercial sexual service

means a service:

(i) provided by a person, involving:

(a) a sexual act as described in s. 218(2) and (3) of the CC engaged in the person; or

(b) the use or display of a person's body for the sexual arousal or gratification of another; and

(ii) that is:

(a) provided for payment or reward, whether the payment or reward accrues or is given to the person providing the service or someone else; and

(b) provided under an arrangement of a commercial character,

(see s. 207A of the CC).

Sex work activity

means the provision by an adult person of the following services for payment or reward:

(i) services that involve the person participating in a sexual activity with another person; and

(ii) services that involve the use or display of the person's body for the sexual arousal or gratification of another person; and

includes being or having been a person who provides services mentioned in paragraph above,

(see Schedule 1: 'Dictionary' of the *Anti-Discrimination Act*).

Sex work business

means a business that provides services that include sex work and includes, for example:

(i) an escort agency providing services that include sex work; or

(ii) a home-based sex work business,

(see s. 40A: 'Regulation of sex work' of the *City of Brisbane Act*).

13.11.1 Presence at sex work businesses

Officers must not enter or contact a sex work business in their capacity as a police officer unless there is a valid and specific reason, such as responding to a call for assistance that requires entry.

ORDER

While on duty, members are prohibited from attending sex work businesses except for official purposes.

13.11.2 Offences relating to unlawful commercial sexual services

The Criminal Code sets out offences related to unlawful commercial sexual services that are designed to address coercion and the exploitation of children, this includes:

(i) obtaining a commercial sexual service from a child;

(ii) allowing a child to take part in commercial sexual services; and

OPM Issue 113 Public Edition

(iii) other conduct which results in a child undertaking or being involved in a commercial sexual service.

See ss. 217A: 'Obtaining commercial sexual services from person who is not an adult'; 217B: 'Allowing person who is not an adult to take part in commercial sexual services'; and 217C: 'Conduct relating to provision of commercial sexual services by person who is not an adult' of the CC.

13.11.3 Permitting young person, etc. to be at place used for commercial sexual services

Officers are not to initiate a prosecution against a person for causing or permitting a person, who is not an adult or who is a person with an impairment of the mind, to be at a place used for commercial sexual services under circumstances where no connection exists between the person and the sexual service. Some examples include a child or person with an impairment of the mind who:

(i) provides a service to the premises which is not connected with the sexual service; or

(ii) is at the place to retrieve a lost item or carry out an action totally unrelated to commercial sexual services where the child or person with an impairment of the mind enters the place for a legitimate reason.

Where a child is present at a place used for sex work activity or commercial sexual services, officers are to be aware of their responsibilities in relation to reporting child harm see Chapter 7: 'Child Harm' of this Manual.

13.12 Railways

Where an officer is planning to undertake planned policing action or receives information relating to threats to safety on the Queensland Rail City Network see s. 2.19.16: 'Railway Squad' of this Manual.

13.12.1 Exercise of powers on railways

All officers may exercise the powers granted to an authorised person (see Delegation D 53.2) under Chapters 11: 'Enforcement' and 11A: 'Payment of fares and directions and offences' of the *Transport Operations (Passenger Transport) Act* (TO(PT)A) and includes the powers to require a person to:

(i) provide information about offences against provisions of the Act under s. 128: 'Power to require information from certain persons';

(ii) produce a ticket under s. 218I: 'Power to require production of tickets or tokens' of the Transport Operations (Passenger Transport) Regulation; and

(iii) leave a train, railway or other passenger vehicle under:

(a) s. 143AHA: 'Power to require person to leave public transport infrastructure if person committing particular offences';

(b) s. 143AG: 'Direction to leave, or not to enter, vehicle'; or

(c) s. 143AH: 'Direction to leave or not to enter vehicle that is full'.

See also ss. 143AJ: 'Person given direction to be told particular things', 143AI: 'Direction not to be given in particular circumstances' and 143AK: 'Offence to contravene direction' of the TO(PT)A.

ORDER

Officers, other than officers wearing uniform, are not to exercise any power under the TO(PT)A in relation to any person unless they first display their police identity card for that person's inspection.

If it is impracticable for officers, not wearing uniform, to display their police identity card prior to exercising a power in relation to any person then they are to produce their identity card to that person as soon as practicable after exercising that power.

Officers, whether in uniform or not, who:

(i) require a person to state their name and address; or

(ii) exercise a power as a public official (authorised person for a railway),

are to, as soon as reasonably practicable, give their rank, surname and station or establishment to a person who is the subject of the power (see s. 637: 'Supplying police officer's details' of the PPRA).

Officers who are not in uniform who:

(i) require a person to state their name and address; or

(ii) exercise a power as a public official (authorised person for a railway),

are to, as soon as reasonably practicable:

(i) tell the person of whom the requirement is made that the officer is a police officer; and

OPM Issue 113 Public Edition

(ii) produce their identity card for inspection by the person (see s. 637 of the PPRA).

13.12.2 Additional powers for removal of offenders from a railway

Additional powers for the removal of offenders from a railway exist in the:

(i) PPRA:

(a) s. 50: 'Dealing with breach of the peace';

(b) s. 52: 'Prevention of offences—general'; and

(c) s. 48: 'Direction may be given to person' (see s. 13.23: 'Move-on power' of this chapter); and

(ii) Criminal Code s. 281: 'Discipline of vehicle' (a vehicle includes a train).

(see also s. 2.29: 'Public transport exclusion orders and civil banning orders' of this Manual).

POLICY

When a person has been directed to leave a railway, train or other passenger vehicle, officers should consider prosecuting that person for the offence(s) which warranted the police action in the first place.

The location and the rights of other passengers should be considered in deciding whether to direct a person to leave a railway, train or other passenger vehicle.

13.12.3 Joint operations on Citytrain network

Queensland Rail's 'Joint Police Operations on Citytrain Network: Procedure' (JPOCN) available from the Railway Squad webpage on the Service Intranet provides guidance with respect to enforcement practices on the Citytrain network to ensure uniformity between various enforcement agencies in the planning and conduct of joint operations and to reduce operational impact on rail services (i.e. service delays and disruptions).

ORDER

All rail related operations whether conducted by the Service only or jointly between the Service and Queensland Rail officers are to be planned in collaboration with Railway Squad Tactician and according to the principles and procedures contained in the JPOCN.

Train sweeps, where trains are held at stations by officers and a sweep of the whole train is conducted (see s. 2.2.1: 'Static Operations—Train Sweeps' of the JPOCN) are not to be undertaken during peak periods (0600–0900 hrs and 1500–1800 hrs weekdays), unless prior arrangements have been made with Queensland Rail or there is an urgent requirement (e.g. searching a train to locate a serious criminal offender, recovering a high risk missing or mentally ill person, responding to calls for service).

13.12.4 Safety on rail networks

ORDER

Officers are not to access the rail tracks or corridor except in an emergency. Should any person (officers, rail staff or other person) enter the rail corridor, officers are to immediately inform the appropriate Police Communications Centre, who will contact the Rail Management Centre.

13.13 Second-hand Dealers and Pawnbrokers

13.13.1 Application for licenses

ORDER

Officers are not to accept applications for licences under the *Second-hand Dealers and Pawnbrokers Act*. All inquiries in relation to licensing should be directed to the Office of Fair Trading, Department of Justice.

13.13.2 Licence particulars

Officers that require licence particulars under the *Second-hand Dealers and Pawnbrokers Act* are to contact the Office of Fair Trading, Department of Justice.

13.13.3 Deleted

13.13.4 Stolen Property Investigation and Recovery System (SPIRS)

SPIRS is a computer system that matches information collected from licensees to information from QPRIME.

The purpose of SPIRS is:

(i) to assist in the identification of stolen property and offenders; and

OPM Issue 113 Public Edition

(ii) to monitor the compliance of licensees.

Effective 30 June 2025, the SPIRS database will no longer accept or process transaction records from second-hand dealers and pawnbrokers. The SPIRS database will remain accessible with current user accounts and passwords.

13.13.5 Engagement with licensees to provide transaction data

Licensees are required to maintain a register of transactions, either printed or electronic, for each authorised place. The register is to contain particulars as per the Second-hand Dealers and Pawnbrokers Regulation.

OICs of districts should ensure that district instructions are developed for engagement with second-hand dealers and pawnbrokers within their area of responsibility to encourage those licensees to provide copies of their transaction registers to officers when required.

13.13.6 Deleted

13.13.7 Stolen Property Investigation and Recovery System (SPIRS) property matches

Effective 30 June 2025, the SPIRS database will no longer accept or process transaction records from second-hand dealers and pawnbrokers. The SPIRS database will remain accessible with current user accounts and passwords. Where property is matched or suspects identified through SPIRS, the officer identifying the match is to ensure a supplementary report is submitted for the relevant QPRIME occurrence and assigned to the OIC of the station or establishment where the property was traded for the appointment of a case officer to manage the recovery of the property and the location of the suspect.

Officers assigned occurrences for investigation are to comply with s. 1.11.6: 'Follow-up investigations' of this Manual, paying particular attention to verifying that the property identified by SPIRS is the property nominated on the occurrence report, and recovering the property.

13.13.8 Licensee audits

Section 22 of the PPRA allows an officer, to ensure compliance with a relevant law by a licensee, to inspect, photograph or copy a document or thing that is required or permitted to be kept under a relevant law at the place where located or at a place with appropriate facilities for photographing or copying the document or thing. The *Second-hand Dealers and Pawnbrokers Act* (SDPA) is a relevant law (see s. 35: 'Relevant laws—Act, sch 6' of the PPRR).

Licensees are required to maintain records of their business transactions, which may include:

(i) pawn tickets—copies of pawn tickets on which all relevant data have been entered;

(ii) register copies—photocopies of the actual register maintained by the licensee; and

(iii) electronic download—an electronic download of data in the approved form, where the licensee maintains records on a computer-based system.

Officers commencing a prosecution under the provisions of the SDPA, are to ensure that the details are entered into QPRIME (see QPRIME User Guide).

OPM Issue 113 Public Edition

13.13.9 Deleted

13.13.10 Deleted

13.13.11 Enforcement powers

Chapter 2, Part 1, ss. 19 to 25: 'Entry, inquiries and inspection' of the PPRA relates to powers of entry, inquiries and inspection generally and in relation to relevant laws.

The *Second-hand Dealers and Pawnbrokers Act* is a relevant law (see s. 35: 'Relevant laws—Act, sch 6' of the PPRR).

Powers of entry

Under s. 22: 'Power to enter etc. for relevant laws' of the PPRA, officers may, at any reasonable time, enter and stay on a place used for a purpose under a licence under the *Second-hand Dealers and Pawnbrokers Act* for ensuring compliance with that Act.

Powers to demand name and address

Sections 40: 'Person may be required to state name and address' and 41: 'Prescribed circumstances of requiring name and address' of the PPRA apply to offences against the *Second-hand Dealers and Pawnbrokers Act*.

In addition to the above, pursuant to ss. 40 and 41(g) of the PPRA, officers may require a person to state the person's correct name and address and if appropriate, evidence of the correctness thereof, if the officer reasonably believes obtaining the person's name and address is necessary for the administration or enforcement of the *Second-hand Dealers and Pawnbrokers Act*.

To assist with the administration of infringement notices, officers should wherever possible, when requiring evidence of the correctness of the name and address given, ensure that the name and address of the alleged offender is confirmed by some means of photographic identification before issuing an infringement notice. Appropriate notes about identification should be made on the rear of the prosecution copy of the relevant infringement notice.

13.13.12 Deleted

13.13.13 Deleted

13.13.14 Discontinuing arrest

Section 377: 'Additional case when arrest of adult may be discontinued' of the PPRA outlines when police have a duty to release an adult who has been arrested. This duty includes when it is more appropriate to serve an arrested person with an infringement notice, notice to appear or summons for the offence (see s. 377(2) of the PPRA).

POLICY

Where an officer has arrested an adult person for a Fair Trading offence, the officer is to consider discontinuing the arrest and issuing an infringement notice to the person for the offence in accordance with s. 377: 'Additional case when arrest of adult may be discontinued' of the PPRA.

Also see s. 16.6: 'Discontinuing arrest' of this Manual.

13.14 Stealing and like offences

13.14.1 Director of Public Prosecutions (State) Guidelines

POLICY

Officers should refer to Guideline 13: 'Summary charges' of the Director of Public Prosecutions (State) Guidelines when investigating offences contrary to ss. 5, 6 and 7 of the *Regulatory Offences Act*.

13.14.2 Recovery of suspected stolen property from the Department of Education

State schools maintain a register of equipment, with a value of $500 or more, known as the OneSchool Asset Register. This register records details such as:

(i) asset number—a number allocated by the responsible officer when the equipment is registered;

(ii) asset description—description of the asset;

(iii) serial number—the serial number of the asset; and

(iv) location code—a departmental code which equates to the physical location of the asset within the department.

Some equipment valued less than $500 may also be listed on a minor equipment register.

To facilitate the identification of property which may belong to the Department of Education, officers should contact the Finance Officer (Fixed Assets) Department of Education (see Equipment Management for Schools page of the Department's internet site for contact and further details).

13.14.3 Principal offenders (receiving stolen property when the 'thief' is dealt with under Regulatory Offences Act)

POLICY

Persons, who receive property obtained by means of an act constituting an indictable offence may be charged with the offence of receiving under s. 433 of the Criminal Code notwithstanding that the 'thief' has been prosecuted under the provisions of the *Regulatory Offences Act* (e.g. unauthorised dealing with shop goods).

In such cases officers should ensure that evidence is available to be given to establish that the property was in fact obtained by means of an act constituting an indictable offence (stealing).

Officers should consider the evidence carefully to establish whether the receiver can be charged under the *Regulatory Offences Act* as a party to the offence, on the basis of counselling or procuring the commission of the offence.

13.15 Issue of infringement notices generally

Prescribed infringement notice offences

The State Penalties Enforcement Regulation prescribes a number of offences under the following acts and regulations which can be dealt with by way of infringement notice. The acts and regulations include:

(i) PPRA;

OPM Issue 113 Public Edition

(ii) *Second-hand Dealers and Pawnbrokers Act* (SDPA);

(iii) *Security Providers Act* (SPA);

(iv) *Summary Offences Act*; and

(v) *Transport Operations (Marine Safety) Act* (TO(MS)A) and Regulation.

For a full list of offences which can be dealt with by way of infringement notice, see the OPStore, 'Infringement Notice Codes' on the Library SharePoint page or the State Penalties Enforcement Regulation.

For Service policy in relation to:

(i) prescribed public nuisance offences, see s. 13.15.1: 'Issuing infringement notices for public nuisance, public urination and associated offences' of this chapter;

(ii) offences under s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA, see s. 13.15.2: 'Issuing infringement notices for contravention of an officer's direction or requirement' of this chapter;

(iii) offences under the *Liquor Act*, see s. 13.7.10: 'Issuing infringement notices under the Liquor Act' of this chapter; and

(iv) offences under the TO(RUM)A and Regulations, see Chapter 8: 'Infringement notices' of the TM.

Issuing authorities

The issuing authorities for prescribed infringement offences are, for:

(i) PPRA, TO(MS)A and Regulation, and *Summary Offences Act*—the Department of Transport and Main Roads; and

(ii) SDPA and SPA—the Office of Fair Trading.

Issuing an infringement notice

An infringement notice may only be issued if the alleged offender is able to provide details of their address (see s. 15(2)(c): 'Infringement notices' of the *State Penalties Enforcement Act*). Where a person has no address, alternatives to issuing an infringement notice should be considered, e.g. issuing a notice to appear.

Where an officer has made the decision to issue an infringement notice to a person for a prescribed offence, the officer should:

(i) issue the relevant infringement notice in accordance with s. 8.6: 'Manner of issuing infringement notices' of the TM; and

(ii) where a PT 56: 'Infringement notice' is issued for an offence (other than offences under the TO(RUM)A and Regulation and other 'road-related' offences):

(a) ensure a QPRIME occurrence is created for the offence/s including an 'Infringement Report'; and

(b) forward the 'station copy' and 'issuing authority' copy to their OIC.

OPM Issue 113 Public Edition

Infringement enforcement history

Officers seeking enforcement history undertaken by other authorities are to contact, for SDPA and SPA—the Data Officer, Office of Fair Trading during business hours (9am to 5pm), by way of written request on official Service letterhead or if urgent, by telephone (see SMCD).

Enforcement history for other prescribed offences appears on a person's non-TORUM related history.

Limit on number of infringements issued

In some cases, no more than three infringement notices may be issued to an offender. If more than three offences are detected, an officer may:

(i) issue three infringement notices and issue a caution or where applicable a caution notice for the other offences; or

(ii) commence proceedings for all offences by way of notice to appear or by arrest, where authorised under the provisions of the PPRA.

Interstate residents or overseas visitors committing offences

Where the issuing of an infringement notice or caution is not considered appropriate, officers may commence a prosecution by way of notice to appear or arrest where justified.

Where an overseas or interstate resident commits an offence and would be due to leave Queensland before such person is required to pay the infringement notice, the fine alone should not be considered sufficient cause to warrant the arrest of the person.

Officers who detect overseas residents committing offences may consider giving a caution where appropriate.

Officers who issue infringement notices to interstate residents should ensure the person's details are accurately entered on the infringement notice. The State Penalties Enforcement Registry (SPER) is unable to process infringement notices issued to interstate residents which do not contain a date of birth. However, it should be noted there is no legislative power to require a person to state their date of birth.

Officers who issue an infringement notice to an overseas visitor should:

(i) where possible, show the alleged offender's current Australian address on the notice; and

(ii) indicate on the prosecution copy of the notice the alleged offender's usual residential address and the date the alleged offender is due to leave Australia.

For offences not dealt with by the SPER, this information will assist if the infringement notice is returned unpaid to indicate whether the notice may be waived without the need for a report from the issuing officer.

Officers should be mindful of the contents of ss. 11.8: 'Diplomatic Privileges and Immunities Act' and 16.7: 'Foreign nationals' of this Manual.

Issuing infringement notices to children or persons with vulnerability, disability or cultural needs

Officers considering issuing an infringement notice to persons under 18 years of age for prescribed offences, are to follow the policy and procedures contained in s. 8.6.1: 'Infringement notice issued to persons under the age of 18 years' of the TM.

Officers should consider alternatives to issuing an infringement notice or commencing a proceeding where the person has a vulnerability, disability or cultural need, e.g. mental illness.

Depending on the circumstances of the offence committed, an officer may:

(i) where available, refer the person to an appropriate agency (see also ss. 6.3.11: 'Homeless persons', 6.5.4: 'Alcohol and/or drug dependency', 6.5.5: 'Potentially harmful things (volatile substance misuse)', 6.6: 'Mental ill-health' and 16.6.3: 'Intoxication' of this Manual;

(ii) take no action and give a verbal caution to the person; or

(iii) give a move on direction to the person (see s. 13.23: 'Move-on power' of this Manual).

Where an officer refers the person to an appropriate agency, officers should also give the person a verbal caution for the prescribed offence.

Where an officer gives a verbal caution for a prescribed offence, the officer should record in their official notebook or activity log the full particulars of the alleged offender together with the time, date, location, type of offence and any other relevant particulars.

Authorisation for issuing infringements for certain Acts

ORDER

Only officers appointed as shipping inspectors may issue a Marine Infringement Notice.

Officers are not to issue infringement notices for fair trading offences unless they have successfully completed the relevant Service-approved training.

Court election

When a person elects to defend an infringement notice in a court, the issuing authority will provide:

(i) predetermined police districts/establishments with a Prosecution Pending List; or

(ii) written advice along with the original infringement notice to the OIC of the issuing officer's station or establishment,

advising an offender has elected to contest the matter in a court.

Where the OIC of a district/establishment receives a Prosecution Pending List or written advice referring to a contested infringement notice, the officer is to refer the matter to the OIC of the station or establishment from where the infringement notice was issued.

OIC of stations or establishments who receive advice a person has elected contest their infringement notice in a court, are to refer the matter to the officer who issued the infringement notice to consider commencing a proceeding against the person.

Officers who receive advice a person has elected to have their infringement notice dealt with in a court should consider ss. 3.4.1: 'Introduction', 3.4.2: 'The decision to institute proceedings' and 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual.

OPM Issue 113 Public Edition

Withdrawal and cancellation of infringement notices

Withdrawal of an infringement notice refers to the discontinuance of enforcement action in relation an infringement notice after the infringement notice has been issued to an alleged offender and the officer or offender has departed the scene.

Cancellation of an infringement notice refers to the revocation of an infringement notice because:

(i) the infringement notice is reported as lost, stolen or damaged; or

(ii) errors are detected on the infringement notice.

Officers seeking to withdraw or cancel infringement notices, are to follow the policy outlined in s. 3.4.4: 'Withdrawal of charges' of this Manual and s. 8.7: 'Waiving and cancellation of infringement notices' of the TM.

Determination on cancellation or withdrawal of infringement to be made

Upon receipt of a letter directly from an offender, a representative of an offender or the issuing authority, OIC are to:

(i) review the grounds of the request for cancellation or withdrawal;

(ii) determine the suitability of the request to cancel or withdraw the infringement; and

(iii) forward written advice of their determination, along with a copy of the letter, to the issuing authority within 30 days of receipt of the request. The determination should include whether:

(a) the infringement notice should remain and be enforced; or

(b) the infringement notice should be withdrawn or cancelled; and

(c) another infringement notice should be issued/substituted.

Where the OIC of a station or establishment determines an infringement notice is to be withdrawn or cancelled, the OIC is to update the relevant QPRIME occurrence advising of the action taken and the 'Status' and 'Withdrawal Authorisation' fields within the Infringement Report is updated accordingly.

OPM Issue 113 Public Edition

13.15.1 Issuing infringement notices for public nuisance, public urination and associated offences

For the purposes of this section:

Prescribed public nuisance offence

means an offence against ss. 6(1): 'Public nuisance' or 7(1): 'Urinating in a public place' of the *Summary Offences Act* (SOA), unless the offence also involves an offence against the person.

Associated offence

in relation to a prescribed public nuisance offence, means an offence against either or both of the following provisions, unless the offence also involves an offence against the person:

(i) s. 790(1): 'Offence to assault or obstruct police officer' of the PPRA but only to the extent it relates to obstructing an officer in the performance of their duties in relation to a prescribed public nuisance offence;

(ii) s. 791(2): 'Offence to contravene direction or requirement of police officer' of the PPRA, but only to the extent it relates to a requirement to state a person's correct name and address in relation to a prescribed public nuisance offence.

Prescribed offence

means a prescribed public nuisance offence and, where applicable, any associated offence,

(see s. 394(5): 'Duty of police officer receiving custody of person arrested for offence' of the PPRA).

Use of discretion and response options when attending prescribed offences

ORDER

Officers are only to issue an infringement notice to a person for a prescribed offence, in circumstances where the person would have otherwise been issued with a notice to appear or arrested for the offence.

Whenever practical, officers should use their discretion when dealing with prescribed offences and focus on de-escalation of the incident.

For offences against s. 7(1): 'Urinating in a public place' of the SOA, prior to taking any enforcement action (starting a proceeding or issuing an infringement notice), officers are to consider whether, in all of the circumstances, it is more appropriate to take no action. In considering whether it is appropriate to take no action, officers are to consider:

(i) whether any vulnerability or special health needs contributed to the offence; or

(ii) whether the person took reasonable steps to avoid offending or embarrassing anyone.

In addition to the above, officers may consider any additional circumstances which may be relevant.

Depending on the circumstances of the prescribed offence committed, officers:

(i) where the person has a vulnerability, disability or cultural need (see s. 6.3.1: 'Circumstances which constitute a vulnerability, disability or cultural need' of this Manual), should:

(a) consider the available alternatives to commencing a prosecution;

(b) submit a Police Referral to for an appropriate agency to assist the person (see s. 6.3.14: 'Police referrals' of this Manual),

(see ss. 6.3.11: 'Homeless persons', 6.5.4: 'Alcohol and/or drug dependency', 6.5.5: 'Potentially harmful things (volatile substance misuse)', 6.6: 'Mental ill-health' and 16.6.3: 'Intoxication' of this Manual);

(ii) may give a verbal caution to the person. Where a verbal caution is issued, the officer should create a QPRIME street check including the full particulars of the alleged offender together with the time, date, location, type of offence and any other relevant particulars;

(iii) may give a move on direction to the person (see s. 13.23: 'Move-on power' of this chapter);

(iv) may issue an infringement notice to the person; or

(v) may issue a notice to appear or arrest the person.

Where an officer refers the person to an appropriate agency, officers should also give the person a verbal caution for the prescribed offence.

Associated offence

ORDER

Officers are only to issue an infringement notice for an associated offence where an infringement notice is also to be issued for the prescribed public nuisance offence.

An associated offence does not include an offence against the provisions of s. 791(2): 'Offence to contravene direction or requirement of police officer' of the PPRA relating to a requirement the person give evidence of the correctness of the stated name and address in accordance with s. 40(2): 'Person may be required to state name and address' of the PPRA.

Examples of when an infringement notice for an associated offence, in addition to an infringement notice for a prescribed public nuisance offence, may be issued include:

(i) when the person obstructs an officer dealing with the person's prescribed public nuisance offence;

(ii) when the person disobeys a requirement by an officer to state their correct name and address in relation to the prescribed public nuisance offence; and

(iii) when the person is arrested for a prescribed public nuisance offence and later obstructs an officer at a watch-house (see 'Discontinuing a prescribed offence arrest' of this section).

OPM Issue 113 Public Edition

Issuing an infringement notice

Infringement notices are to be issued in accordance with s. 13.15: 'Issue of infringement notices generally' of this chapter.

Where a person commits a number of prescribed public nuisance offences in the one set of circumstances, officers should only issue one infringement notice for the most relevant prescribed public nuisance offence.

Where an officer issues a PT 56: 'Infringement notice' to a person for a prescribed offence, the officer should, prior to:

(i) serving the infringement notice, clearly cross out the 'Statutory Declaration' box on the rear of the offender's copy of the PT 56;

(ii) submitting the pink and green copies of the PT 56 to their OIC, ensure:

(a) a QPRIME occurrence is created and the 'Infringement Report' is to be completed; and

(b) the relevant QPRIME occurrence number is recorded in the 'Information about the offence' field of the pink copy of the PT 56.

When an infringement notice has been issued for a prescribed offence, the issuing officer should record sufficient notes of the circumstances of the offence, any warnings given and to negative any defences, if a:

(i) QNotice infringement notice is issued, in the notes tab of the occurrence; or

(ii) PT 56 is issued, on the rear of the pink copy or in the officer's official police notebook.

Discontinuing a prescribed offence arrest

Where an officer has arrested an adult person for a prescribed offence, the officer is to consider discontinuing the arrest and issuing an infringement notice to the person for the offence in accordance with s. 377: 'Additional case when arrest of adult may be discontinued' of the PPRA.

Where a prescribed officer at a police station, establishment or watch-house receives a person arrested for a prescribed offence, in accordance with s. 394(2) of the PPRA, the prescribed officer is to determine whether the arrest should be discontinued and an infringement notice issued.

Where the prescribed officer determines the arrest is to be discontinued, if the arresting officer:

(i) is still at the police station, establishment or watch-house, the prescribed officer should direct the officer to issue an infringement notice; or

(ii) has departed, the prescribed officer may issue an infringement notice on behalf of the arresting officer.

Where the prescribed officer decides to discontinue the prescribed offence arrest and issue an infringement notice on behalf of the arresting officer, the prescribed officer is to:

(i) issue the prescribed offence infringement notice(s) to the offender;

(ii) make appropriate notes:

(a) on the rear of the pink copy if a PT 56 is issued; or

(b) in the notes tab if a QNotice infringement notice is issued,

indicating the infringement notice has been issued on behalf of the arresting officer;

(iii) update the relevant QPRIME occurrence;

(iv) send a QPRIME task to the arresting officer's organisational unit advising of the action taken;

(v) if a PT 56 has been issued by the prescribed officer:

(a) complete an 'Infringement report' in the relevant QPRIME occurrence; and

(b) write the QPRIME occurrence number in the 'Information about the offence' field of the pink copy; and

(vi) where identifying particulars have been taken, see 'Identifying particulars' of this section.

Identifying particulars

There are no provisions for the taking of identifying particulars of a person who has only been issued with an infringement notice for prescribed offences.

Where a person has been arrested for a prescribed offence and their identifying particulars taken prior the arrest being discontinued and an infringement notice issued, unless s. 474(2): 'Destruction of identifying particulars' of the PPRA apply, the identifying particulars are to be destroyed within a reasonable time in the presence of a justice.

Repeat offenders

Where officers become aware a person has been issued multiple infringement notices for prescribed offences, officers should consider alternatives to issuing further infringement notices.

13.15.2 Issuing infringement notices for contravention of an officer's direction or requirement

Where appropriate, officers may issue an infringement notice for offences under s. 791(2): 'Offence to contravene direction or requirement of police officer' of the PPRA.

Where a person fails to comply, without reasonable excuse, with a direction or requirement under:

(i) the PPRA;

(ii) s. 31: 'Prevention of contravention of public safety order' of the *Peace and Good Behaviour Act* (see 'Enforcing public safety orders' of s. 2.31.2: 'Public safety orders' of this Manual); or

(iii) s. 161ZL: 'Police powers for preventing contravention of control order' of the *Penalties and Sentences Act*, (see 'Preventing breaches of control order' of s. 2.31.7: 'Control orders' of this Manual),

an offence under s. 791 of the PPRA is committed.

Depending on the circumstances surrounding the commission of the offence, officers may:

(i) issue an infringement notice to the person;

(ii) issue a notice to appear to the person; or

(iii) arrest the person.

OPM Issue 113 Public Edition

Issuing an infringement notice

Infringement notices are to be issued in accordance with s. 13.15: 'Issue of infringement notices generally' of this chapter.

Where an officer issues a PT 56: 'Infringement notice' to a person, the officer should, prior to:

(i) serving the infringement notice, clearly cross out the 'Statutory Declaration' box on the rear of the offender's copy of the PT 56; and

(iii) submitting the pink and green copies of the PT 56 to their OIC:

(a) a QPRIME occurrence is created and the 'Infringement Report' is to be completed; and

(b) the relevant QPRIME occurrence number is recorded in the 'Information about the offence' field of the pink copy of the PT 56.

When an infringement notice has been issued for an offence under s. 791 of the PPRA, the issuing officer should record sufficient notes of the circumstances of the offence, any warnings given and to negative any defences, if a:

(i) QNotice infringement notice is issued, in the notes tab of the occurrence; or

(ii) PT 56 is issued, on the rear of the pink copy or in the officer's official police notebook.

Discontinuing arrest

In appropriate circumstances and where an officer has arrested an adult person for an offence under s. 791 of the PPRA, the officer should consider discontinuing the arrest and issuing an infringement notice to the person for the offence in accordance with s. 377: 'Additional case when arrest of adult may be discontinued' of the PPRA.

There is no authority under s. 394: 'Duty of police officer receiving custody of person arrested for offence' of the PPRA for a prescribed police officer at a police station, establishment or watch-house to discontinue the arrest and issue an infringement notice.

The only option for a prescribed police officer is to issue a QP 0699: 'Notice to appear', and if identifying particulars have not been taken, a QP 0700: 'Identifying Particulars Notice' and release the person.

Identifying particulars

There are no provisions for the taking of identifying particulars of a person who has been issued with an infringement notice for an offence under s. 791 of the PPRA.

OPM Issue 113 Public Edition

13.16 Animals

13.16.1 Cruelty to animals

Officers are to consider the provisions of s. 242(1): 'Serious animal cruelty' of the CC when investigating incidents involving cruelty to animals. An offence against this section is a crime.

Throughout an animal cruelty investigation, consultations with appropriate external law enforcement organisations may be utilised to identify the lead agency and whether a prosecution is to be commenced by the Service, or otherwise.

13.16.2 Dog attacks and regulated dogs

Responding to complaints of dog attacks is the responsibility of the relevant local government authority. Members should generally refer persons with complaints about dog attacks to the relevant local government authority.

However, the provisions of the Criminal Code may apply in some instances. For example, an offence of assault may be proved in cases where the owner or controller of a dog has intentionally caused the dog to attack another person.

Where a complaint of a dog attack may lead to the prosecution of a person for a criminal offence, officers are to liaise with the local government authority to ensure that any necessary evidence is obtained (e.g. photographs) before the dog is destroyed.

The management of regulated dogs is the responsibility of the relevant local government authority. Chapter 4: 'Regulated dogs' of the *Animal Management (Cats and Dogs) Act* outlines the responsibilities of the local government authorities and provides definitions of a:

(i) declared dangerous dog;

(ii) declared menacing dog; and

(iii) restricted dog.

13.16.3 Providing relief to an animal at a place or vehicle

Section 147: 'Powers to provide relief to animal' of the PPRA provides that an officer may enter and stay at a place, other than a vehicle, while it is reasonably necessary to provide the food or water or to disentangle an animal if:

(i) the officer reasonably suspects:

(a) the animal at the place, is suffering from lack of food or water or is entangled;

(b) the person in charge of the animal is not, or is apparently not, present at the place; and

(ii) the animal is not at a part of the place at which a person resides, or apparently resides.

Section 147(4) of the PPRA provides that an officer may enter a vehicle if the officer reasonably suspects there is a need to enter the vehicle to relieve an animal in pain in the vehicle or prevent an animal in the vehicle from suffering pain.

Although s. 614: 'Power to use force—exercise of certain powers' of the PPRA provides it is lawful for an officer, and anyone helping the officer, to use reasonably necessary force when exercising or attempting to exercise a power under that Act, officers are to first obtain the authorisation of the regional duty officer, patrol group inspector or district duty officer to use force if the envisaged use of the reasonably necessary force is likely to cause damage to the place or the vehicle.

ORDER

Where damage is caused by an officer, or an officer's assistant, in exercising a power under the PPRA, the officer who caused the damage, or the officer whose assistant caused the damage, is to also comply with s. 636: 'Police officer to give notice of damage' of the Act.

13.16.4 Destruction of animals

Section 468: 'Injuring animals' of the CC makes it an offence for a person to unlawfully kill, maim or wound any animal capable of being stolen, however there may be some circumstances where it is lawful for a person to defend or protect oneself, another, or property from injury (see ss. 458: 'Unlawful acts' and Chapter 5: 'Criminal responsibility' of the CC).

Destruction of an animal by a police officer

Under certain conditions an officer may destroy or cause an animal to be destroyed (see s. 148: 'Power to destroy animal' of the PPRA).

Guidelines for the humane destruction of animals are contained within s 4.0: 'Humane stock destruction' of the QPS Service Pistol Learner Guide. Additionally, the Animal Destruction PowerApp is available on the Operational Training Services SharePoint page.

Biosecurity Act

ORDER

The provisions of s. 318: 'Power of destruction' of the *Biosecurity Act* are not to be relied upon unless the officer concerned has been given written approval to be an authorised person under that Act by the Commissioner (see s. 13: 'Appointment of police officers as public officials for other Acts' of the PPRA).

13.16.5 Animal welfare directions

In cases where s. 142: 'Application of pt 5' of the PPRA such as:

(i) an animal has been seized which is under imminent risk of death or injury;

(ii) a person has committed, is committing or is about to commit an animal welfare offence; or

(iii) an animal:

(a) is not being cared for properly;

(b) is experiencing undue pain;

(c) requires veterinary treatment; or

(d) should not be used for work,

and the officer considers it to be necessary and reasonable in the interests of the animal's welfare, the officer may give a written animal welfare direction (see s. 143: 'Power to give animal welfare direction' of the PPRA).

When giving an animal welfare direction, officers are to complete:

(i) a Form FDU 1428: 'Animal welfare direction';

(ii) a Form FDU 1430: 'Information notice—animal welfare direction'; and

(iii) a Form FDU 1431: 'Schedule to an animal welfare direction'.

OPM Issue 113 Public Edition

a copy of these documents is to be given to the person(s) in charge of the animal.

The information notice is to explain the decision, the reasons for the decision, that the person to whom the notice is given may apply to the chief executive for a review of the decision within 14 days after the person receives the notice, and how to apply for a review.

Prior to giving an animal welfare direction, the officer intending to give the direction is to ensure that QPRIME is checked to ascertain whether the person in charge of the animal is already subject to a current animal welfare direction for the same animal. Similar checks should also be made with the Principle Investigations Officer or Senior Biosecurity Officer of the Department of Primary Industries (DPI) (see SMCD).

Where the person in charge is already subject to a current animal welfare direction, the officer intending to give the animal welfare direction is to check whether the previous direction is being complied with and only give another direction if the action(s) required by the previous animal welfare direction are insufficient to improve the animal's welfare.

When an animal welfare direction is given, the officer who gave the direction is to ensure that:

(i) a flag is added to the QPRIME person record indicating that the person is subject to an animal welfare direction and that the original forms are filed at their station or establishment; and

(ii) a copy of the forms is provided to the Animal Biosecurity and Welfare Unit, DPI (see SMCD).

In cases where an animal welfare direction requires a person in charge of an animal to present the animal to a stated station or establishment to show that the direction has been complied with, the officer who gave the animal welfare direction is to ensure that a copy of the animal welfare direction form is forwarded to the OIC of the nominated station. A QPRIME task should also be created and forwarded to the nominated station.

Where an OIC of a station or establishment receives a copy of an animal welfare direction form and that direction requires the person in charge of an animal to present the animal to a station or establishment to show compliance, the documents should be made accessible to those members who are likely to be required to inspect the animal.

In instances where a member inspects an animal as part of checking compliance with an animal welfare direction the member is to complete the QPRIME task and return it to the officer that issued the animal welfare direction with the details of the inspection and whether the direction was complied with.

(Note—an interagency agreement between the Service, RSPCA Queensland Inc. and DPI addresses what is required where the responsibility of checking an animal welfare direction given by an officer is to be transferred to one of these other agencies).

Oral direction

An animal welfare direction may be given orally only in cases where:

(i) the officer considers it to be in the interests of the animal's welfare to give the direction immediately;

(ii) for any reason it is not practicable to immediately give the direction in the approved form; and

(iii) the officer warns the person it is an offence not to comply with the direction unless the person has a reasonable excuse.

ORDER

If the animal welfare direction is given orally, the officer that gave the direction is to confirm the direction by also giving a copy of the written animal welfare direction forms (i.e. FDU 1428, FDU 1430 and FDU 1431) as soon as practicable after giving it orally.

13.16.6 Failure to comply with an animal welfare direction

The responsibility of checking whether an animal welfare direction has been complied with rests with the officer who issued the animal welfare direction.

In cases where a suspected contravention of an animal welfare direction is detected, the officer who detected the contravention is to ensure an investigation for an offence against s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA is commenced.

If the animal welfare direction has only been given orally, and the written animal welfare direction forms have not yet been given to the person, officers are to ensure that the provisions of s. 633: 'Safeguards for directions or requirements' of the PPRA are complied with before a prosecution is commenced.

Where a prosecution has been commenced for a failure to comply with an animal welfare direction, the investigating officer is to send a QPRIME task to the officer in charge of the police station to which the officer who issued the animal welfare direction was attached at the time the direction was issued. The officer is to request the original animal welfare direction forms to be forwarded to the investigating officer for inclusion in the occurrence and any subsequent full brief of evidence.

OPM Issue 113 Public Edition

13.16.7 Review and appeal of an animal welfare direction

A person who has been given an animal welfare direction may apply to have the decision to give an animal welfare direction reviewed by lodging an application on an approved form with the Chief Executive, Department of Primary Industries (DPI).

Where an application for review of the animal welfare direction has been made, the Chief Executive, DPI will notify the officer who gave the direction of the pending review.

The review process does not override any requirements of the animal welfare direction. The relevant officer should continue to ensure the direction is complied with.

When notified by the Chief Executive, DPI the officer who gave the animal welfare direction is to prepare a report outlining the circumstances leading to the decision to give the direction and submit it to the Chief Executive, DPI through the OIC of their region or command.

Where the Chief Executive has reviewed the decision of an officer to issue an animal welfare direction and exercised a power under s. 197: 'Internal review' of the *Animal Care and Protection Act* (ACPA) and the officer is aggrieved by the decision, the officer may apply to the OIC of their region or command for approval to appeal the decision (see s. 199: 'Who may appeal' of the ACPA).

ORDER

Officers are not to appeal the Chief Executive's decision without appropriate approval.

13.16.8 Providing assistance to the Department of Primary Industries and Royal Society for the Prevention of Cruelty to Animals Incorporated

Authorised officers and inspectors of the Department of Primary Industries (DPI) and the Royal Society for the Prevention of Cruelty to Animals Incorporated (RSPCA), may request police assistance for investigating an animal welfare offence.

Such requests for assistance will usually relate to instances where DPI and/or RSPCA officers are likely to be exposed to an increased risk of physical harm should they attempt to exercise a power under the *Animal Care and Protection Act.*

Where the request for assistance relates to a location within an area controlled by a police communications centre, members should refer such requests to the duty officer of the relevant police communications centre.

In considering the request, the duty officer should have regard to the reasons provided by the DPI and/or the RSPCA in deciding whether it is necessary to provide a police response. In cases where the provision of a police response is necessary, consideration should also be given as to whether a negotiated response would be appropriate in the circumstances.

(Note—an interagency protocol between the Service, the RSPCA and DPI addresses how the Service will deal with such requests for assistance).

OPM Issue 113 Public Edition

13.16.9 Dealing with an animal welfare incident

Investigative responsibilities

When members are contacted regarding animal welfare incidents, members are to direct the informant to either:

(i) the Royal Society for the Prevention of Cruelty to Animals Incorporated (RSPCA)—primarily responsible for investigating most animal cruelty matters under the *Animal Care and Protection Act* (ACPA); or

(ii) Department of Primary Industries—Biosecurity Queensland (DPI)—primarily responsible for animal welfare matters related to livestock and biosecurity or in areas where RSPCA does not operate.

However, in instances where:

(i) the incident constitutes a 'critical incident' (i.e. the animal's welfare is severely compromised, requiring urgent action to alleviate pain and suffering); and

(ii) the RSPCA or DPI cannot respond within a reasonable timeframe,

members should ensure that an officer responds to the matter and take appropriate action to alleviate the animal's pain and suffering.

Investigating offences under the Animal Care and Protection Act

Officers have authority to investigate and commence proceedings for offences under the ACPA.

Initiating proceedings

Under s. 799: 'Provisions restricting starting of proceeding' of the PPRA officers may commence proceedings for ACPA offences. However, they are to notify the Chief Executive of the DPI as soon as reasonably practicable.

Referral to RSPCA and DPI

Where an incident does not meet the threshold for a Criminal Code offence, officers should consider whether the matter is more appropriately managed under the ACPA, including referral to the RSPCA or the DPI, as appropriate.

Nothing in this section limits the authority of an officer to investigate or commence proceedings under the ACPA where lawful and appropriate. Officers may retain responsibility for the investigation where circumstances warrant continued police involvement, including where:

(i) the matter arises outside normal business hours and immediate action is required;

(ii) the incident is connected to another police investigation or operational matter;

(iii) officers have already undertaken substantial investigative action; or

(iv) referral would be impracticable, inappropriate or likely to prejudice the investigation.

Where a matter is referred to the RSPCA or DPI, any lawfully obtained evidence collected during the initial police response or investigation may be provided to the relevant agency to support further investigation, enforcement action or prosecution, in accordance with legislative and evidentiary requirements.

Criminal Code offences

There is no need for an officer to notify the Chief Executive of the DPI of any prosecution of offences under ss. 242: 'Serious animal cruelty' or 468: 'Injuring animals' of the CC (see s. 3.5: 'Commencing proceedings' of this Manual).

Notification of ACPA proceedings

Officers are to complete a QP 1275: 'Notification of proceeding' and email to acpaenquiry@dpi.qld.gov.au.

Alleviating an animal's pain and suffering

Officers have the following powers to alleviate an animal's pain and suffering:

(i) s. 143: 'Power to give animal welfare direction' of the PPRA;

(ii) s. 146: 'Power in relation to offences involving animals' of the PPRA;

(iii) s. 147: 'Powers to provide relief to animal' of the PPRA; and

(iv) s. 148: 'Power to destroy animal' of the PPRA.

Additionally, officers are authorised to seize animals in certain circumstances under:

(i) s. 137(1): 'Removal of animals from roads and other places' of the PPRA;

(ii) s. 146(2)(c) and (d): 'Power in relation to offences involving animals' of the PPRA; and

(iii) s. 157(1)(i): 'Powers under search warrant' of the PPRA.

OPM Issue 113 Public Edition

Where possible, officers should consider alternatives to seizing an animal, such as arranging for a local government animal control unit to impound an abandoned animal.

Seizing an animal under s. 146(2)(d) of the PPRA

Officers may enter a place, search for, inspect and seize an animal under s. 146: 'Power in relation to offences involving animals' of the PPRA if the officer reasonably suspects that the animal is:

(i) in imminent risk of death or injury;

(ii) in need of veterinary treatment;

(iii) experiencing undue pain and the interests of its welfare require its immediate seizure; or

(iv) the person in charge of the animal has contravened, or is contravening an animal welfare direction under the PPRA or the ACPA, or a court order about the animal.

The RSPCA or DPI may assist officers in the seizure of animals under s. 146(2)(d) of the PPRA. This assistance may include transportation, care and forfeiture of the animal to the State pursuant to s. 154: 'Power to forfeit' of the ACPA. In remote areas, local councils may also be able to assist with the seizure and housing of animals. An OIC of a station in a remote area should establish agreements or procedures with their local council to ensure appropriate arrangements are in place prior to any animal seizure. In all instances, officers should seek restitution and costs associated with care, housing and transportation of seized animals.

Where circumstances permit, before seizing an animal pursuant to s. 146(2)(d) of the PPRA officers should:

(i) contact an inspector from either the RSPCA or DPI to discuss the nature of the animal's injuries, condition and options available. Where an inspector cannot be contacted, inquiries may be directed to the operations coordinator of either agency;

(ii) if possible, take digital photographs of the animal to brief the inspector about the extent of animal's injuries (the inspector will wherever possible forward any photographs to the relevant agency's veterinarian for a professional opinion to support the advice); and

(iii) forward any digital photographs taken of the animal to the inspector by e-mail (the photographs should be compressed/zipped and the e-mail should outline the circumstances that require the sending of the photographs).

Forfeiture of seized animals

After seizing an animal under s. 146(2)(d) of the PPRA, officers may seek to have the animal forfeited to the State under the provisions of s. 154 of the ACPA (see 'Disposal under the Animal Care and Protection Act' in s. 4.6.11: 'Disposal of animals' of this Manual).

13.16.10 Carcasses of animals on roads

Where members become aware that the carcass of an animal is on a road, and as necessary for ensuring the safe and effective flow of traffic, officers should contact or arrange contact with a local government authority to remove the carcass.

13.17 Trespass

13.17.1 When to take action for trespass

Trespass on land is actionable as a civil wrong. However, trespass may also amount to a criminal offence.

The decision by police to take action for this type of criminal offence is therefore only be made when:

(i) one or more of the following requirements is present:

(a) where specific legislation exists;

(b) the officer has a reasonable suspicion the person trespassing is committing, has committed or is intending to commit an offence;

(c) the person trespassing is committing a breach of the peace;

(d) a safety issue arises; or

(e) the person in peaceful possession of the land/place is not able to readily remove the person; and

(ii) the provisions of s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual have been fulfilled.

When a trespass on a person's property goes beyond the realm of civil trespass

Section 11: 'Trespass' of the *Summary Offences Act* and s. 48A: 'Unlawful entry of dwelling houses' of the *Invasion of Privacy Act* are similar in respect to 'unlawful trespassing'. These provisions are not intended to prohibit persons entering another person's property for lawful purposes. For example, to knock at a person's door to seek a direction or look for a person.

Pursuant to this legislation, an offence is committed if something more than 'trespass' in the civil sense is proved. For example the continual trespassing of children onto a neighbour's property to retrieve a football would be trespass in the civil sense, whereas a trespass by a person intending to commit an offence or a 'peeping tom' could be trespassing in the criminal sense. Nevertheless, it is not the intention of this legislation to make every civil trespass a criminal offence.

Officers investigating complaints under these two Acts are to consider the intention of the person against whom the complaint is made and their reasons for entering or being on the premises, prior to commencing a prosecution.

Officers are to note that an offence against s. 11 of the *Summary Offences Act* is a declared offence for the purposes of s. 634: 'Safeguards for declared offences under Summary Offences Act' of the *Police Powers and Responsibilities Act*.

Officers are to also consider s. 13 'Unlawfully entering farming land etc' of the *Summary Offences Act* when investigating a complaint of trespass or interference of livestock, animal husbandry or agricultural activities.

See also s. 13.17.5: 'Trespass in shopping centres' of this chapter.

13.17.2 Requests to remove person(s) from a place, etc. for trespass or disorderly conduct

Officers assisting persons in the peaceable possession of any land, structure, vessel or place to lawfully remove persons improperly there are taken to be acting in the exercise of their duty despite if assistance could be provided by a person who is not an officer (see s. 792: 'Performance of duty—police officers' of the PPRA).

Officers are to establish the relationship between the parties and commence an investigation if appropriate (see Chapter 2: 'Investigative Process' of this Manual).

OPM Issue 113 Public Edition

If a formalised tenancy arrangement exists between the parties the matter should be referred to the Residential Tenancies Authority.

Officers requested to assist to remove a person(s) from any land, structure, vessel or place are to refer to s. 277: 'Defence of premises against trespassers—removal of disorderly persons' of the CC. This section authorises a person in peaceable possession of any land, structure, vessel or place, or who is entitled to the control or management of any land, structure, vessel, or place, and for any person lawfully assisting or acting by his or her authority, to use such force as is reasonably necessary in order to:

(i) prevent any person from wrongfully entering upon the land, structure, vessel, or place; or

(ii) to remove a person who:

(a) wrongfully remains therein; or

(b) conducts himself or herself in a disorderly manner therein;

provided that grievous bodily harm is not done to such person.

Officers are to be satisfied that they can rely on the statement of the person in authority before assistance is given, e.g. assisting the person in control of a household to remove another person from that dwelling. Also, officers are to record in their official police notebook the nature of the request of the person in authority for police assistance. The person in authority should be requested to sign the notebook.

When officers are requested to assist and it is ascertained that the trespasser has committed, or is committing an offence, or is a party to a breach of the peace then appropriate action is to be taken to prosecute. See Chapter 3: 'Prosecution Process' of this Manual.

Where a relevant relationship exists

Officers are to establish if a relevant relationship (see s. 13: 'Meaning of relevant relationship' of the DFVPA) exists between the parties and investigate, or cause to be investigated, if the officer reasonably suspects that domestic violence has been committed (see s. 100: 'Police officer must investigate domestic violence' of the DFVPA, ss. 6.5.1: 'Age related needs' and 9.2.6: 'Initial DFV investigative action' of this Manual).

Where a relevant relationship exists between the parties, officers should consider whether cool-down, no-contact, or ouster conditions are necessary or desirable to protect the person requiring police assistance (see Part 4, Division 2 'Power to issue police protection notice' of the DFVPA). Officers are also to conduct an investigation to determine if any offences have been committed and take action where appropriate (see ss. 2.4, 6.5.1 and 9.2.6 of this Manual).

Protective services officers

In order to maintain the security of a state building, a protective services officer may direct an entrant, or group of entrants, to not enter or to leave the building immediately and to take the belongings of the entrant or group of entrants out of the building, if the officer reasonably suspects:

(i) the behaviour of the entrant or entrants is or has been disorderly, indecent, offensive or threatening to a person entering, at or leaving the building; or

(ii) the entrant or entrants have not complied with a requirement under s. 550: 'Power to require name and address and reason for entry' of the PPRA; or

(iii) the entrant or entrants have not complied with a request under:

(a) s. 551: 'Use of electronic screening devices'; or

(b) s. 552: 'Power to inspect entrant's belongings' of the PPRA; or

(iv) the entrant or entrants have no good and lawful reason to enter or be at the building.

The protective services officer must give the entrant or group of entrants the reasons for the direction.

13.17.3 Trespass (industrial disputes)

In accordance with the provisions of the *Industrial Relations Act* (IRA), *Fair Work Act* (Cwlth) and the *Work Health and Safety Act* (WHSA) various persons have been authorised and have the right to:

(i) enter a workplace;

(ii) make inspections of the workplace;

(iii) inspect any plant and equipment;

(iv) meet with and have discussions with employees;

(v) copy a document at the workplace;

(vi) inspect, photograph or film any part of the place or anything at the workplace;

(vii) require a person to state their name and address;

OPM Issue 113 Public Edition

(viii) take anything into or onto the workplace the persons, equipment and materials an inspector reasonably requires for exercising a power; and

(ix) require a person at the workplace to give an inspector reasonable assistance to carry out any of the above duties.

Authorised persons, generally officials employed by a union or other industrial organisation, may enter and remain on relevant workplaces and have powers to investigate industrial relations and health and safety matters. The authorised persons have been issued by the relevant authority an authorisation containing identification particulars, name of the industrial organisation, the relevant Act and section under which the authorisation is issued and any limitations of powers.

An WHSA authorised representative wishing to enter a workplace to inquire into a suspected contravention of the WHSA or *Electrical Safety Act*, are required to give notice of the proposed entry and suspected contravention to the occupier during usual working hours at the workplace at least 24 hours, but not more than 14 days, before the entry. The exception to this requirement is where the WHSA authorised representative reasonably believes that a relevant worker is exposed to a serious risk to their health or safety, emanating from an immediate or imminent exposure to a hazard.

Any person wanting to enter a workplace for the purposes of investigating a suspected contravention of the nominated Act, who is not an authorised person or authorised representative or in possession of a relevant permit, should not enter the workplace unless the occupier has given consent.

Industrial Relations Act

Authorised persons under this Act are referred to as **'authorised industrial officers'**. For further information regarding entry powers, powers, functions, obligations and limitations of authorised persons, refer to the IRA.

Fair Work Act (Commonwealth)

Authorised persons under this Act are referred to as **'permit holders'**. For further information regarding the authorisation, entry powers, powers, functions, obligations and limitations of permit holders, refer to the *Fair Work Act* (Cwlth).

Work Health and Safety Act

Authorised persons under this Act are referred to as **'authorised representatives'**. For further information regarding entry powers, powers, functions, obligations and limitations of authorised representatives, refer to the WHSA.

Attending industrial disputes

The Office of Industrial Relations (OIR) is empowered through its inspectorate to ensure work health and safety compliance and respond to incidents at worksites under the WHSA.

Officers called to attend a disputed entry into worksite are to, prior to attending or as to as soon as practicable, notify OIR (see SMCD), who will appoint a Workplace Health and Safety Inspector to deal with the dispute under the WHSA. Officers attending the worksite are to follow the advice provided by the Workplace Health and Safety Inspector (see Part 5—'Disputed entry issues' of the Memorandum of Understanding).

Officers are not to force entry into a worksite or become involved in the dispute unless there is:

(i) an apparent danger to persons; or

(ii) to prevent riots, breaches of the peace or law (see ss. 50: 'Dealing with breach of the peace', 51: 'Prevention of riot' and 52: 'Prevention of offences—general' of the PPRA).

Other assistance and advice about relevant legislation or specific circumstances may be obtained. Sources include:

(i) regional duty officer or district duty officer;

(ii) Police Communications Centre;

(iii) Operational Legal Advice;

(iv) QPS Industrial Officers, Employee Relations, Workforce Management and Wellbeing Division (WMWD);

(v) QPS Health and Safety Advisors, WMWD; and

(vi) the Australian Government Fair Work Building & Construction website.

Removal of persons from a workplace

Officers are not to remove authorised persons from a workplace if they are there lawfully and have not committed a breach of the peace or other offence. Officers may assist an occupier to remove persons from a workplace:

(i) if the OIR official advises those persons have no legal authority to be in those premises (see s. 13.3.2: 'Helping public officials exercise powers under various Acts' of this Manual);

OPM Issue 113 Public Edition

(ii) if those persons are behaving in a disorderly manner, see ss. 277: 'Defence of premises against trespassers—removal of disorderly persons' of the CC and 13.17.2: 'Requests to remove persons(s) from a place, etc. for trespass or disorderly conduct' of this chapter; or

(iii) where the provisions of ss. 11: 'Trespass', 12: 'Persons unlawfully gathering in or on a building or structure' of the *Summary Offences Act* apply and 13.17.1: 'When to take action for trespass' of this chapter.

13.17.4 Wheel clamping of motor vehicles

Wheel clamping is an offence

Unless authorised by the owner or person in lawful possession of a vehicle, it is unlawful to:

(i) attach an immobilising device to the vehicle (e.g. a wheel clamp or other device which effectively detains the vehicle); or

(ii) place an immobilising device near the vehicle (e.g. by locking a moveable steel post, at the entrance of a parking space where the vehicle is parked to prevent the vehicle leaving),

(see s. 135(1)(c): 'Unlawfully interfering with, or detaining, vehicles etc.' of the *Transport Operations (Road Use Management) Act* TO(RUM)A).

The prohibition on the use of immobilising devices does not apply to:

(i) the sheriff or another person authorised by law to execute a warrant of execution against the vehicle;

(ii) an enforcement officer authorised by law to enforce an immobilisation warrant against the vehicle, see Part 5, Division 7A: 'Enforcement by vehicle immobilisation' of the *State Penalties Enforcement Act*; and

(iii) a person exercising a power over a vehicle that the person may have as the holder of a security interest in the vehicle.

ORDER

Whilst s. 135(2) authorises an officer to use or direct another person to use an immobilising device on a vehicle, the Service has directed that officers are not to use an immobilising device on a motor vehicle (see s. 16.3: 'Alternatives to impounding motor vehicles (immobilising powers) of the Traffic Manual).

Rights of motorists and rights of land owners

Generally, motorists may park or drive on private property only with the consent, express or implied, of the owner or occupant of the land. Parking or driving on private land without any such consent may constitute a civil trespass. Whilst the owner or occupier of the land may not use wheel clamping, the person may:

(i) remove, or cause to be removed, from land a vehicle parked or left standing on private land (see s. 4.12.4: 'Towing of motor vehicles parked on private property' of this chapter); and

(ii) seek restitution from the vehicle's owner for 'damages', known as distress damage feasant (see s. 4.12.4: 'Towing of motor vehicles parked on private property' of this Manual).

The right of distress damage feasant is vested, in general, only in the occupier of land.

Dealing with complaints

When a complaint is received with respect to vehicles trespassing on privately owned land, which has not been declared by the relevant local government as an off street regulated parking area under the TO(RUM)A, members should:

(i) check the vehicle's registration number to ensure that it has not been reported stolen;

(ii) advise the complainant that it is a civil trespass and private legal advice should be sought by the complainant;

(iii) advise the complainant in terms of s. 135: 'Unlawfully interfering with, or detaining, vehicles etc.' of the TO(RUM)A; and

(iv) inform the complainant that in the eventuality that the vehicle is towed away from the land that the local police communications centre should be advised of the vehicle's identification particulars, the towing company involved and the place where it was towed to.

When a complaint is received with respect to a vehicle unlawfully parked on privately owned land which has been declared as an off street regulated parking area, members should establish from the complainant:

(i) whether the motorist is entitled to park the vehicle where it is located;

(ii) whether there are any traffic signs or markings located at the parking space/location;

(iii) whether s. 125(1)(d): 'Prescribed circumstances for s 124' of the PPRA applies;

(iv) if a Traffic Infringement Notice has been issued by the local government in relation to the vehicle. If no notice has been issued the complainant should be advised to contact the local government; and

OPM Issue 113 Public Edition

(v) whether the owner of the vehicle is present or has been contacted. If the owner has been contacted and is attending or is present, the complainant should be advised that police will attend if the owner refuses to move the vehicle or otherwise comply with the prescribed conditions for parking in the particular area.

Officers should attend the scene of such a complaint in circumstances where:

(i) a vehicle is unlawfully parked in a regulated off-street parking area; and

(ii) the vehicle is parked so as to be liable to seizure and removal under s. 125(1)(d) of the PPRA.

13.17.5 Trespass in shopping centres

Shopping centres are private property for which an implied invitation to enter is extended to the general public. The management of a shopping centre may withdraw that invitation from any person. In some cases such a withdrawal of the invitation is made by the giving of a written notice to the person concerned, although the withdrawal can be made verbally.

ORDER

Officers are not to act on behalf of the management of a shopping centre to withdraw the invitation of a person to enter a shopping centre by giving written or verbal notice to a person that the person is not permitted to enter the shopping centre.

POLICY

Where a person enters a shopping centre after their invitation to enter has been withdrawn, officers should consider whether a prosecution for an offence under s. 11: 'Trespass' of the *Summary Offences Act* is warranted. In making this determination, officers should refer to s. 3.4: 'General prosecution policy' and s. 13.17.1: 'When to take action for trespass' of this Manual.

Where a prosecution for an offence of trespass cannot be supported, officers may advise the shopping centre management that they may wish to consider their options of redress through civil litigation for the tort of trespass.

If requested to do so, officers are to assist a person entitled to the management or control of a shopping centre to remove persons who are improperly there, in accordance with s. 13.17.2: 'Requests to remove person(s) from a place, etc. for trespass' of this chapter.

Officers should, in appropriate circumstances, also consider the provisions of s. 50: 'Dealing with breach of the peace' and s. 48: 'Direction may be given to person' of the PPRA when dealing with disorderly persons or trespassers in a shopping centre (see also s. 13.23: 'Move-on power' and 13.4: 'Peace and Good Behaviour Act' of this chapter).

OPM Issue 113 Public Edition

13.18 Warrants

13.18.1 Introduction

Warrants can be issued in two forms either as a:

(i) computer warrant (eWarrant), which is created using a computer and the information is stored electronically; or

(ii) paper warrant, which is a written warrant issued by a person, issued under a person's hand, or signed by a person. A certified copy of a paper warrant can be transmitted electronically (using a fax or computer) and printed but is not a computer warrant.

Computer warrant (eWarrant)

A computer warrant (eWarrant) is created using a computer and the information is stored electronically. An eWarrant may be created even though the warrant is authorised under a provision of an Act authorising the issue of a warrant based on an application made by telephone or other form of distance communication.

The types of eWarrant prescribed by Justice Regulation for the purpose of s. 66(4): 'Purpose and application of division' of the *Justices Act* (JA) include:

(i) a warrant issued under the *Bail Act* (BA);

(ii) a warrant issued under the JA;

(iii) a warrant issued under the *Criminal Practice Rules*, rule 28;

(iv) a warrant issued under the *Domestic and Family Violence Protection Act*;

(v) a warrant of commitment issued under the *Penalties and Sentences Act* (PSA);

(vi) an arrest warrant issued under the PPRA;

(vii) a warrant issued under the *State Penalties Enforcement Act* (SPEA); and

(viii) a warrant issued under the *Youth Justice Act*.

A QPRIME warrant report generated and printed for an eWarrant is a written version of a computer warrant and is taken to be the original warrant for a period of eight hours of being made unless executed. The making or cancellation of a written version does not affect the existence of the computer warrant (see s. 69A: 'Written version of computer warrant' of the JA).

Where a court requires a copy of the executed eWarrant, officers are to endorse the execution of the eWarrant in QPRIME (see QPRIME User Guide) and generate and print a QPRIME warrant report. Where a court from an interstate or overseas jurisdiction requires a paper warrant for the purposes of extradition, officers are to contact the Warrant Team, Police Information Centre (PIC) and request a paper warrant. The eWarrant will be returned to the court and a paper warrant will be issued and supplied to PIC for collection by the requesting officer (see eWarrant extradition page on the Service Intranet for further details).

The below table lists the type of warrants that may be issued as eWarrants.

Warrant Title	Form No.	Legislation
Warrant to apprehend defendant on application by surety for discharge from liability with respect to undertaking as to bail	Form 14	s. 23(3) of the BA
Warrant to apprehend defendant who has not appeared in accordance with undertaking	Form 15	s. 28 of the BA
Warrant to apprehend defendant for failure to surrender into custody	Form 16	s. 28A of the BA
Warrant for apprehension of defendant for failing to enter into undertaking or without fulfilling conditions as to bail before leaving precincts of court	Form 26	s. 27A of the BA
Warrant for apprehension of defendant for failing to enter into undertaking or without fulfilling conditions as to bail before leaving presence of police officer	Form 28	s. 27B of the BA
Warrant of apprehension of person released under section 11a	Form 25	s. 28C of the BA
Warrant to apprehend defendant for failure to appear	Form 34	s. 389 of the PPRA
Warrant to apprehend defendant who has not appeared on adjournment	Form 17	JA
Warrant to apprehend defendant charged with a simple offence or breach of duty where summons is disobeyed	Form 84	s. 142(1)(b) of the JA
Warrant to apprehend offender for failing to appear under conditions of recognisance	Form 5	s. 27(1)(d) of the PSA
Warrant to apprehend offender for failing to appear by direction or when called	Form 13	s. 40 of the PSA
Warrant to apprehend defendant for failure to appear	Form 74	s. 139(2) of the PSA
Warrant to apprehend offender under a drug and alcohol treatment order	Form 10	s. 151ZB of the PSA
Warrant to apprehend offender in the first instance or on failure to appear when notified by the court	Form 56	s. 182(3) of the PSA
Warrant to apprehend child where notice is disobeyed	Form 39(b)	s. 165(7A) of the *Youth Justice Act*
Warrant to apprehend child where summons is disobeyed	Form 39(a)	s. 238(5) of the *Youth Justice Act*
Warrant to apprehend respondent for failing to attend	Form DV19	ss. 39(2)(c) and 94(2)(c) of the *Domestic and Family Violence Protection Act*
Bench warrant	Form 20	Rule 28 of the Criminal Practice Rules

OPM Issue 113 Public Edition

Paper warrant

A paper warrant is a hard copy written original warrant that is issued by a justice or another person under any Act.

A paper warrant can be executed using a:

(i) copy of the paper warrant; or

(ii) QPRIME warrant report.

A copy of a paper warrant must be certified and executed within eight hours of sending and receipt.

A certified copy of a paper warrant is only valid and admissible as proof of the warrant it purports to be if copy of a paper warrant is:

(i) certified by the person sending it as a true and correct copy of the original warrant they have sighted; and

(ii) certified by the person receiving the copy.

A court may require the original paper warrant to be produced.

Officers are to confirm as soon a reasonably practicable the status of a warrant, where a person is arrested by virtue of a warrant known to exist for the person, to ensure the warrant has not already been executed or satisfied. When a name is queried in QPRIME, a flag is displayed advising if a person is 'wanted on warrant'. Information entered in QPRIME is immediately available statewide.

13.18.2 Warrant types

Some of the more frequent types of warrants that members may be required to deal with are listed below.

Arrest warrant

An arrest warrant is issued by a justice for the arrest of a person for an offence on application by an officer under s. 371: 'Issue of arrest warrant' of the PPRA (see s. 13.18.9: 'Obtaining and activating arrest warrants' of this chapter).

PPRA fail to appear warrant

A PPRA fail to appear warrant is a warrant to apprehend defendant for failure to appear (Form 34) and may be issued by a magistrate when a person fails to appear in a magistrates court in accordance with a notice to appear issued by an officer under s. 389: 'Court may order immediate arrest of person who fails to appear' of the PPRA.

Bail Act warrant

A Bail Act warrant may be issued by a magistrate for a range of offences or circumstances under the *Bail Act*. Generally, these authorise the arrest of a person due to a breach of a condition of bail, such as failing to appear before the court in accordance with that bail.

Bench warrant

A Bench warrant (Form 20) authorises the arrest of the person to be placed before a court and is issued in accordance with rule 28: 'Application for bench warrant' of the Criminal Practice Rules.

Mesne warrants

A mesne warrant is a warrant to apprehend a defendant charged with a simple offence or breach of duty where summon is disobeyed (Form 84) issued by justices under s. 142(1)(b) of the JA and authorise the arrest the person to be placed before a court.

Warrant in the first instance

A warrant in the first instance is a warrant to apprehend a person charged with an indictable offence or a simple offence is issued pursuant to the PSA as a result of a person contravening a parole order.

Dangerous Prisoners (Sexual Offenders) Act warrants

An arrest warrant is issued under s. 20: 'Warrant for released prisoner suspected of contravening a supervision order or interim supervision order' of the *Dangerous Prisoners (Sexual Offenders) Act* (DP(SO)A) and authorises an officer or corrective services officer to arrest a released prisoner and bring them before the Supreme Court (see ss. 2.12.6: 'Continuing detention and supervision orders' and 2.12.7: 'Electronic monitoring of Dangerous Prisoners (Sexual Offenders)' of this Manual).

Warrants of apprehension and conveyance of prisoner to a Corrective Services facility

A warrant of apprehension and conveyance of prisoner to a corrective services facility is issued as a result of the suspension or cancellation of a conditional release order or a parole order (see s. 206: 'Warrant for prisoner's arrest' of the *Corrective Services Act*). The warrant authorises the arrest and conveyance of the person to the specified prison or to any other prison which is more accessible or convenient.

OPM Issue 113 Public Edition

Remand warrant

A remand warrant is issued by a court enabling a prisoner to be taken from a magistrate's court and held on remand in a correctional centre.

Warrants of commitment for trial or sentence

A warrant of commitment for trial or sentence is issued by a superior court for the purpose of bringing a person before that court to face trial or for sentencing.

Warrants of commitment where punishment is by imprisonment

A warrant of commitment where punishment is by imprisonment is issued by a court, under the JA rather than the PSA, on the conviction of a person in circumstances when the penalty is a period of imprisonment and the defendant has no option to pay a fine in lieu.

Warrants and orders for imprisonment

A warrant and orders for imprisonment is similar to a warrant of commitment where punishment is by imprisonment, except this type of warrant or order is issued under the PSA. A warrant or an order for imprisonment is issued by a court on the conviction of a person in circumstances when the penalty is a period of imprisonment and the defendant has no option to pay a fine in lieu.

Arrest and imprisonment warrants

An arrest and imprisonment warrant is issued under the provisions of s. 119: 'Enforcement by imprisonment' of the *State Penalties Enforcement Act* and authorises the arrest and imprisonment of the offender for the period stated in the warrant. The warrant stops having effect if the unpaid amount is paid before the offender is imprisoned. The period of imprisonment an offender must serve under the warrant is cumulative on any other period of imprisonment the offender must serve under any other warrant or an order of a court. An arrest and imprisonment warrant is issued as the result of:

(i) a court-imposed penalty; or

(ii) non-compliance of a penalty imposed for the non-payment of an infringement notice.

A person who is arrested by virtue of an arrest and imprisonment warrant does not appear before a court and is transported directly to a watch-house or correctional centre to serve the default period of imprisonment.

Warrants of commitment

A warrant of commitment can be issued under the:

(i) PSA as the result of the non-payment of a penalty imposed by a Queensland court; or

(ii) *Service and Execution of Process Act* (Cwlth) (SEPA) by a Queensland court after a person has been arrested pursuant to a warrant of apprehension and the outstanding amount remains unpaid after the expiration of further time to pay allowed by the Queensland court.

The warrant authorises an officer to demand full payment of the outstanding amount and to arrest the person if that amount is not forthcoming. A person who is arrested by virtue of a warrant of commitment does not appear before a court and is committed directly to a watch-house or correctional centre to serve the default period of imprisonment;

If it is ascertained the person named in a warrant issued under SEPA is no longer in Queensland, the officer is to request the QPRIME warrant task be reassigned to PIC who will make inquiries to the issuing authority and modify QPRIME accordingly.

Interstate warrants of commitment

Officers who become aware that a person located in Queensland is wanted by virtue of a warrant of commitment in another Australian jurisdiction should contact Brisbane Police Communication Centre to send a message to that jurisdiction requesting a warrant of apprehension be sought for execution in Queensland. This message should contain:

(i) the subject person's full name, date of birth and current address;

(ii) whether the subject person is an inmate of a correctional centre; and

(iii) a request to forward the warrant of apprehension to the Manager, Police Information Centre (PIC).

Warrants of apprehension

A warrant of apprehension is issued by a court in one state for the arrest of a person in another state. Such a warrant is issued when a fine has been imposed on the person named in the warrant, and the person has failed to pay all or some of the fine. The SEPA empowers a court of summary jurisdiction in the state or territory in which the person is located to order the imposition of the original penalty.

OPM Issue 113 Public Edition

Warrants of commitment issued forthwith

A warrant of commitment issued forthwith is issued by a court in relation to a defendant who has been convicted and ordered to pay a fine, but for which no time to pay has been allowed. The person is required to meet the fine immediately or is liable to be taken to a place of detention;

Additional warrant types

The following are additional warrant types members may be required to deal with:

(i) Mental Health Act warrants (see s. 13.18.12: 'Mental Health Act warrants' of this chapter);

(ii) warrants of execution (see s. 13.18.10: 'Warrants of execution' of this chapter);

(iii) warrants of possession (see s. 13.18.11: 'Warrants of possession' of this chapter);

(iv) Defence Force warrants (see s. 13.18.14: 'Defence Force warrants' of this chapter);

(v) search warrants (see s. 2.8.3: 'Obtaining a search warrant'); of this Manual);

(vi) coroners search warrants (see s. 8.16.1: 'Coroner's investigation Coroner's search warrants' of this Manual);

(vii) high-risk missing person warrants (see s. 12.8: 'High-risk missing person warrants' of this Manual);

(viii) surveillance device warrants (see s. 2.5.11: 'Use of listening devices and applications for surveillance device warrants' of this Manual);

(ix) warrant for apprehension of child (see s. 7.4.4: 'Warrant for apprehension of a child under the Child Protection Act' of this Manual).

13.18.3 How a warrant may be finalised

The way a warrant is finalised will depend on the type of warrant. Where a warrant:

(i) requires a named person to pay an outstanding amount of money the warrant can be either:

(a) satisfied by the persons paying the outstanding amount; or

(b) executed by being arrested and serving the default period of incarceration;

(ii) orders the seizure of property it can be executed by seizing the property named;

(iii) orders the arrest of a persons, it can be executed when the person named is arrested and delivered to the appointed place; or

(iv) authorises an action, such as the search of a place, the warrant is executed when that action is performed.

OPM Issue 113 Public Edition

13.18.4 Executing and satisfying warrants

Officers who locate a person they reasonably believe is the subject person of a warrant should take all reasonable steps to ensure the:

(i) person is the person named in the warrant;

(ii) warrant has not been previously satisfied or executed;

(iii) warrant is not cancelled, expired or defective; before attempting to satisfy or execute the warrant;

(iv) where the warrant requires the payment of money follow the relevant process in this chapter, namely:

(a) s. 13.18.5: 'Warrants requiring payment of money'; or

(b) 'Interstate warrants of commitment' of s. 13.18.2: 'Warrant types';

(v) where the warrant orders incarceration either after a person has been given an opportunity to pay money or otherwise follow the process in s. 13.18.6: Warrants ordering incarceration' of this chapter; and

(vi) where the warrant orders the persons appearance before a court follow the process in s. 13.18.7: 'Warrants ordering a person be brought before a court' of this chapter.

Endorsing an executed warrant

Officers who execute a warrant on a person need to endorse the warrant by:

(i) following the warrant procedures outlined in the QPRIME User Guide;

(ii) if a hardcopy is required, printing the QPRIME warrant report showing the endorsement; or

(iii) if a paper warrant or a certified copy of a paper warrant and no QPRIME warrant entry exists, by signing the rear of warrant with:

(a) the day and time of execution;

(b) the name of the person on whom it was executed;

(c) if supplied—the name of the occupier of the place; and

(d) the name, rank, registered number, if any, and station of the officer,

(see s. 638: 'Record of execution of warrant or order' of the PPRA).

Where more than one warrant relates to a person, officers are to ensure that each warrant is endorsed.

A copy of a paper warrant is to be executed and endorsed within eight hours of the copy being made. This is not applicable to Mental Health Act warrants or Defence Force warrants.

Satisfying a warrant

Members who receive payment for a warrant that satisfy it are to comply with the warrant procedures outlined in the QPRIME User Guide.

Unless officers are acting as a clerk of the court, or in another capacity to perform duties that are normally undertaken by officers from the Department of Justice, officers are not to accept monies that are tendered by persons for part payment of a warrant.

Where a person wanted on a warrant of commitment or an arrest and imprisonment warrant is arrested and transported to the nearest watch-house or correctional centre that will accept the prisoner, the watch-house manager may receive pro rata payment for the warrant (see the warrant procedures outlined in the QPRIME User Guide).

13.18.5 Warrants requiring payment of money

This section applies to all warrants requiring the payment of money issued by a Queensland court, including a warrant of commitment and warrant of apprehension issued under the *Service and Execution of Process Act* (Cwlth), but does not include the interstate warrant of commitment (see named section of s. 13.18.2: 'Warrant types' of this chapter.

Officers who locate a person with an outstanding warrant requiring the payment of money to satisfy the warrant are to:

(i) advise the person of the outstanding amount, and that if the amount is not paid, the person may be arrested;

(ii) give the person a reasonable opportunity to pay the outstanding amount, considering all the circumstances of the case, if the:

(a) named person pays the outstanding amount:

- accept the money;
- issue an official receipt to the person (see s. 4.6.2: 'Receipting Practice Statement' of the FMPM); and
- satisfy the warrant as detailed in 'Satisfying a warrant' of s. 13.18.4: 'Executing and satisfying warrants' of this chapter; or

(b) outstanding amount is not reasonably forthcoming, arrest the person by virtue of the warrant and transport the person to the nearest:

- watch-house or correctional centre and follow the procedure in the s. 13.18.6: 'Warrant ordering incarceration'; of this chapter; or
- for a warrant of apprehension (see named section in s. 13.18.2: 'Warrant types' of this chapter)—watch-house and follow the procedure in s. 13.18.7: 'Warrants ordering a person be brought before a court' of this chapter; and

(iii) if the person maintains that payment for the warrant has been made, the warrant should not be executed unless the officer is satisfied that the relevant fine remains unpaid. In circumstances where it is not possible to determine whether the warrant has been satisfied, the warrant should not be executed.

13.18.6 Warrants ordering incarceration

Officers executing a warrant for the arrest and incarceration of a person that does not require the persons to appear initially before the court, are to:

(i) where the warrant orders taking a person:

(a) to a corrective services facility such with a warrant of apprehension and conveyance of prisoner to a corrective services facility is to take the person to:

- the prison specified in the warrant;
- any other prison which is more accessible or convenient; or
- if no prison is accessible or convenient, the nearest watch-house; or

OPM Issue 113 Public Edition

(b) into custody:

- such as a:
  - warrant and order for imprisonment;
  - remand warrant;
  - warrant of commitment for trial or sentence;
  - warrant of commitment where punishment is by imprisonment; or
- where the person was given a reasonable opportunity to satisfy the warrant but was arrested as they were unable to, such as a:
  - arrest and imprisonment warrant;
  - warrant of commitment issued under the *Penalties and Sentences Act*; or
  - warrant of commitment issued forthwith,

is to transport the prisoner to the nearest watch-house or correctional centre which will accept the prisoner;

(ii) if deemed appropriate (see s. 10.4.15: 'Transfer of and taking charge of persons in custody' of this Manual), complete a QPS Prisoner Property Sheet and, where the prisoner is lodged at a:

(a) watch-house—deliver the original and a copy of the form, if completed, to the watch-house manager; or

(b) correctional centre—obtain a receipt for the prisoner and prisoner's property on the original of the form and deliver a copy of the form to the senior correctional officer. The signed original Queensland Police Service Prisoner Property Sheet is to be retained at the arresting officer's station or establishment;

(iii) endorse the warrant (see s. 13.18.4: 'Executing and satisfying warrants' of this chapter);

(iv) deliver the warrant or order to the watch-house manager or senior correctional officer; and

(v) complete the schedule and return it immediately to the issuing authority.

13.18.7 Warrants ordering a person be brought before a court

A warrant that orders a person be brought before a court, includes a:

(i) Bail Act warrant;

(ii) mesne warrant;

(iii) bench warrant;

(iv) arrest warrant;

(v) PPRA fail to appear warrant;

(vi) warrant in the first instance;

(vii) warrant of apprehension—where the person is unable to pay the outstanding money and the procedure in s. 13.18.5: Warrants requiring payment of money' of this chapter has been followed; and

(vii) Dangerous Prisoners (Sexual Offenders) Act warrants.

An officer who locates a person wanted on a warrant that orders a person be brought before a court should:

(i) arrest the person by virtue of the warrant;

(ii) take the person to a watch-house;

(iii) endorse the warrant (see 'Endorsing an executed warrant' of s. 13.18.4: Executing and satisfying warrants' of this chapter);

(iv) for a PPRA fail to appear warrant complete a QP 0666: 'Notice of execution of Police Powers and Responsibilities Act fail to appear warrant';

(v) for other warrants:

(a) complete a bench charge sheet with the wording relevant for the warrant as indicated below:

- a Bail Act warrant for a breach of bail conditions—for the offence of breaching a condition of bail;
- other Bail Act warrants—indicate the person was arrested by virtue of a Bail Act warrant, including the date and place of issue of the warrant;
- a mesne warrant—indicate the person has been arrested by virtue of a mesne warrant, including the date and place of issue of the warrant;

OPM Issue 113 Public Edition

- a bench warrant—indicate the person has been arrested by virtue of a bench warrant, including the date and place of issue of the warrant;
- an arrest warrant—the wording of the charge will be the wording taken from the warrant;
- a warrant in the first instance—the wording of the charge will be the wording taken from the warrant;
- a warrant of apprehension—the wording of the charge will be the wording taken from the warrant; or
- a Dangerous Prisoners (Sexual Offenders) Act warrant—the wording of the charge to be taken from the warrant; and

(b) complete a Court Brief (QP9) and outline in the narrative:

- the circumstances under which the defendant was located;
- information which proves the identity of the defendant, such as an admission by the person;
- if relevant, the circumstances surrounding the issue of the warrant, including details of the non-appearance by the defendant which led to the issue of the warrant; and
- any other relevant information; and

(c) ensure all documentation required in accordance with s. 3.7.2: 'Documentation at first appearance' of this Manual is available for production,

(vi) for a PPRA, Bail Act and mesne warrant obtain a copy of the bench charge sheet and Court Brief (QP9) for any original substantive offence marked 'COPY' (available from QPRIME or the Police Information Centre for pre-QPRIME matters); and

(vii) attach the warrant to the other documents detailed above for:

(a) a *Dangerous Prisoners (Sexual Offenders) Act* warrant—the relevant Office of the Director of Public Prosecutions (State) to tender to the Supreme Court; or

(b) the prosecutor to tender to the relevant court.

13.18.8 Management of warrants

Warrants received by the Police Information Centre (PIC) from Department of Justice or other issuing authorities are recorded in QPRIME and assigned to a QPRIME Organisational Unit Active Task List. The OIC of the relevant organisational unit should then assign the warrant to an officer for execution or satisfaction.

Not all warrants are sent to PIC from issuing authorities. Warrants sent directly to stations are:

(i) warrants of possession; and

(ii) warrants of execution for companies.

Warrant satisfied or executed in error

An officer who becomes aware, after satisfying or executing a warrant, that:

(i) the warrant had previously been lawfully satisfied or executed;

(ii) the person was not the person named in the warrant from whom the officer:

(a) seized goods or chattels from;

(b) received payment from; or

(c) arrested or otherwise took into custody

(iii) the warrant was expired at the time it was satisfied or executed;

(iv) in the case of a written version of a computer warrant, the warrant was cancelled; or

(v) the warrant was otherwise defective at the time it was satisfied or executed,

should:

(i) immediately rectify the action taken under the warrant by:

(a) ensuring the release of the person from custody; or

(b) return of any goods or chattels seized or payment received; and

(ii) for a cancelled warrant or a warrant satisfied by or executed on the wrong person, where the QPRIME warrant status has been modified to executed update it to not finalised (see the QPRIME User Guide);

(iii) for a warrant that is expired, invalid or incomplete:

(a) send a task to org unit [1226] at PIC;

OPM Issue 113 Public Edition

- containing sufficient identifying details of the warrant; and
- outlining the nature of the defect or advice that the warrant is expired; and

(b) if the original written warrant is in the officer's possession, return the warrant to the issuing court or justice with an attached letter outlining the reason(s) for the return; or

(iv) for a warrant that has previously been satisfied or executed, send a task to org unit [1226] at PIC:

(a) containing sufficient identifying details of the warrant; and

(b) include all relevant information regarding the previous satisfaction or execution of the warrant.

Where the status of the task is still 'outstanding', the task is still active. In this instance, submit a task to org unit [1226] at PIC seeking that the execution status be reversed. Officers are to follow the processes recommended in 'Update an executed warrant to not finalised status' of the QPRIME User Guide. Officers are to complete the remarks section on a 'warrant not actioned' task.

Lost paper warrants

Where it is determined that a paper warrant has been lost and cannot be located:

(i) the OIC of the station; or

(ii) the responsible team leader, PIC,

where the warrant was last received is to make comprehensive inquiries as to the circumstances surrounding the loss of the warrant. Where the warrant is still not located, the relevant person above is to:

(i) cause a report to be prepared advising of the loss of the warrant, and the circumstances surrounding its loss and forward that report to the issuing authority; and

(ii) cause a notice to be placed in the Police Gazette (for assistance contact the responsible team leader, PIC).

Incorrect or incomplete details on warrants

Officer who find the money, default period or other details of any warrant in QPRIME is incorrect or incomplete are to:

(i) immediately advise the PIC of the defect; and

(ii) not execute or satisfy the warrant until advised that QPRIME has been corrected.

Responsibilities of the Manager, Police Information Centre

The Manager, PIC is to ensure:

(i) paper warrants received from issuing authorities are entered into QPRIME and tasked to a station or establishment;

(ii) personal details, address details, offence details, money or default period details and other details of paper warrants are recorded and flagged against the person in QPRIME;

(iii) when a request for a paper warrant is made that it is certified in accordance with the *Justices Act* and transmitted to the requester as soon as practicable;

(iv) when advised that errors or omissions in warrants stored in QPRIME, that:

(a) the QPRIME record is immediately modified to 'returned to issuing authority'; and

(b) a report detailing the error is sent with the paper warrant to the issuing authority;

(v) when QPRIME is unavailable and an e-mail is received advising:

(a) a person has been arrested on a warrant that:

- the status of the warrant in QPRIME is monitored; and
- when QPRIME becomes available, the status of the warrant is monitored until the warrant status is modified to executed by the officer; and

(b) a warrant has been satisfied, that the status of the warrant in QPRIME is modified to satisfied by the officer when QPRIME becomes available;

(vi) when a QPRIME request is made for a certified copy of a paper warrant, that the status of the warrant in QPRIME is monitored until the warrant status is modified to executed by the officer;

(vii) when a certified copy of a paper warrant is requested and sent QPRIME is modified appropriately; and

(Viii) when a warrant stored at PIC is executed or satisfied and a status change report is completed, that the warrant and any report is returned to the issuing authority unless a court requires the original warrant to be produced.

OPM Issue 113 Public Edition

When the Manager, PIC receives:

(i) a request from an interstate officer for a copy of a:

(a) bench or Bail Act warrant they are to advise the OIC of the station where the original arresting officer is attached to arrange for extradition;

(b) warrant of apprehension and conveyance of a prisoner to prison they are to advise the interstate officer to contact the Corrective Services Investigation Unit for a copy of the warrant;

(ii) advice from an OIC of a station or an officer that the extradition of a person named in a warrant is approved they are to ensure that a copy of the warrant is sent to the officer who has carriage of the matter.

Responsibilities of watch-house managers

Watch-house managers may receive pro rata payments that are made by persons on warrants which are recorded in QPRIME. A warrant must be executed prior to a pro rata payment being made. All payments that are made must be recorded in QPRIME. To calculate pro rata payment, watch-house managers should access 'Calculate Pro Rata Payment' of the QPRIME User Guide. When a pro rata payment is made and the amount outstanding is calculated, watch-house managers should complete a Money Collected Report for Warrants in QPRIME utilising the 'Warrant Money Collected Report' of the QPRIME User Guide.

13.18.9 Obtaining and activating arrest warrants

An arrest warrant is a warrant issued by a justice for the arrest of a person for an offence and is activated by the reporting officer after it has been signed by a justice of the peace (see s. 371: 'Issue of arrest warrant' of the PPRA). An officer who intends to generate an arrest warrant should follow the procedure outlined in 'Create arrest warrant' and 'Update arrest warrant authorisation details' of the QPRIME User Guide.

Activated warrant

Where an officer obtains an arrest warrant and it is not executed within 48 hours of its activation:

(i) the officer is to:

(a) create a flag 'Wanted on warrant' against the person wanted on the warrant in QPRIME;

(b) set the status of the warrant to outstanding; and

(c) submit the warrant and Court Brief (QP9) to a shift supervisor or a brief checker; and

(ii) the shift supervisor or brief checker is to:

(a) check the Court Brief (QP9) in accordance with s. 3.7.5: 'Checking of Court Briefs (QP9)' of this Manual;

(b) create and assign a task to the Warrant Team, Police Information Centre (PIC) org unit [1226];

(c) forward the original arrest warrant via mail to the Warrant Team at PIC; and

(d) email a copy of the QP9 to the Warrant Team at Warrant.Bureau@police.qld.gov.au.

OPM Issue 113 Public Edition

A full brief of evidence and any evidentiary certificates are to be completed, brief checked and uploaded into the QPRIME case file for that warrant within one month of the date of activation, unless the warrant is sooner executed. The original documents are to be filed by the reporting officer's respective station.

Warrant form not activated

When the need to activate an arrest warrant no longer exists i.e. the warrant is not authorised by a justice or the offender has been arrested prior, the reporting officer is to:

(i) update the status on the warrant report in QPRIME; and

(ii) document the reasons for its rejection or cancellation in the comments field and send a cancellation task to the Warrant Team, PIC org unit [1226].

Where a warrant entry has not been activated after a one-month period commencing from the warrant entry date, the Warrant Team may cancel the inactivated warrant entry in QPRIME. However, prior to cancellation, the Warrant Team is to advise the reporting officer and their OIC that this will be done unless the warrant is activated within a 48-hour period.

Where a warrant entry has been cancelled by the Warrant Team and the officer requires the warrant entry to exist, the officer is to recommence the 'Create arrest warrant' procedure in QPRIME (see QPRIME User Guide).

13.18.10 Warrants of execution

Warrants of execution are issued by justices for the enforcement of decisions requiring payment of a penalty or compensation or sum of money or costs. Generally, when specific legislation empowers the issue of this type of warrant, the provisions of that legislation should be followed.

Warrants of execution (for individuals) are forwarded to the Police Information Centre (PIC) by the issuing authority where a flag is entered against the person details in QPRIME.

Warrants of execution (for companies) are forwarded to the Manager, PIC and entered into QPRIME.

Officers receiving warrants of execution (for companies) who are advised the company is under administration should make inquiries with the Australian Securities and Investments Commission (ASIC) regarding Notice of Appointment of Administrator under s. 450A: 'Appointment of administrator' of the *Corporations Act* (Cwlth) to confirm this is so. If the company has been placed under administration, the administrator must lodge a notice of this fact with the ASIC. The provisions of s. 440F: 'Suspension of enforcement process' of the *Corporations Act* (Cwlth) prevent proceeding with the enforcement processes (which includes a warrant of execution) except with leave of the court or on terms imposed by the court. A court referred to in this instance is a federal, supreme or family court.

Officers are not 'court officers' within the meaning of s. 440G: 'Duties of court officer in relation to property of company' of the *Corporations Act* (Cwlth).

Executing warrants of execution

Strict compliance with s. 172: 'Procedure on execution' of the *Justices Act* (JA) is required when a warrant of execution is executed. All property seized is to be the sole property of the person/company named in the warrant and be unencumbered. Officers may only execute a warrant of execution specifically directed to police officers.

Section 172(a) of the JA requires the seizure of goods and chattels under a warrant of execution be by or under the direction of an officer. A list of all property seized should be recorded in accordance with s. 4.2: 'Receiving property' of this Manual and the property seized stored in accordance with Chapter 4: 'Property' of this Manual.

Where it is confirmed a company is under administration and a notice has been lodged with the ASIC, officers should not execute or assist in the execution or warrants on that company. The issuing authority is to be advised the company is under administration and where appropriate, return the warrant to the issuing authority. Where the issuing authority issues further written directions to execute the warrant, the warrant is to be executed.

On execution or satisfaction officers are to ensure the warrant is executed or satisfied in accordance with s. 13.18.4: 'Executing and satisfying warrants' of this chapter.

Responsibilities regarding public auction

The officer executing the warrant should refer to ss. 4.6.18: 'Public auction procedures', 4.6.19: 'Sale by tender' and 'Responsibilities of reporting officer' in 4.6.1: 'General requirements of disposal' of this Manual.

Inquiries concerning disposal of property, including costs of transport and storage, should be made prior to the execution of the warrant by the officer intending to execute the warrant. Officers should assess whether the sale of the property to be seized will recover less than the cost of transport, storage, auctioneers' fees and any other expenses. If it appears unlikely that sufficient monies will be recovered to cover the costs, officers should complete the appropriate certification on the rear of the warrant and return it to the issuing authority unexecuted.

Where the warrant results from a judgement debt, the officer intending to execute the warrant should not do so until the plaintiff has paid $600 into the station's Collections Account to cover the costs of the process.

OPM Issue 113 Public Edition

13.18.11 Warrants of possession

A warrant of possession is a warrant issued under s. 350: 'Issue of warrant of possession' of the *Residential Tenancies and Rooming Accommodation Act* (RTRAA) which allows the lessor of rented premises to regain possession of those premises. These warrants are issued by a tribunal after an application has been made, other than by a tenant, for a termination order. Warrants of possession are paper warrants forwarded directly from the issuing authority to the local station and are not recorded in QPRIME by the Police Information Centre. The OIC of the receiving station is to ensure these warrants are recorded in QPRIME as 'Warrants of Possession [1695]'.

Warrants of possession specify a range of days on which the warrant may be executed. Officers should carefully read any warrant of possession detailed to them and take note of this and other conditions of execution.

The eviction of a person from their place of residence, even though they may be occupying the residence unlawfully, is always an emotive event and has the potential for attracting adverse criticism of the Service. Every effort should be made to persuade the tenants to vacate the premises voluntarily. Where this cooperation is not forthcoming it is important that the execution of the warrant takes place on the day and at the approximate time arranged. Where circumstances are such that it is not possible to execute the warrant on the arranged date, the tenants and the lessor or the lessor's agent should be informed of any change.

Officers required to execute a warrant of possession should, after carefully reading the warrant:

(i) contact the registrar who issued the warrant and establish that an 'Order of Tribunal' notice has been given to the tenant or tenants as provided for by s. 351(2): 'Warrant of possession' of the RTRAA;

(ii) attend at the premises named in the warrant with a QP 0777: 'Notice to Tenants/Occupants';

(iii) where the tenants are present officers should:

(a) advise them that a warrant of possession has been issued and attempt to gain their cooperation in voluntarily vacating the premises;

(b) complete in duplicate the QP0777 including the time and date agreed to in cooperation with the tenants or if agreement cannot be reached, allowing reasonable time for the tenants to vacate that premises; and

(c) provide the tenants with a completed QP 0777;

(iv) where the tenants cannot be contacted at the premises officers should complete the QP 0777: 'Notice to Tenants/Occupants' and place it at the premises in a conspicuous location. Officers should allow a reasonable time for the tenants to vacate the premises;

(v) endorse the QP 0777 as to service and, where the notice was left at the premises, identify the place where it was left; and

(vi) contact the person in whose favour the termination order was made (lessor or the lessor's agent) and advise that the warrant has been received, that it is to be executed at the time and date indicated to the tenants and that they need to attend at that time.

At the time and date indicated on the QP 0777 officers who are to execute the warrant of possession should:

(i) ensure that a QP 0777 has been provided to the tenants or left at the premises;

(ii) ascertain that the lessor or the lessor's agent is able to attend (where the lessor or the lessor's agent is unable to attend, the warrant should not be executed and where appropriate, further suitable arrangements should be made);

(iii) attend at the premises and execute the warrant. Where the tenants are present:

(a) explain to the tenants that unless they remove themselves and their property forthwith, reasonable force will be used to execute the warrant; and

(b) where the tenants begin to remove their property from the premises, allow them reasonable time to do so, and remain at the scene until the premises have been vacated; and

(iv) execute the warrant where the tenants:

(a) are absent;

(b) fail to take immediate action to remove themselves and their property from the premises;

(c) remove themselves from the premises but refuse to remove their property; or

(d) after commencing to remove themselves or their property from the premises discontinue doing so.

When executing the warrant of possession officers should:

(i) enter the premises using reasonable help and force;

(ii) remove the tenants from the premises (if required) using reasonable help and force;

(iii) exercise any powers as provided for in the warrant;

(iv) give possession of the premises to the lessor or the lessor's agent;

(v) allow the lessor or the lessor's agent to remove all property belonging to the tenants from the premises;

(vi) endorse the warrant in accordance with s. 638: 'Record of execution of warrant or order' of the PPRA, furnish a report as to the circumstances surrounding the execution of the warrant and forward the endorsed warrant, the copy of the QP 0777 and the report through the officer in charge to the issuing authority; and

(vii) execute the warrant in QPRIME in accordance with the QPRIME User Guide. The QP 0777: 'Notice to Tenants/Occupants' can be added as an attachment to the relevant QPRIME Occurrence.

Whenever a warrant of possession is received at a station and detailed to an officer to execute, by virtue of the warrant, police should attend even in circumstances where the tenants have previously vacated the premises. Officers should then give possession of the premises to the lessor or the lessor's agent and endorse the warrant accordingly.

13.18.12 Mental Health Act warrants

Warrants may be issued pursuant to ss. 378: 'Issue of warrant', and 764: 'Punishment of contempt' of the *Mental Health Act* (MHA) and 157R: 'Issue of warrant' of the *Public Health Act* (PHA).

A warrant may be issued under s. 764 of the MHA if a person is in contempt of the Mental Health Review Tribunal. A warrant under s. 764 of the MHA requires an officer to arrest a person and bring them before the court to be dealt with according to law.

An officer does not need a warrant issued under ss. 378 of the MHA or 157R of the PHA to enter a place they reasonably suspect the person is at, to detain them under a provision of the MHA or PHA, as they have the power of entry under s. 21: 'General power to enter to arrest or detain someone or enforce warrant' of the PPRA.

OPM Issue 113 Public Edition

The 'Authority to return patient to authorised mental health service' is not strictly a warrant but a notice that authority exists in respect of a particular patient. However, for the purposes of this section, the form 'Authority to return patient to authorised mental health service' is treated as a warrant.

A Mental Health Act warrant is forwarded by the issuing authority to the Manager, Police Information Centre (PIC) and the local station OIC and police communications centre. On receipt, PIC will enter the 'Authority to Return' into QPRIME and create a BOLO.

In circumstances where a MHA warrant is received after hours, PIC counter staff will enter a BOLO into QPRIME, together with any relevant caution. The warrant team, PIC will be responsible for entry of such information during core business hours.

An officer detailed a 'Warrant for apprehension of patient' by their OIC is to:

(i) contact a health practitioner to make arrangements to execute the warrant;

(ii) assist the health practitioner by executing the warrant and using the officer's powers under the warrant;

(iii) execute the warrant in QPRIME in accordance with the procedure outlined in 'Execute paper warrants' of the QPRIME User Guide; and

(iv) endorse the warrant, complete a report and forward it direct to the issuing authority.

For further information see s. 6.6: 'Mental ill-health' of this Manual.

Unexecuted Mental Health Act warrants

When an MHA warrant that has been entered into QPRIME is not executed because the time for execution has expired, QPRIME expires the BOLO automatically and tasks warrant to the PIC.

When an unexecuted MHA warrant task is assigned to the station Organisational Unit Active Task List and the person named in the warrant may be located in another division, the OIC should reassign the warrant task to the appropriate station.

Where the time for executing the warrant has not expired and the person named in the warrant cannot be located, the warrant shall remain in existence until the person is located.

13.18.13 Assistance to the Department of Justice in the execution of civil enforcement warrants

Civil enforcement warrants are issued by the Supreme, district and magistrates courts under Chapters 19 and 20 of the Uniform Civil Procedure Rules (UCPR) and they direct an enforcement officer to:

(i) arrest and/or detain a person to have them brought before a court;

(ii) seize and sell any property of a person to satisfy the monetary order of the court; or

(iii) recover possession of a persons' house and land to satisfy a non-monetary order of the court.

Enforcement officers for the Supreme and district courts are bailiffs and officers of the court, whereas for the magistrate court they are civilians employed by Department of Justice (DJ) and are not court officers.

The types of warrants the courts may issue under the UCPR are:

(i) enforcement hearing warrant under r. 816;

(ii) enforcement warrants for seizure and sale of property under r. 828;

(iii) enforcement warrant for possession under r. 913;

(iv) enforcement warrant for seizure and delivery of goods under r. 916;

(v) enforcement warrant for seizure and detention of property under Chapter 20, Part 6;

(vi) warrant (for arrest pending hearing for contempt) under r. 929; and

(vii) warrant for the defendant's arrest under r. 935.

An enforcement officer may request police assistance in the execution of the enforcement warrant, and the police officer is required to provide reasonable help unless impractical. Additionally, the enforcement officer may deliver the arrested person to the OIC of the watch-house, who must receive and keep the arrested person until otherwise advised (see r. 816 of the UCPR).

The same provisions apply to the request and provision of assistance by a police officer to the enforcement officer in the execution of the warrant for the arrest of a person pending a hearing for contempt (see r. 929 of the UCPR).

The enforcement officer may also request police assistance if at any time during the course of executing the warrant, the enforcement officer believes their safety may be at risk.

OPM Issue 113 Public Edition

The Service and DJ has a Memorandum of Understanding (MOU) to formalise the process of officers providing assistance to DJ enforcement officers, and where possible, eliminate the need for un-planned assistance except in emergency situations.

The majority of warrants are executed on Saturdays to enable the person named in the warrant to be located at the address. DJ will meet with the local OIC of the division where the person in the warrant resides, at least 3 days prior to the execution of the warrant, to arrange police attendance on the day and time negotiated for the warrant's execution.

Officer attendance is subject to operational priorities, and if officers are unable to attend, or are called away for other urgent matters, DJ will either continue with the execution of the warrant or leave and return following further negotiations with the OIC.

If relevant checks with Police Information Centre do not identify adverse QPRIME holdings, and DJ execute the warrant without police assistance, they may require assistance in the following circumstances:

(i) assaults or threats of violence upon the civil enforcement officer;

(ii) locating illicit drugs at the premises during the course of executing the warrant; or

(iii) locating unsecured firearms at the premises during the execution of the warrant.

The DJ has instructed their enforcement officers in such incidents, wherever possible, to remove the person from the address and secure the scene, pending police arrival to investigate the matter.

13.18.14 Defence Force warrants

Warrants for the arrest of members of the Australian Defence Force (ADF), are normally issued after that member has been absent without leave from their place of duty for a period of seven days and are issued by authority of the *Defence Force Discipline Act* (Cwlth) (DFDA). Section 90(5): 'Arrest under warrant' of the DFDA empowers officers to arrest such absconders.

Where the Police Information Centre (PIC) is forwarded a copy of Defence Force warrant for an ADF person wanted for absconding, the PIC will enter the person's name and a flag against the person details in QPRIME.

The arrest of ADF member on a Defence Force warrant should be affected by an ADF authority, but this may not be possible. Members of military police branches do not have authority to take action at private residences.

Where officers become aware a person is wanted on a warrant issued by the ADF and circumstances dictate officers should effect the arrest of a person, officers should:

(i) confirm the existence of the warrant by obtaining either the wording of the warrant or the warrant itself;

(ii) execute the warrant and take the person to a watch-house. In executing the warrant officers should be mindful of the limitations of execution between 2100 hours and 0600 hours as prescribed in s. 91(3): 'Power to enter to make arrest' of the DFDA;

(iii) provide the watch-house manager with the wording of the warrant, or the warrant itself as the case may be, as well as full details of the person as far as known;

(iv) advise the local Joint Military Police Station by phone on 131167 (1311MP); and

(v) follow the procedures outlined in s. 13.18.4: 'Executing and satisfying warrants' of this chapter.

It is not necessary to complete either a bench charge sheet or Court Brief (QP9).

The OIC of a watch-house to which a member of the ADF is brought by virtue of a Defence Force warrant should:

(i) accept the prisoner in accordance with Chapter 16: 'Custody' of this Manual;

(ii) process and hold the prisoner in the normal manner, with the exception that photographs and fingerprints are not to be taken;

(iii) on arrival of the relevant ADF personnel, have them digitally sign the Release of Custody Report (Full) in QPRIME to the effect that custody of the prisoner has passed to the ADF authority; and

(iv) release the prisoner to the custody of the member of the ADF, or into the custody of a police officer who has been detailed to escort the prisoner to another location.

On occasions, representatives of the ADF authority will be unable to send a representative to the particular watch-house to take custody of the prisoner. In this instance the ADF authority may request the Service transport the prisoner to a specific ADF establishment.

Where a member of the ADF has been arrested by virtue of a Defence Force warrant and a request has been received from the relevant ADF authority to transport the prisoner to a location other than the nearest watch-house, officers are to refer that request by the most expedient means available, to their district officer or commissioned OIC.

Where a defence force absconder is a member of a defence force other than the ADF, officers should refer to s. 11.15.4: 'Unlawful non-citizens' of this Manual.

OPM Issue 113 Public Edition

District officers or commissioned OICs who have been notified of a request to transport a prisoner in accordance with the preceding order are to:

(i) communicate directly with the ADF officer making the request; and

(ii) advise the ADF officer any transport undertaken by the Service will only be made at the expense of the relevant branch of the ADF.

Where an ADF officer accepts this condition, district officers or commissioned OIC are to make arrangements to transport the prisoner to the destination nominated. District officers or commissioned OIC are to provide a written direction to officers undertaking the escort, which is to include any travel arrangements made.

After an escort has been provided, district officers or commissioned OIC are to cause an itemised account of the costs of the escort to be prepared and forwarded to the ADF authority concerned, in accordance with the Financial Management Practice Manual.

Officers who are detailed to escort a prisoner held by virtue of a military warrant are to:

(i) attend at the watch-house at which the prisoner is held and prepare a QPS Person Report (Custody);

(ii) ensure the prisoners property is collected and signed out of QPRIME;

(iii) take custody by signing the release tab of the Custody Report (Full) in QPRIME;

(iv) ensure the prisoner is recorded as being in transit to the military establishment;

(v) print duplicate copies of the QPS Person Report (Custody) and retain until arrival at the military establishment;

(vi) transport the prisoner in accordance with the written direction of the district officer or commissioned OIC;

(vii) on arrival at a military establishment, escorting officers are to relinquish custody of the prisoner to the relevant duty officer by having the relevant duty officer sign the original of the QPS Person Report (Custody);

(viii) provide the duty officer with the duplicate copy of the QPS Person Report (Custody) and ensure the signed original is returned to the watch-house to be included with the relevant entry; and

(ix) ensure the Custody Report (Full) is finalised when returning to the watch-house so that the 'Release time' field can be completed using the time the prisoner was handed over to the military establishment.

13.18.15 Execution of warrant on corrective service prisoner

A warrant does not generally provide police with an authority to remove a person from a correctional facility in order to execute the warrant. Warrants do not specify a time and place where the prisoner is to be produced and therefore do not fall within the definition of either an 'attendance authority' as defined in the *Corrective Services Act* or 'court order' as defined in the *Justices Act*.

Police are not to remove a person from a correctional facility to execute a warrant unless:

(i) the information contained on a warrant specifies a time and place where the prisoner is to be produced; or

(ii) there is an authority, signed by a court, authorising the removal of a person from a correctional facility.

Appearance via notice from a court

The attendance of a corrective facility prisoner in a court for the purpose of the execution of a warrant can be facilitated by a notice from a court to the Chief Executive (Corrective Services). The notice must include the time, place and that the prisoner is required in the court for a particular matter e.g. for the execution of mesne warrant (see s. 69: 'Transfer to court' of the *Corrective Services Act*).

Appearance via video-link

Alternatively, where facilities exist, warrants can be finalised for corrective facility prisoners via the use of video-link. Executing the warrant via video-link removes unnecessary transport of the prisoner and improves efficiency.

District officers are to ensure local standard operating procedures are developed, and that agreement is made between the relevant magistrates court, police prosecutions corps and corrective service facility, to best facilitate the execution of warrants on prisoners via video-link, for their area of responsibility.

13.18.16 Assistance to the State Penalties Enforcement Registry for money lawfully in the possession of the Service

The State Penalties Enforcement Registry (SPER) has, as part of its functions, the requirement to:

(i) collect amounts payable to SPER; and

(ii) take enforcement action to collect amounts owed.

The *State Penalties Enforcement Act* (SPE Act) provides authority for information sharing between SPER and the Service.

OPM Issue 113 Public Edition

Money lawfully in the possession of the Service

Officers should contact SPER when an amount of money of $500 or more:

(i) has been lawfully seized from an adult as evidence of an offence; or

(ii) is in the lawful possession of the Service e.g. property of a prisoner in a watch-house.

The officer responsible for the lawful seizure or possession of money should contact SPER by phone during business hours (see SMCD) to advise of the amount and the details of the person from whom the money was obtained. Possession includes amounts transferred to a Service electronic account.

ORDER

Money is:

(i) not to be seized for the sole purpose of SPER enforcement; and

(ii) is to be in the lawful possession of the Service before SPER is contacted.

SPER interest in enforcement debtor money in the possession of the Service

SPER will immediately advise the responsible officer by email if a person is an enforcement debtor and will request the responsible officer to complete a QPS Cash Seizure Advice Form available on the SPER website and email the completed form to the SPER business account (see SMCD).

SPER will reply with written notification to the responsible officer and the officer's OIC business email account advising of SPER's interest in the money and the amount sought.

An officer who receives written notification from SPER is to upload the SPER notification to the QPRIME occurrence and complete a supplementary report.

For money seized as part of an investigation, SPER will:

(i) liaise with the responsible officer to determine when the Service no longer has a lawful interest in the money; and

(ii) determine when an Enforcement Warrant to Seize and Sell Property (enforcement warrant) is to be executed.

ORDER

Officers are not to delay the return of money to allow SPER time to prepare and serve an enforcement warrant.

SPER enforcement warrant

Once SPER has identified the Service is to return money to an owner, SPER will prepare:

(i) a Notice to Person in Possession of Property under s. 73A: 'Notice to enforcement debtor etc. if seizure' of the SPE Act; and

(ii) an enforcement warrant.

In most cases SPER will execute these documents on the Service electronically to the responsible officer and the officer's OIC by email. SPER will contact the responsible officer by telephone and serve a copy of the enforcement warrant on the SPER debtor.

ORDER

Money held by the Service is only to be released to SPER under the following circumstances:

(i) when a Notice to Person in Possession of Property and an enforcement warrant, in the name of the owner or person whom money was seized, has been electronically or physically served; and

(ii) in the case of money lawfully seized during an investigation, when the money is to be returned once:

(a) a decision is made that proceedings or proceeds of crime action will not be commenced; or

(b) court proceedings have been finalised, including the appeal period.

Procedures for money held in a Service electronic financial account

When a responsible officer has received a copy of the enforcement warrant and notice to enforcement debtor from SPER, the officer is to:

(i) upload the enforcement warrant and notice to enforcement debtor to the QPRIME occurrence with a supplementary report; and

(ii) send a QPRIME task to their OIC advising:

(a) of the service of the enforcement warrant and notice to enforcement debtor;

(b) that the Service no longer has lawful authority to retain the money; and

(c) request authority to release the stated amount mentioned in the warrant to SPER.

OPM Issue 113 Public Edition

Once an officer has received OIC approval to release money to SPER, the officer is to:

(i) send an email to Finance Services (see SMCD) authorising the release to SPER of the amount mentioned in the warrant; and

(ii) include a copy of the warrant and notice to enforcement debtor in the email.

PSBA Finance Services, upon receiving release authority from the responsible officer, will:

(i) send release authority to Queensland Shared Services (QSS) to electronically transfer the amount ordered in the enforcement warrant to the designated SPER account using the remittance details contained in the enforcement certificate, available on the SPER website; and

(ii) once confirmation is received from QSS that the money has been transferred, Finance Services is to forward a copy of that advice to the responsible officer.

Procedures for money held as cash as part of prisoner's property

In most situations, money in the possession of a prisoner will be kept with the prisoner's property at the relevant watch-house.

When a responsible watch-house officer has received a copy of the enforcement warrant and notice to enforcement debtor from SPER, electronically or in person, the officer is to:

(i) upload the enforcement warrant and notice to enforcement debtor to the QPRIME occurrence the person is in custody for and submit a supplementary report;

(ii) advise the prisoner of SPER actions, show the copy of the enforcement warrant to the prisoner and ensure the copy is lodged in the prisoner's property;

(iii) remove the amount stated in the enforcement warrant from the prisoner's property; and

(iv) facilitate the banking of the money through the relevant station accounts and comply with the 'Procedures for money held in a Service electronic financial account' of this section.

Where a watch-house does not have the facilities and resources to electronically bank monies due to the location of the watch-house from a station (generally within the Brisbane metropolitan area) officers are to advise SPER and seek SPER attendance for the physical transfer of the money. In such instances officers are to:

(i) obtain an indemnity receipt for the amount seized by SPER; and

(ii) complete the enforcement certificate and hand to the SPER officer.

Before handing the completed enforcement certificate to the SPER officer, the responsible watch-house officer is to upload the enforcement certificate and the indemnity receipt to the documents tab for the linked occurrence for which the prisoner is in custody.

ORDER

Frontline policing response, watch-house security and prisoner to staff numbers are not to be compromised to facilitate SPER cash seizures.

Procedures once money is electronically remitted to SPER

Upon receiving notification from QPS Finance Services that the amount has been electronically transferred to SPER, the responsible officer is to:

(i) complete an enforcement certificate available on the SPER website;

(ii) email a copy of the enforcement certificate to SPER (see SMCD); and

(iii) upload the completed enforcement certificate to the QPRIME occurrence with a supplementary report.

Procedures for residual amounts of money

The amount of money SPER has an interest in may change from that initially identified. This could be in relation to further debts incurred or payments made by the enforcement debtor whilst the Service had possession of the money.

All residual amounts of money that do not form part of the enforcement warrant are to be returned to the owner, and the normal approval processes for return of property to an owner are to be followed.

13.19 Casinos, unlawful gaming and match-fixing

13.19.1 Casino crime units and the Office of Liquor and Gaming Regulation

Casino crime units have been established at most Queensland casinos. The Service works in co-operation with the Office of Liquor and Gaming Regulation (OLGR) to police Queensland casinos. The OLGR maintains inspectors at every Queensland casino to monitor compliance with gaming regulations.

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Where an incident occurs at any casino, the OIC, of the relevant casino crime unit is to be advised.

Unless an incident at a casino is considered significant or requires the urgent attention of the relevant casino crime unit, advising the relevant casino crime unit via a QPRIME notification task is sufficient.

Covert operations at a casino are not subject to the policies, procedures and orders established in the following sections.

For information requests regarding patrons see s. 7.4.8: 'Requesting patron information from Casinos' of the MSM.

13.19.2 Casino access

The relevant casino crime unit should be the initial point of contact for all police requiring access to facilities, staff or information which may be available from any particular casino.

Officers who in the course of their duties require access to:

(i) a casino;

(ii) a member of casino staff on duty at a casino; or

(iii) information held by a casino,

should, where practicable, direct their request to the OIC of the relevant casino crime unit. Where no casino crime unit is established, officers should refer to local instructions.

ORDER

OICs of divisions in which a casino is located, and at which no casino crime unit has been established, are to develop local instructions relating to access to the casino, its staff and information held by the casino. These local instructions are to be developed after consultation with an Inspector, Office of Liquor and Gaming Regulation.

13.19.3 Camera surveillance requests

Casino complexes are monitored by cameras operated by both the casino management and the Office of Liquor and Gaming Regulation (OLGR). Officers have no absolute right to use this equipment but must rely on the cooperation of the camera system's owners.

Officers requiring the use of camera monitoring equipment installed within a casino should request access to such equipment through the OIC of the relevant casino crime unit where such a unit exists.

When no staff from the relevant casino crime unit are on duty or where no casino crime unit is established, officers should request assistance from the senior inspector of the OLGR at that casino to use camera monitoring equipment.

Camera monitoring equipment installed within a casino complex should be used by officers only under the supervision of members of the relevant casino crime unit where such a unit exists, or inspectors employed by the OLGR in that casino.

OPM Issue 113 Public Edition

13.19.4 Exclusion of a specified person from a casino

Exclusion direction

In prescribed circumstances:

(i) a casino operator may give a person a written direction prohibiting the person from entering or remaining in a casino (see s. 92: 'Entry to and exclusion of entry from casino—generally' of the *Casino Control Act* (CCA); or

(ii) the Assistant Commissioner or Chief Superintendent, Crime (Crime Command Delegate), Crime Command may give a casino operator a written direction, which is not required to state any reason(s), to exclude a specified person from the casino (see s. 94: 'Commissioner of the police service may exclude entry' of the CCA and Delegation D 20.1).

An exclusion direction made under ss. 92 or 94 of the CCA remains in force from the time the excluded person is given notice of the direction or until revoked by the casino operator or the CSC, Crime Command as the case may be (see ss. 96: 'Duration of direction under s 92 or 94' and 97: 'Duration of exclusion direction' of the CCA).

Criteria for exclusion

The Australian and New Zealand Policing Advisory Agency 'Casino Exclusion Orders—A National Protocol for Law Enforcement Agencies' (the **National Protocol**) document makes a number of recommendations, including a standard criterion for determining whether to exclude a person from a casino. The Service has agreed to implement the National Protocol to the extent reasonably practicable. When deciding whether to apply for a specified person to be excluded, officers should be satisfied that the person meets one or more considerations as recommended in the National Protocol.

Circumstances under which it may be considered desirable to exclude a specified person from a casino, in accordance with s. 94(1) of the CCA, include that the person, meeting one or more of the following considerations:

(i) has a criminal history, or there is other evidence or intelligence of criminality that suggests the person warrants exclusion, or requires exclusion due to requirements of covert operations;

(ii) is suspected of using the facilities of the casino for an unlawful purpose (e.g. cheating, money laundering, criminal association, or supply or use of prohibited drugs;

(iii) is suspected of committing, or has been convicted of, an offence that would significantly impact on the integrity of gaming operations or would unlawfully finance a gambling habit at that casino;

(iv) is the subject of a court order or other judicial process not to enter or attend licenced premises or a casino;

(v) has a gambling problem sufficient to warrant exclusion;

(vi) is suspected of being connected to espionage or foreign interference related activity;

(vii) is suspected of, or there is other evidence or intelligence in relation to, associations with organised crime groups or outlaw motorcycle gangs, or suspected of illegal consorting at the casino complex;

(viii) is suspected of having engaged in the financing of terrorism;

(ix) is suspected of engaging in systematic or illegal money lending or loan-sharking at the casino complex; or

(x) is an excluded person in another state or territory.

When an officer determining whether it is considered desirable to exclude a specified person from a casino under s. 94 of the CCA, they must have regard also to the objects of the CCA (see s. 3: 'Object' of the CCA).

Application for exclusion direction

ORDER

Prior to submitting a report requesting that a specified person be excluded from a casino, officers are to complete a 'Cross Operations Search Request Form' on the State Intelligence Group (SIG) SharePoint page.

Officers who consider a person should be excluded from a casino should:

(i) create a 'Casino exclusion occurrence' in QPRIME; and

(ii) submit a report, through the normal chain of command, to the CSC, Crime Command.

The report should contain:

(i) the 'Request for Cross Operations Check' result;

(ii) a completed QP 1028A: 'Application to Exclude Specified Person';

(iii) a QP 1028B: 'Notice of Direction to Exclude Specified Person', completed to the extent possible;

(iv) a QP 1028C: 'Direction to Casino Operator to Exclude Specified Person', completed to the extent possible;

(v) all relevant supporting documentation; and

(vi) any other relevant information.

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Notice of intention to make exclusion order

Where the CSC, Crime Command determines there are sufficient grounds in the application to make an exclusion direction, the reporting officer is to upload the QP 1028A to the QPRIME occurrence.

Exclusion direction outcome

Where the CSC, Crime Command:

(i) approves an application, the reporting officer is to:

(a) upload the signed QP 1028B and QP 1028C and any written response from the CSC to the QPRIME occurrence; and

(b) commence the QPRIME workflows to enable service of the QP 1028B and QP 1028C on the excluded person and nominated casinos; or

(ii) declines an application, the reporting officer is to:

(a) upload the written response from the CSC, Crime Command to the QPRIME occurrence; and

(b) finalise the occurrence as 'declined'.

Service of exclusion notices

In accordance with s. 125: 'Service of notices, documents etc.' of the CCA, the signed notices may be served on the excluded person and the casino operator by:

(i) personal service;

(ii) substituted service; or

(iii) postal service.

Whenever practicable, notices should be served by personal service. Substituted or postal service may be utilised where personal service is not able to be completed. Officers who serve a QP 1028B on the excluded person are to complete the 'Oath of service' on the notice.

When a QP 1028B or QP 1028C are served, the officer is to:

(i) upload a copy of the completed notice to the relevant QPRIME occurrence;

(ii) update QPRIME to reflect service of the notice; and

(iii) notify the Office of Liquor and Gaming Regulation (see SMCD for contact details).

Excluding a specified person from interstate casinos

Once a specified person has been excluded from one or more Queensland casinos under the CCA, the Detective Superintendent, Drug and Serious Crime Group, may notify an authority for administering gaming legislation of another state or territory of the exclusion (see s. 94(3) of the CCA and Delegation D 20.1).

Breach of exclusion direction

A person who breaches an exclusion direction notice under s. 94 of the CCA by entering or remaining within a casino nominated in the QP 1028C, should be dealt with in accordance with s. 100: 'Particular persons not to enter or remain in casino' of the CCA.

13.19.5 Office of Liquor and Gaming Regulation

The Office of Liquor and Gaming Regulation (OLGR) undertakes the regulation of liquor licensing, casinos, charitable gambling, machine gaming, interactive gambling, keno, lotteries and wagering.

The regulatory activities undertaken by the OLGR include licensing premises and persons, investigating complaints, conducting prosecutions and ensuring industry compliance with liquor and gambling legislation.

The OLGR also maintains a website on the internet, which contains useful guidelines and information concerning charitable and non-profit gambling and the conduct of competitions and raffles.

13.19.6 Unlawful gaming

The following sections of the CC contain provisions relating to unlawful gaming:

(i) s. 230A: 'Definitions for ch 23';

(ii) s. 232: 'Operating a place for unlawful games';

(iii) s. 233: 'Possession of thing used to play an unlawful game'; and

(iv) s. 234: 'Conducting or playing unlawful games'.

Other legislation relating to gaming is included in the:

(i) *Casino Control Act*;

(ii) *Charitable and Non-Profit Gaming Act*;

(iii) *Gaming Machine Act*;

(iv) *Interactive Gambling (Player Protection) Act*;

(v) *Keno Act*;

(vi) *Lotteries Act*; and

(vii) *Wagering Act*.

Investigation of unlawful games offences

Section 230A of the CC defines an unlawful game as a game of chance, or mixed chance and skill, that:

(i) is not authorised under an Act; and

(ii) is played by 1 or more persons (players) who gamble or bet on an outcome of the game for the purpose of winning money or another consideration; and

(iii) has at least 1 of the following characteristics:

(a) the game is conducted or played in a public place;

(b) the game is played in a place, or part of a place, the occupier of which allows, on payment of money or for other consideration, players to enter and use for playing the game;

(c) a percentage of the amount gambled or bet is:

- kept by 1 or more of the players, or another person; and

OPM Issue 113 Public Edition

- not included in the winnings of the players.

A key consideration of the definition is whether players have staked money or anything of value on the outcome of the game.

The two main types of gaming activities most likely to be encountered by officers include 'funny money' events and poker tournaments.

Funny money events

'Funny money' events are popular with community groups as a fund raising activity.

A common way that 'funny money' events are held is that persons pay an entrance fee and receive a specified amount of unredeemable token money which is used to play a variety of gambling games (e.g. roulette and blackjack etc.) that are usually associated with a casino. At the end of the games, an auction of donated goods is held and bids may be made with whatever token money a player has left.

'Funny money' events conducted in this way are unlawful games because, inter alia, an entrance fee is paid and players risk a stake on the outcome of the game for the purpose of winning a consideration or benefit (i.e. token money for which players may purchase auction goods).

Poker tournaments

Generally, other than in a licensed casino, any form of poker played in a public place and in which gambling is involved is an unlawful game. However, the Office of Liquor and Gaming Regulation (OLGR) advise that free to enter, free to play poker tournaments are an exception. Free to enter, free to play poker tournaments in public places, where the venue pays the tournament operator a fee for each player who participates in the tournament are not considered unlawful games on the basis that the entrants do not pay an entrance fee and are not risking anything of value. Furthermore, a game of poker between friends at a private dwelling where the amount bet on each game is received by the player with the winning hand is not an unlawful game.

Officers investigating complaints or reports of suspected unlawful gaming should seek advice from the OLGR to establish whether such activities are authorised under legislation administered by that office.

Where any doubt exists as to what constitutes an unlawful game, officers are to ensure appropriate advice is sought before taking any enforcement action. See s. 1.13: 'Operational Legal Advice' of this Manual.

Inquiries concerning charitable gambling events, poker tournaments and casino nights

On occasion, inquiries are received by the Service concerning the conduct of charitable gambling events, poker tournaments for cash or prizes, casino nights using non-legal tender or 'funny money' and the establishment of businesses for the hire of casino gaming equipment for these purposes.

Members of the Service receiving such inquiries should advise the inquirer to contact the OLGR or a solicitor for legal advice.

When two-up is lawful

Queensland casinos have an exclusive right to conduct two-up games under the respective casino agreements. These are commercial agreements between the State and the relevant operators authorised by the CCA and the relevant casino agreement act.

Two-up is also lawful if conducted in accordance with s. 179: 'Lawful two-up' of the *Charitable and Non-Profit Gaming Act* which allows for not-for-profit conduct of two-up games at Returned and Services League (RSL) or Services Clubs, and by persons authorised by an RSL sub-branch (in a liquor licensed premises) on Anzac Day and other designated days as prescribed under a regulation. Two-up on these occasions must not be played by a minor.

Returned and Services League sub-branches may provide approval to other licensed premises to play two-up on Anzac Day by providing a 'Approval of Licensed Venue to play two-up on Anzac Day' form to the other venue on an annual basis.

Officers investigating a complaint of unlawful two-up should consider whether:

(i) the game of two-up is lawful in the circumstances in accordance with s. 179: 'Lawful two-up' of the *Charitable and Non-Profit Gaming Act*; and

(ii) commencing a prosecution is in the public interest taking into account all the circumstances including where and when the two-up game is being conducted.

Where an investigation into unlawful two-up relates to licensed premises other than a RSL or Services Club, officers are to make inquiries with the RSL to determine whether the licensed premises had obtained appropriate approval.

13.19.7 Match-fixing

A number of offences within the CC address the risk of organised crime infiltrating sport including with relevance to betting on sport, by targeting elite and sub-elite athletes for participation in match-fixing.

OPM Issue 113 Public Edition

These offence provisions are detailed within Chapter 43: 'Match-fixing' of the CC and relate to a 'sporting event' or the happening of a 'sporting contingency' (see s. 443: 'Definitions for ch 43' of the CC).

Offences of the CC are:

(i) s. 443A: 'Engaging in match-fixing conduct';

(ii) s. 443B: 'Facilitating match-fixing conduct or match-fixing arrangement';

(iii) s. 443C: 'Offering or giving benefit, or causing or threatening detriment, to engage in match-fixing conduct or match-fixing arrangement';

(iv) s. 443D: 'Using or disclosing knowledge or match-fixing conduct or match-fixing arrangement for betting';

(v) s. 443E: 'Encouraging person not to disclose match-fixing conduct or match-fixing arrangement'; and

(vi) s. 443F: 'Using or disclosing inside knowledge for betting'.

Where an officer is investigating a match-fixing offence whether a suspect successfully affected the outcome of the sporting event, or the happening of the sporting contingency, is not to impact a decision to commence a proceeding.

(See also s. 443G: 'Evidentiary provision' of the CC and s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual).

13.20 Compensation awarded to police officers

13.20.1 Procedures for officers seeking criminal compensation

Section 34: 'Generally workers' compensation application finally dealt with before victim assistance application' of the *Victims of Crime Assistance Act*, outlines that a person subject to an act of violence may only apply for victim assistance if the person has made a worker's compensation application and it has finally been dealt with. This section also outlines those circumstances when the scheme manager may give a person approval to make an application for victim assistance without first making a workers' compensation application.

The assistance provided is limited to:

(i) for a primary victim of an act of violence, expenses incurred:

(a) for the loss of or damage to clothing the victim was wearing when the act of violence happened (see s. 39(f): 'Composition of assistance' of the *Victims of Crime Assistance Act*);

(b) or reasonably likely to be incurred if exceptional circumstances exist e.g. relocation expenses, (see s. 39(g) of the *Victims of Crime Assistance Act*); and

(c) in applying for assistance under this Act up to $500 for legal costs (see s. 38(2) of the *Victims of Crime Assistance Act*);

(ii) for a witness secondary victim of a more serious act of violence, expenses incurred:

(a) or reasonably likely to be incurred if exceptional circumstances exist e.g. relocation expenses, (see s. 45(1)(f): 'Composition of assistance—witness to more serious act of violence' of the *Victims of Crime Assistance Act*); and

(b) in applying for assistance under this Act up to $500 for legal costs (see s. 44(2): 'Amount of assistance' of the *Victims of Crime Assistance Act*); and

(iii) for a related victim of an act of violence, reasonable expenses incurred:

(a) or reasonably likely to be incurred for counselling as a direct result of becoming aware of the primary victims death (see s. 49(1)(a): 'Composition of assistance' of the *Victims of Crime Assistance Act*);

(b) or reasonably likely to be incurred for medical expenses as a direct result of becoming aware of the primary victims death (see s. 49(1)(b) of the *Victims of Crime Assistance Act*);

(c) or reasonably likely to be incurred for incidental travel as a direct result of becoming aware of the primary victims death (see s. 49(1)(c) of the *Victims of Crime Assistance Act*);

(d) for report expenses for the application for assistance (see s. 49(1)(d) of the *Victims of Crime Assistance Act*);

(e) or reasonably likely to be incurred if exceptional circumstances exist e.g. relocation expenses, (see s. 49(1)(g) of the *Victims of Crime Assistance Act*); and

(f) in applying for assistance under this Act up to $500 for legal costs (see s. 48(3): 'Amount of assistance' of the *Victims of Crime Assistance Act*).

Officers seeking to make application for criminal compensation should:

OPM Issue 113 Public Edition

(i) where eligible, make application for workers' compensation under the *Workers' Compensation and Rehabilitation Act* in the first instance, see also 'Workers compensation' within Compensation for injuries of the Safety and Wellbeing SharePoint page; and

(ii) after making an application for workers' compensation and after the application is finally dealt with, apply for victim assistance pursuant to Chapter 3, Part 9: 'Applying for victim assistance' of the *Victims of Crime Assistance Act*. See also s. 33: 'When worker's workers' compensation application is finally dealt with' of the *Victims of Crime Assistance Act* for when a workers' compensation application has been decided.

Officers seeking criminal compensation should also see s. 5.6.25: 'Release of information under the Victims of Crime Assistance Act' of the Management Support Manual and ss. 2.12.1: 'Victims' Commissioner and Sexual Violence Review Board Act and Victims of Crime Assistance Act', 2.12.2: 'Victim Support Service (Office of the Director of Public Prosecutions (State))' and 2.12.3: 'Victim Assist Queensland' of this Manual for information on applications under the *Victims of Crime Assistance Act*.

13.20.2 Damages or penalties awarded to police officers

POLICY

Where a court awards a payment to members of this Service as compensation or restitution for an incident which occurred during the course of their duties, members may retain the payment. However, the receipt of such compensation or restitution is to be reported to the member's executive officer so that the compensation or restitution can be noted on the member's personal file (for record purposes only).

Where no restitution is ordered or compensation paid, the member may make application to the Service for an ex-gratia payment through the member's executive officer.

13.21 Judicial review

The *Judicial Review Act* gives those persons aggrieved by a decision to which the Act applies an enforceable right to:

(i) request the reasons for administrative decisions; and/or

(ii) seek a Statutory Order of Review or an Order of Review in the Supreme Court regarding administrative decisions, to which the Act applies made by Government departments, local authorities, and most semi-government agencies and statutory authorities.

OPM Issue 113 Public Edition

13.21.1 Statement of reasons

A person who is aggrieved by a decision to which the Act applies is entitled to be provided with a 'statement of reasons' for that decision upon request except in the following circumstances:

(i) in notifying a person in relation to a decision, the decision includes or is accompanied by a statement, giving the reason(s) for the decision; or

(ii) the decision is one that is included in a class of decisions set out in Schedule 2 of the *Judicial Review Act* which include:

(a) decisions relating to the administration of criminal justice (as stated in s. 1 of Schedule 2); and

(b) Police Service decisions (as stated in s. 9 of Schedule 2).

13.21.2 Statutory order of review

An aggrieved person may apply to the court for a statutory order of review in relation to a decision to which the provisions of the *Judicial Review Act* apply.

An aggrieved person is entitled to make such an application despite the fact that the person:

(i) has been provided with a 'statement of reasons' for that decision; or

(ii) is not entitled to be provided with a 'statement of reasons' for that decision.

13.21.3 Time limits

An application by an aggrieved person for a 'statement of reasons' must be in writing and made within 28 days from when the decision was made. The *Judicial Review Act* requires that a decision maker is to provide reasons within 28 days of receipt of an application for reasons for a decision.

The *Judicial Review Act* further provides that if a decision maker is of the opinion the requester is not entitled to be provided with a 'statement of reasons', the requester is to be notified of this opinion within 28 days of receipt of the request.

Should a decision maker be of the opinion that a requester is not entitled to be provided with a 'statement of reasons' for the following reasons:

(i) in the case where the requester had been given the decision, the terms of which were recorded in writing—the request was not made within 28 days after the document was given; or

(ii) in any other case—the request was not made within a reasonable time after the decision was given,

the decision maker may refuse to provide a 'statement of reasons'. Should the decision maker decide to refuse to provide a 'statement of reasons' in these circumstances, the decision maker must within 14 days of receipt of the request, give written notice stating:

(i) the statement will not be given to the requester; and

(ii) the reasons why it will not be given.

Decision makers are to fully document the relevant evidence and reasons for every decision that potentially is subject to review.

Any correspondence which asks about a decision or how a decision was made (or not made), should be treated as a request for a 'statement of reasons'. The applicant does not have to mention the *Judicial Review Act* or refer specifically to a 'statement of reasons'.

ORDER

A member of the Service who receives a written request for a 'statement of reasons' is to treat it as urgent. The request should be forwarded without delay to the decision maker who is to immediately notify that member's OIC.

OICs are to seek advice from their assistant commissioner/executive director as to whether the decision is one to which the *Judicial Review Act* applies and what action is to be taken.

Members of the Service served with documents relating to an 'Application for a Statutory Order for Review' or similar documents requiring appearance at the Supreme Court, should immediately refer those papers to their assistant commissioner/executive director.

The assistant commissioner/executive director who receives papers relating to an 'Application for a Statutory Order of Review' or requesting the appearance of a member of the Service at the Supreme Court, is to refer the matter to QPS Legal Services through the Office of the General Counsel. This office will arrange the appropriate legal representation.

Copies (not originals) of any notices or statements received or given under judicial review are to be forwarded to the Director, QPS Legal Services. Advice on matters of judicial review must be obtained from QPS Legal Services through the Office of the General Counsel.

OPM Issue 113 Public Edition

13.22 Explosives

13.22.1 Issuing, suspension or cancelling authorities

The *Explosives Act*, through the issuing of authorities, regulates the sale, possession, handling and use of explosives. An authority means a licence, permit or another authority issued under the *Explosives Act*.

The issuing of an authority pursuant to the *Explosives Act* is the responsibility of the Chief Inspector of Explosives, Queensland Explosives Inspectorate, Resources Safety and Health Queensland (see SMCD).

Section 23: 'Grounds for suspension or cancelling authorities' of the *Explosives Act* provides grounds for the suspension or cancellation of an authority.

All inquiries regarding authorities should be directed to the Chief Inspector of Explosives.

Where an officer becomes aware that the holder of an authority is no longer an appropriate person to be authorised in relation to explosives, that officer should furnish a report through the OIC of their region or command to the Chief Inspector of Explosives (see s. 15: 'Inquiries about person's appropriateness' of the *Explosives Act*).

Notification of a prescribed event under the Explosives Act

ORDER

A member of the Service who holds an authority to access, use and/or possess explosives under the *Explosives Act* must, as soon as practicable after becoming aware that a prescribed event has happened, give the Chief Inspector of Explosives notice (see s. 43(2): 'Notification requirements for all authority holders' of the Explosives Regulation).

A prescribed event, as defined in s. 43(1) of the Explosives Regulation, is where a member of the Service:

(i) becomes aware of a change in circumstances that prevents the member complying with the Explosives Regulation or a condition of the authority;

(ii) is convicted of an offence:

(a) relating to misuse of drugs;

(b) involving violence or threatened violence;

(c) involving the use, carriage, discharge or possession of a firearm; or

(d) relating to the use and handling of explosives; or

(iii) is named as a respondent in a domestic violence order.

13.22.2 Incidents involving explosives

Schedule 2: 'Dictionary' of the *Explosives Act* defines terms for the purpose of the *Explosives Act*.

The Chief Inspector of Explosives has the power to investigate explosives incidents pursuant to s. 58: 'Investigation by chief inspector or authority holder' of the *Explosives Act*. Explosives Inspectors also have various powers under the *Explosives Act* to investigate explosives incidents and offences.

Officers attending an incident involving explosives are to ensure:

(i) the Explosives Inspectorate is advised as soon as practicable and determine the role the Explosives Inspectorate will take in any subsequent investigation. Should the Explosives Inspectorate undertake the investigation, officers are to refrain from dealing with the explosives incident, unless the incident involves other matters such as death or injury, damage to property, or police-related issues;

(ii) where the Explosives Inspectorate is not undertaking the investigation, the incident is investigated in accordance with the provisions of Chapter 2: 'Investigative Process' of this Manual; and

(iii) at the conclusion of the investigation, a report is furnished through the OIC of the region or command, who will forward it to the Chief Inspector of Explosives. The report is to contain the circumstances surrounding the accident, including:

(a) the person(s) involved;

(b) damage or injuries caused;

(c) type and quantity of explosive;

(d) type of detonator or initiating device;

(e) length, etc. of fuse; and

(f) source and approximate date of supply.

13.22.3 Entry to explosives factories and magazines

Section 39: 'Offences relating to entry of factories' of the *Explosives Act* creates an offence of entering an explosives factory while in physical possession of a firearm. Similarly, s. 47: 'Offences relating to entry of magazines' of the *Explosives Act* creates an offence relating to entering a magazine while in physical possession of a firearm. The provisions of each section exempt police officers when entering explosives factories or magazines when performing official duties.

13.22.4 Assistance to explosives inspectors

Assistance to Explosives Inspectors should be provided in accordance with s. 13.3.2: 'Helping public officials exercise powers under various Acts' of this chapter.

13.22.5 Proceeding for an explosives offence

Proceedings may be commenced for an explosives offence under s. 799: 'Provisions restricting starting of proceeding' of the PPRA which provides that a request for authority to prosecute under s. 118 'Proceedings for offences' of the *Explosives Act* is not required.

ORDER

As soon as reasonably practicable after commencing a proceeding, the officer must inform the Chief Inspector of Explosives at the Explosives Inspectorate Office in their area, Resources Safety and Health Queensland (RSHQ) of the commencement of the proceeding. RSHQ request to be advised of the matter by the completion of a 'Notification of proceeding' form available on Forms Select.

Members are to ensure that the Chief Inspector of Explosives RSHQ is further advised of resultant court proceedings, outcomes and relevant penalties imposed on offenders (see SMCD).

13.22.6 Handling explosives

Officers in the performance of their duty are exempt from Part 4: 'Handling explosives', Divisions 2, 7 and 8 of the *Explosives Act* relating to the possession, transportation and use of explosives (see s. 8: 'Government entities exempt from Act' of the Explosives Regulation). However, before handling explosives, officers are to seek advice and, if required, assistance from the:

OPM Issue 113 Public Edition

(i) Service's Explosive Ordnance Response Team (see s. 17.10.1: 'Explosives Ordnance Response Team (EORT)' of this Manual); or

(ii) Chief Inspector of Explosives, Explosives Inspectorate, Resources Safety and Health Queensland (see SMCD).

For military ordnance, requests for assistance from the Joint Explosive Ordnance Support (JEOS) of the Australian Defence Force are to be made through the local police communications centre in accordance with local instructions.

Qualified police bomb technicians are authorised by the Commissioner to destroy explosives in accordance with s. 715B of the PPRA. If a qualified police bomb technician is required, officers should contact the Service's Explosive Ordnance Response Team (see s. 17.10.1 of the Manual) or a qualified police bomb technician in accordance with local instructions.

Members are to be mindful of the storage requirements associated with explosives. Members are not exempt from the provisions of the *Explosives Act* concerning storage (see Part 4, Division 6: 'Storing explosives' of the Act). When an explosive has been seized or comes into the possession of a member in the course of performing their duties, they are to:

(i) contact the Chief Inspector of Explosives, Explosives Inspectorate for advice; and

(ii) comply with the provisions of s. 4.3.9: 'Dangerous/noxious things' of this Manual.

Where the explosive is small arms ammunition, it is exempt from s. 44: 'Authority needed to store explosives' of the *Explosives Act* by virtue of s. 95: 'Explosives exempt from s 44 of Act' and Schedule 4: 'Explosives exempt from section 44 of Act' of the Explosives Regulation. Small arms ammunition may be temporarily stored at a property point in accordance with Part 8, Division 2: 'Requirements for storing schedule 4 explosives' of the Explosives Regulation. The member receiving the ammunition at the property point is to:

(i) consider contacting the Chief Inspector of Explosives, Explosives Inspectorate for advice concerning the appropriate storage; and

(ii) comply with s. 4.3.8: 'Ammunition' of this Manual.

Disposal of commercial explosives

Members of the public who have lawful possession of commercial explosives, have attempted to dispose of them by surrendering the explosives to the Service, instead of disposing them in accordance with the conditions of the relevant authority to possess explosives issued under the *Explosives Act*.

The disposal of commercial explosives is not a function of the Service and may not fall within the ambit of 'carrying out official functions' nor could it be described as being in the performance of an officer's duty. Consequently, if explosives come into an officer's possession in such circumstances, any subsequent possession, transportation and use of explosives by the officer would not be covered by the exemption provided by s. 8 of the Explosives Regulation and may render the officer liable to prosecution for offences under the *Explosives Act*.

Officers are not to take possession of commercial explosives from persons in lawful possession of such for the purpose of disposal. Officers are to refer the person to the Explosives Inspectorate, Resources Safety and Health Queensland for disposal advice.

OPM Issue 113 Public Edition

13.23 Move-on power

Definitions

For the purposes of this section:

Designated business and community precinct (DBCP)

means an area prescribed to be a designated business and community precinct under s. 808D: 'Designated business and community precincts' of the PPRA.

Prescribed place

means:

(i) a shop;

(ii) a child-care centre;

(iii) a pre-school centre;

(iv a primary, secondary or special school;

(v) premises licensed under the *Liquor Act*;

(vi) a railway station and any railway land around it;

(vii) a mall;

(viii) the part of the corporation area under the *South Bank Corporation Act* declared to be the site under that Act;

(ix) a licensed venue under the *Racing Act*;

(x) an automatic teller machine; or

(xi) a war memorial.

See Schedule 6: 'Dictionary' of the PPRA.

Regulated place

means:

(i) public places, including a public place in a safe night precinct or designated business and community precinct; or

(ii) prescribed places that are not also public places.

See s. 44: 'Application of pt 5' of the PPRA.

13.23.1 Directions to move on

The term **move on direction** means a direction given under the provisions of s. 48: 'Direction may be given to person' of the PPRA. A move on direction is any direction which is reasonable in the circumstances, but which does not interfere with a person's right of peaceful assembly, unless such interference is reasonably necessary in the interests of:

(i) public safety;

(ii) public order; or

(iii) the protection of the rights and freedoms of other persons (see s. 48 of the PPRA).

The terms of a move on direction may include, but are not limited to, requiring a person to:

(i) leave the regulated place and not return or be within the regulated place within a stated reasonable time, of not more than 24 hours;

(ii) leave a stated part of the regulated place and not return or be within the stated part of the regulated place within a stated reasonable time, of not more than 24 hours; and

(iii) move from a particular location at or near the regulated place for a stated reasonable distance, in a stated direction and not return or be within the stated distance from the place within a stated reasonable time, of not more than 24 hours.

If the regulated place is a designated business and community precinct (DBCP), the move on direction can require a person to leave and not return or be within the precinct for a stated period of not more than 24 hours (see s. 48(1A); 'Direction may be given to person' of the PPRA and s. 13.35: 'Designated business and community precincts' of this chapter).

OPM Issue 113 Public Edition

13.23.2 When do move on powers apply

When power applies to behaviour

Officers who reasonably suspect that a person or group of person's behaviour at or near a regulated place is or has been:

(i) causing anxiety to a person entering, at or leaving the place, reasonably arising in all the circumstances;

(ii) interfering with trade or business at the place by unnecessarily obstructing, hindering or impeding someone entering, at or leaving the place. However, this applies to premises used for trade or business only if the occupier of the premises complains about the person's behaviour;

(iii) disorderly, indecent, offensive, or threatening to someone entering, at or leaving the place; or

(iv) disrupting the peaceable and orderly conduct of any event, entertainment or gathering at the place,

may give that person or group of people a move on direction (see ss. 46: 'When power applies to behaviour' and 48: 'Direction may be given to person' of the PPRA), if:

(i) the regulated place is a public place, other than a safe night precinct or designated business and community precinct, a move on direction can be given to the person, for the area of the public place at or near where the person is; or

(ii) the public place is in a safe night precinct or DBCP, a move on direction can be given to the person, for any public place located in the precinct (see ss. 46(2) of the PPRA).

When power applies to person's presence

Officers who reasonably suspect that a person or group of person's presence at or near a regulated place is or has been:

(i) causing anxiety to a person entering, at or leaving the place, reasonably arising in all the circumstances;

(ii) interfering with trade or business at the place by unnecessarily obstructing, hindering or impeding someone entering, at or leaving the place. However, this applies to premises used for trade or business only if the occupier of the premises complains about the person's behaviour; or

(iii) disrupting the peaceable and orderly conduct of any event, entertainment or gathering at the place,

may give that person or group of people a move on direction (see ss. 47: 'When power applies to a person's presence' and 48: 'Direction may be given to person' of the PPRA), if:

(i) the regulated place is a public place, other than a safe night precinct or DBCP, a move on direction can be given to the person, for the area of the public place at or near where the person is; or

(ii) the public place is in a safe night precinct or DBCP, a move on direction can be given to the person, for any public place located in the precinct (see s. 47(2) of the PPRA).

13.23.3 Giving a move on direction

Because the right of a person to move about peacefully in public places is carefully guarded by the community generally, a decision to use a power under the PPRA interfering with a person's right to free movement, should be able to withstand public scrutiny.

Officers should ascertain the following before deciding to give a move on direction to a person:

(i) whether informal means of directing a person to move on would be a more appropriate method in de-escalating the situation. For example, asking the person to leave the area;

(ii) any reason the person offers for being in or near the place;

(iii) the nature of any complaint made about the person;

(iv) the nature of any anxiety the person is allegedly causing to someone else and whether the anxiety has any factual basis; and

(v) the effect of the person's presence or behaviour on anyone else in or near the place.

An officer who gives a person or group of persons a move on direction is to:

(i) state the officer's name, rank and station or establishment to any person who is to be given a move on direction (see s. 637: 'Supplying police officer's details' of the PPRA);

(ii) if not wearing uniform, to inform the person to be given a move on direction that the officer is a police officer and produce for that person's inspection the officer's identity card (see s. 637 of the PPRA);

(iii) direct the person or persons to whom a direction is given to provide their name and address (see s. 40: 'Person may be required to state name and address' and s. 41: 'Prescribed circumstances for requiring name and address' of the PPRA);

(iv) tell the person or group of persons the reasons for giving the direction (see s. 48(4) of the PPRA); and

(v) if in a DBCP, provide safeguards warning (see s. 633: 'Safeguards for oral directions or requirements—police officers' of the PPRA).

Officers should give a direction substantially in the following form:

I am [name, rank] of [name of police station/establishment].

I direct you [indicate person or group or name of person if known] to immediately [leave/move (distance) from place/location] and you are not to [return/be within (distance) of place/location] for a period of [not longer than 24 hours].

If you fail to comply with this direction without a reasonable excuse, you will be committing an offence for which you may be arrested (if related to a DBCP) and this may result in you being given a police banning notice under s. 602C of the PPRA.

The reason I am giving this direction is [state reason as outlined in s. 46(1) or 47(1) of the Act].

Officers who give a person or group of persons a move on direction should record in their official police notebook details of the:

(i) time and date the direction was given;

(ii) location of the person or group when the direction was given;

OPM Issue 113 Public Edition

(iii) name and address of the person or persons given the direction or a description of the person given the direction, including age, sex and ethnic background;

(iv) terms of the direction given; and

(v) ensure an occurrence is entered in QPRIME as soon as reasonably practicable.

ORDER

Officers are not to give a move on direction to a person or group of persons whose behaviour or presence is interfering with trade or business at a place by unnecessarily obstructing, hindering or impeding someone entering, at or leaving the place unless the occupier of the place complains about the presence or behaviour of the person or group (see ss. 46 and 47 of the PPRA).

Officers who give a person or group of persons a move on direction are to ensure that an occurrence is entered in QPRIME as soon as is reasonably practicable.

Officers are not to give a move on direction to any person involved in an authorised public assembly (see s. 45: 'Part does not apply to authorised public assemblies' of the PPRA).

The authority to issue a move on direction in a DBCP is not intended for use in addressing the mere passive presence or existence of persons who may be homeless in that precinct. If called to move on or ban persons from a DBCP in such circumstances (i.e. in the absence of related anti-social behaviour), officers are to consider alternative action where appropriate (such as offering referrals or referring the matter to the local government authority). See ss. 1.2: 'Human rights and policing', 6.3.11: 'Homeless persons' and 6.3.14: 'Police Referrals' of this Manual.

13.23.4 Failure to comply with move on directions

ORDER

Before taking any enforcement action for failing to comply with an oral direction, an officer is to, if practicable, warn a person who fails to comply with a move on direction that it is an offence to fail to comply with the direction unless the person has a reasonable excuse and that the person may (if person or persons are within a designated business and community precinct) be issued with a police banning notice, or be arrested for the offence. The officer must give the person a further reasonable opportunity to comply with the direction (see s. 633: 'Safeguards for oral directions or requirements' of the PPRA).

Prior to taking any enforcement action against a person who is reasonably suspected of having contravened a move on direction, officers should:

(i) ascertain that the person is a person to whom a move on direction was given;

(ii) determine whether the actions of the person do contravene the terms of the move on direction;

(iii) establish whether the person has a reasonable excuse for failing to comply with the move on direction;

(iv) warn the person that it is an offence to fail to comply with a move on direction and that the person may be arrested for the offence; and

(v) give the person a reasonable opportunity to comply with the direction.

(vi) if the direction is a move on direction relating to a designated business and community precinct, the officer must warn the person that failing to comply with the direction may result in the person being given a police banning notice (see s. 602C: 'Police officer may give initial police banning notice' of the PPRA).

13.23.5 Inspection of the Register of directions given

The Policelink entered occurrence generated in relation to a move on direction is to be considered as an entry in the register of directions given.

ORDER

Officers who are requested by a person to whom the relevant information relates to provide information from the register of directions given are to supply a print out of the relevant occurrence entry in QPRIME as soon as reasonably practicable to the person (see s. 681: 'Persons to be given copy of information in register' of the PPRA).

Information should not be given to a person unless an officer believes that the person requesting the information is entitled to be given such information in accordance with the provisions of s. 681 of the PPRA.

Officers who provide information from the register of directions given or who refuse to provide information from the register should ensure that an appropriate entry is made on the relevant station or establishment job recording system.

13.24 Directions in state buildings

For this section a reference to an officer is a reference to a police officer and a protective services officer unless otherwise stated.

OPM Issue 113 Public Edition

Chapter 19, Part 1, ss. 549 to 555: 'Directions in state buildings' of the PPRA provides officers with powers relating to entrants to state buildings (as defined in s. 549: Meaning of state building' of the PPRA). These include:

(i) a requirement of an entrant to state and provide evidence of the entrant's name and address;

(ii) a requirement of an entrant to state the entrant's reason for being at, or about to enter, the building;

(iii) asking an entrant to:

(a) walk through a walk-through detector and pass the entrant's belongings through an X-ray machine;

(b) allow the officer to pass a hand held scanner in close proximity to the entrant and the entrant's belongings;

(c) allow the officer to inspect the entrant's belongings;

(d) remove one or more outer garments worn by the entrant as specified by the officer and allow the officer to inspect the garments;

(e) remove all articles from the entrant's clothing and allow the officer to inspect them;

(f) open an article for inspection and allow the officer to inspect it;

(g) allow the officer, or another adult assisting the officer, to touch a garment the entrant is wearing for the purpose of the officer inspecting the entrant's belongings;

(h) open a vehicle or a part of it for inspection and allow the officer to inspect it; and/or

(i) remove an article from the vehicle as specified by the officer and allow the officer to inspect it;

(j) move a vehicle to, and park it in, a place specified by the officer; or

(k) if the officer reasonably believes a belonging of the entrant is capable of concealing a proscribed thing—deposit the belonging in a place specified by the officer.

(iv) directing an entrant, or group of entrants, to leave a state building immediately, and take the entrant's belongings out of the building, if the entrant fails to:

(a) state the person's reasons for being in or about to enter the building; or

(b) allow an officer to exercise a power under ss. 550: 'Power to require name and address and reason for entry' or 551: 'Use of electronic screening devices' of the PPRA.

(v) seizing a proscribed thing (i.e. an explosive substance, a firearm, a noxious or offensive substance, or an offensive weapon) found in the possession of a person in a state building, unless the person is lawfully in possession of it in the course of the person's trade, business or calling (see s 556: 'Seizure of proscribed thing' of the PPRA); or

(vi) unless the person is arrested for a contravention of s. 791 (contravene direction of police officer), removing from or preventing entry of the entrant to a state building, if the entrant fails to comply with a request made or direction given under ss. 549 to 553A of the PPRA or fails to satisfy a police officer that the entrant has a good and lawful reason to be in a particular state building.

ORDER

Officers considering it reasonably necessary to make a request as outlined in paragraphs (iii)(c) to (k) above, are to tell the entrant the reasons for making the request.

Officers (including protective services officers) or persons assisting an officer, who are touching a garment the entrant is wearing, for the purpose of inspecting the entrant's belongings, are to comply with s. 553A: 'Gender safeguards for inspection of entrant's belongings' of the PPRA.

Officers touching the garment are to be of the same gender as the entrant if it is reasonably practicable to do so. However, the officer may ask an adult to assist if reasonably necessary:

(i) to ensure that the person touching the garment and the entrant are of the same gender;

(ii) to accommodate a preference expressed by the entrant; or

(iii) to address a concern related to gender in a way that minimises embarrassment and offence.

Prior to the commencement of any inspection, officers are to:

(i) explain the process of the inspection process; and

(ii) provide reasonable opportunity for the entrant to express a preference about the gender of the person touching the garment.

Where the entrant has expressed a gender preference, the preference is to be accommodated unless:

OPM Issue 113 Public Edition

(i) there are reasonable grounds that the responsible officer believes the preference is for an improper purpose; or

(ii) it is not reasonably practicable to accommodate the preference.

Notwithstanding the above, an officer of the different gender to the entrant may touch the entrant's garments if, in the circumstances, that is the most appropriate way to address a concern related to gender.

If an officer reasonably suspects it is necessary to protect the dignity of an entrant to a state building and it is reasonably practicable, the officer may ask the entrant to allow an inspection of the entrant's belongings to be conducted out of public view, for example, in a room of the state building.

Officers intending to exercise any power under Chapter 19, Part 1, ss. 549 to 555: 'Directions in state buildings' of the PPRA should, where practicable, advise a commissioned officer prior to exercising the power.

Where practicable, officers should advise any State Government Protective Security officers at the relevant state building of their intention to use any of the powers under Chapter 19, Part 1, ss. 549 to 555: 'Directions in state buildings' of the PPRA.

This section does not limit or otherwise affect the powers a police officer has under the PPRA to search a person or vehicle without a warrant.

Detention of entrants by protective services officers

If a protective services officer reasonably suspects a person who is an entrant to a state building has committed an offence at or in connection with the building they may:

(i) detain the person for the time reasonably necessary to give the person into the custody of a police officer;

(ii) is to release the person at the earliest reasonable opportunity if the person is no longer reasonably suspected of committing the offence for which the person was detained,

(see s. 558 'Detention of entrants by protective services officers' of the PPRA).

13.25 Environmental (State parks and wildlife)

Issues concerning State parks and wildlife fall within the responsibility of the Department of the Environment, Tourism, Science and Innovation or the Department of Primary Industries.

See also s. 13.7: 'Land environment' of this chapter.

13.25.1 Appointment of conservation officers, inspectors and authorised officers

In accordance with s. 127: 'Appointment of conservation officers' of the *Nature Conservation Act*, the Minister responsible for the appropriate department may appoint police officers as conservation officers.

In accordance with s. 143: 'Appointment and qualifications' of the *Recreation Areas Management Act*, the chief executive may appoint suitably qualified police officers as authorised officers under the Act.

In accordance with s. 52: 'Appointment and qualifications' of the *Marine Parks Act*, the chief executive may appoint police officers as authorised officers under the Act.

Despite the authorising laws, s. 13: 'Appointment of police officers as public officials for other Acts' of the *Police Powers and Responsibilities Act*, police officers are only to be appointed as public officials under the authorising law with the Commissioner's written approval to the proposed appointment.

13.25.2 Investigation and prosecution of offences relating to State parks and wildlife issues

Investigation of offences relating to State parks and wildlife issues are generally conducted by authorised officers attached to the relevant department.

Authorised police officers may undertake investigations relating to parks and wildlife issues utilising powers under the PPRA.

Pursuant to s. 164: 'Indictable and summary offences' of the *Nature Conservation Act*, offences against that Act may be either indictable or summary.

Proceedings under the:

(i) *Nature Conservation Act*;

(ii) *Marine Parks Act*; and

(iii) Marine Parks Regulation,

should be commenced in accordance with s. 42: 'Commencement of proceedings' of the *Justices Act*.

OPM Issue 113 Public Edition

Under s. 200: 'Summary proceedings for offences' of the *Recreation Areas Management Act* authorised officers, or any other authorised person, may commence a prosecution. Therefore police officers who are authorised officers under the *Recreation Areas Management Act* may commence a prosecution under this Act.

However, in appropriate circumstances police officers, who are not authorised officers under the *Recreation Areas Management Act*, may commence a prosecution without prior authorisation. In any such case the police officer commencing the prosecution is to inform the chief executive of the relevant department, of the starting of the proceedings as soon as reasonably practicable after starting the proceedings (see s. 799: 'Provisions restricting starting of proceedings' of the PPRA). Notification can be made by contacting a representative of the relevant department.

A time limitation for starting a summary proceeding applies under:

(i) s. 167: 'Limitation on time for starting summary proceedings' of the *Nature Conservation Act*;

(ii) s. 133: 'Limitation on time for starting summary proceedings' of the *Marine Parks Act*; and

(iii) s. 200(2): 'Summary proceedings for offences' of the *Recreation Areas Management Act*.

Wildlife seizures

Members are generally not expected to physically handle wildlife. The handling and care of wildlife is the responsibility of the Queensland Parks and Wildlife Service (QPWS) and where possible members should contact the nearest QPWS office for assistance.

When officers take possession of wildlife, the wildlife should be delivered to the nearest QPWS officer at the first available opportunity. The responsibility for the delivery of that wildlife rests with the officer taking possession of such wildlife.

When wildlife has to be retained until delivery to a wildlife officer of the QPWS, the officer seizing the wildlife is responsible for its safe custody and welfare.

Wildlife should not be released into the wild without first consulting with a QPWS officer.

When officers deliver wildlife to the QPWS, they should advise the QPWS officer of any retention requirements.

See also Chapter 4: 'Property' of this Manual.

Dealing with prohibited animals

The keeping of most exotic animals as pets is prohibited in Queensland under the *Stock Route Management Act*. Registered zoos and circuses can keep certain exotic species for exhibition purposes, but only under a permit and with strict conditions. A person is also required to hold a permit to keep most Australian native animals. For information regarding permits or assistance with the identification and appropriate management of exotic animals, contact the local biosecurity officer or local government pest management officer who is authorised under the *Stock Route Management Act*.

For inquiries regarding native animals, contact the Department of the Environment, Tourism, Science and Innovation (see SMCD).

OPM Issue 113 Public Edition

13.25.3 Reporting wildlife offences

POLICY

Members receiving information regarding wildlife offences are to provide the information to the Queensland Parks and Wildlife Service.

Generally, information regarding offences relating to cruelty to or the killing of wildlife, or the illegal collection of native plants should be investigated by members of the Queensland Parks and Wildlife Service and not members of the Service, unless exceptional circumstances exist.

Queensland Parks and Wildlife Service to be advised

POLICY

Officers who receive information relating to cruelty to or the killing of wildlife, or the illegal collection of native plants, are to pass this information to their nearest office of the Queensland Parks and Wildlife Service. Members are to advise members of the public that they may also report illegal activities relating to wildlife to the Queensland Parks and Wildlife Service.

Attacks by wildlife

POLICY

Any complaint in relation to attacks by protected wildlife should be directed to Queensland Parks and Wildlife Service officers.

PROCEDURE

Members should:

(i) record particulars to identify the complainant and the nature of the complaint; and

(ii) refer such a complaint to a Queensland Parks and Wildlife Service officer at the first available opportunity.

After hours contact numbers are available from the Duty Officer, Police Communications Centre, Brisbane.

13.25.4 Death or injury in National Parks

For the purpose of this section:

National Park

means a protected area that is referenced with either a National Park or Conservation Park in its name. (see Parks and forests A–Z listing to determine if the location is listed).

Members attending or responding to a death or injury in a National Park should as soon as reasonably practicable notify Queensland Parks and Wildlife Service (QPWS) with the following information of the incident;

(i) time and date;

(ii) details of the location, including the national park name and if known, trail marker or latitude and longitude of the incident; and

(iii) nature of the incident.

Information containing personal identification information or information that may compromise an investigation is not to be provided under this notification.

Members are to advise QPWS by emailing QPWSincidents@detsi.qld.gov.au (see Delegation D 15.46). This notification is for advice purposes only and is not a request for assistance, any immediate response required from QPWS should be dealt with through local procedures.

13.25.5 Deleted

13.25.6 Aboriginal Cultural Heritage Act

The responsibility for dealing with matters under the *Aboriginal Cultural Heritage Act* rests with the Department of Women, Aboriginal and Torres Strait Islander Partnerships and Multiculturalism.

Officers may, from time to time, receive reports of possible First Nations burial remains being located or of disputes over burial sites. Should this occur, the officer receiving the information should:

(i) advise the complainant/inquirer that the Service does not have the responsibility for administering the *Aboriginal Cultural Heritage Act*;

(ii) assist the complainant/inquirer in contacting the Cultural Heritage Unit, Department of Women, Aboriginal and Torres Strait Islander Partnerships and Multiculturalism (see SMCD); and

(iii) comply with the provisions of s. 8.2.2: 'Location of possible First Nations burial remains' of this Manual.

OPM Issue 113 Public Edition

13.25.7 Dams

Dams used for the purpose of water storage are present throughout Queensland and may at times be subject to policing matters such as search and rescue and missing person investigations. The Department of Local Government, Water and Volunteers is the authority responsible for the identification and overall management of dams in Queensland, and as part of this responsibility provide resources such as mapping to other government authorities.

Officers requiring information relating to a specific dam or in relation to dams generally, should contact the Department of Local Government, Water and Volunteers (see SMCD). Officers wishing to obtain a map or maps of all dams within a particular police district should make application to Geographic Information Services (GIS), by accessing the Geographic Information Services website on the Service Intranet. Geographic Information Services can provide maps in both printed and digital form.

13.26 Racial, religious, sexuality, sex characteristics or gender identity vilification (Anti-Discrimination Act)

The *Anti-Discrimination Act* (ADA) seeks to promote equality of opportunity for everyone by protecting people from unfair discrimination in certain areas of activity, including work, education and accommodation. Section 124A: 'Vilification on grounds of race, religion, sexuality, sex characteristics or gender identity unlawful' of the ADA outlines circumstances whereby public acts may amount to unlawful acts of racial, religious, sexuality, sex characteristics or gender identity vilification.

The Queensland Human Rights Commission (QHRC) is the administering body of the ADA, with offices located in Brisbane, Rockhampton, Townsville and Cairns.

The Community Safety Group, CCE, provides advice and support to members of the Service in relation to cultural issues and monitors racial incidents including offences against the ADA. Also see s. 6.4: 'Cross-cultural issues' of this Manual.

The State Coordinator, Lesbian, Gay, Bisexual, Transgender, Intersex, Queer plus (LGBTIQ+) Liaison Program, Crime Prevention Programs Unit, CCE, provides advice and support to members of the community regarding LGBTIQ+ policing issues. See s. 1.7.10: 'Lesbian, Gay, Bisexual, Transgender, Intersex, Queer plus Liaison Program' of this Manual.

Breaches of the Act

The ADA provides for civil remedies, which are dealt with by the QHRC, and for criminal offences see s. 52A: 'Offence of serious racial, religious, sexuality or gender identity vilification' of the CC.

Incidents involving racial, religious, sexuality, sex characteristics or gender identity vilification may come to the attention of officers in the performance of their duties. The procedures to adopt in these circumstances will depend on the nature and extent of the apparent or alleged actions of the offender(s).

QHRC provides a dispute resolution service for contraventions of s. 124A of the ADA. Should a resolution not be successful at QHRC, breaches then may be heard and determined by the Queensland Civil and Administrative Tribunal (QCAT). QCAT (**'the tribunal'**) may make one or more orders under s. 209: 'Orders the tribunal may make if complaint is proven' of the ADA, including ordering the respondent to pay the complainant an amount of compensation for loss or damage caused by the breach.

Where a member of the Service receives a complaint that may constitute a breach of s. 124A of the ADA and the circumstances are not sufficient to constitute a contravention of s. 52A of the CC, the member should:

(i) advise the complainant of the relevant provisions of s. 124A of the ADA and that redress may be sought through the QHRC; and

(ii) where appropriate:

(a) direct the complaint to the online complaint form on the QHRC website; or

(b) provide the contact details of the QHRC.

Offences against s. 52A of the CC are investigated by the Service.

Where an incident, which may involve the commission of an offence against s. 52A of the CC, is reported to a staff member, that member is to notify an officer.

Where an officer receives a complaint, which may constitute an offence against s. 52A of the CC, the officer should:

(i) deal with the complaint in the same manner as any other offence;

(ii) advise the complainant:

(a) of the relevant provisions of s. 52A of the CC;

(b) all complaints of an offence against s. 52A of the CC are investigated by the Service; and

(c) the QHRC wish to be advised of the matter;

(iii) seek the complainant's consent to release the complainant's personal details to the QHRC;

(iv) where appropriate, provide contact details of the QHRC to the complainant;

(v) record in the General report in the QPRIME occurrence whether the complainant consents to their personal details being released to the QHRC;

(vi) notify the:

(a) relevant district coordinator, LGBTIQ+ Liaison Program;

(b) OIC, CPPU (Email: Community Prevention Programs Unit); or

(c) State Coordinator, LGBTIQ+ Liaison Program (Email: LGBTI State Coord), as applicable,

of the details of the complaint and the QPRIME occurrence number; and

(vii) ensure an appropriate description of the incident is completed in the 'Stats Classification—Vilification (hate) crime type' within QPRIME.

The district coordinator, LGBTIQ+ Liaison Program, should liaise with the investigating officer as necessary, and consider any emerging issues, including whether the matter will have a significant impact, adverse or otherwise, on a particular community or group that may be involved in the matter. Where an issue is identified, the district coordinator should liaise with the relevant:

(i) cross-cultural liaison officer;

(ii) regional coordinator, LGBTIQ+ Liaison Program;

(iii) CPPU; or

OPM Issue 113 Public Edition

(iv) representatives of the QHRC,

as appropriate, and ensure all necessary action is taken to resolve the issues.

Prosecution of offences

Written consent from a Crown Law officer (Attorney-General or Director of Public Prosecutions) must be obtained before a proceeding under s. 52A of the CC is commenced.

Officers who investigate an offence against s. 52A of the CC and determine prosecution of the offence should be commenced are to:

(i) compile a brief of evidence (FBOE); and

(ii) complete a report seeking consent of a Crown Law officer to commence proceedings.

The FBOE and report should be forwarded to the relevant Office of the Director of Public Prosecutions (State) through the normal chain of command.

Once written consent of a Crown Law officer is obtained, proceedings may be commenced by way of complaint and summons or notice to appear.

Advice to Queensland Human Rights Commission

The OIC, CEU or State Coordinator, LGBTIQ+ Liaison Program should, as soon as practicable, provide brief written advice (initial advice) of the details of a complaint or report of a suspected offence against s. 52A of the CC to the QHRC.

The advice should:

(i) not contain a complainant's personal details where the complainant has not consented to the release of their personal details; and

(ii) be in a format consistent with Appendix 13.5: 'Suggested format for advice regarding a complaint of an offence against s. 52A of the CC' of this chapter.

In all cases, investigating officers are to notify the OIC, CPPU or the State Coordinator, LGBTIQ+ Liaison Program of the outcome of any investigation or prosecution for an offence against s. 52A of the CC as soon as possible after an investigation is complete. This notification should allow sufficient time for the OIC, CPPU or the State Coordinator, LGBTIQ+ Liaison Program to advise the QHRC of such details prior to the defendant's first court appearance.

Upon being notified as above, the OIC, CPPU or the State Coordinator, LGBTIQ+ Liaison Program, once satisfied as to the contents of the matter, is to forward brief written advice (final advice) to the Commissioner, QHRC as soon as practicable. In cases where proceedings have been commenced, the advice is to be provided before the defendant's first court appearance. The advice should be in a format consistent with Appendix 13.5 of this chapter.

Referral from Queensland Human Rights Commission

Complaints concerning offences against s. 52A of the CC received at the QHRC will be referred to the OIC, CPPU or the State Coordinator, LGBTIQ+ Liaison Program. The OIC, CPPU or the State Coordinator, LGBTIQ+ Liaison Program is to refer such complaints to and liaise with the regional crime coordinator in the region where the offence is alleged to have occurred.

Inquiries

Any inquiries regarding racial or religious vilification, or the contents of this section, can be directed to the CEU, CCE.

Inquiries regarding sexuality, sex characteristics or gender identity vilification should be directed to the relevant district coordinator, LGBTIQ+ Liaison Program in the first instance.

Contact may also be made with the QHRC for further information on what may constitute racial, religious, sexuality, sex characteristics or gender identity vilification.

Requests for further information received from the QHRC are to be dealt with in accordance with s. 5.6.30: 'Release of information to the Queensland Human Rights Commission' of the MSM.

13.27 Personal Injuries Proceedings Act

The *Personal Injuries Proceedings Act* was introduced to regulate claims for and awards of damages based on liability for personal injuries. The *Personal Injuries Proceedings Act* contains a number of offence provisions however, police officers cannot instigate proceedings for these offences without the authority of the Attorney-General.

Members may have cause to deal with complaints of offences against the following sections of the *Personal Injuries Proceedings Act*.

OPM Issue 113 Public Edition

13.27.1 Section 10(1): 'Person to whom notice of a claim is given must give preliminary response to claimant' of the Act

Before starting a civil proceeding for a personal injury claim, a claimant must give a written notice to the person against whom the proceeding is proposed to be started pursuant to s. 9: 'Notice of a claim' of the *Personal Injuries Proceedings Act*.

Section 10(1): 'Person to whom notice of a claim is given must give preliminary response to claimant' of the *Personal Injuries Proceedings Act* provides that where a notice of claim is given, the person must then respond to the claimant in writing within one month of receiving Part 1 of the notice of claim. The responses that the person may give are outlined in s. 10(1)(a) to (c). Failure to respond to the notice of claim is an offence.

POLICY

Where a person reports an offence against s. 10(1): 'Person to whom notice of a claim is given must give preliminary response to claimant' of the Act, members should refer to the provisions of s. 13.27.3: 'Dealing with offences against the Personal Injuries Proceedings Act' of this chapter.

13.27.2 Section 67: 'Prohibition of touting at scene of incident or at any time' of the Act

Section 67: 'Prohibition on touting at scene of incident or at any time' of the *Personal Injuries Proceedings Act* provides that it is unlawful for a 'prohibited person' to solicit or induce a 'potential claimant' involved in an incident to make a personal injuries claim in certain circumstances. The section also provides that it is unlawful for a 'prohibited person' to give a 'potential claimant' involved in an incident, or someone on the potential claimant's behalf, the name, address or telephone number of:

(i) a particular law practice; or

(ii) an employee or agent of a law practice.

Exemptions from the provisions of s. 67: 'Prohibition on touting at scene of incident or at any time' of the *Personal Injuries Proceedings Act* are provided in s. 67A: 'Exemption from s 67(3) and (4)' of the *Personal Injuries Proceedings Act*.

For the purpose of s. 67: 'Prohibition on touting at scene of incident or at any time' of the Act:

Prohibited person

means a person who, for the purpose of the person's employment, is attending or attended the scene of an incident at or from which a person allegedly suffered personal injury or at a hospital after an incident at or from which a person allegedly suffered personal injury.

Example—a tow truck operator, police officer, ambulance officer, emergency services officer, doctor or hospital worker.

Potential claimant

means:

(i) a person who suffers, or may suffer, personal injury arising out of an incident; or

(ii) another person who has or may have a claim in relation to a person mentioned in paragraph (i).

ORDER

Members of the Service must not solicit or induce a potential claimant to make a personal injuries claim.

Members of the Service must not give a 'potential claimant' involved in an incident, or someone on the potential claimant's behalf, the name, address or telephone number of a particular law practice or an employee or agent of a law practice.

Where a person reports an offence against s. 67: 'Prohibition on touting at scene of incident or at any time' of the Act, members should refer to the provisions of s. 13.27.3: 'Dealing with offences against the Personal Injuries Proceedings Act' of this chapter.

13.27.3 Dealing with offences against the Personal Injuries Proceedings Act

Members who receive a complaint or detect an offence against the *Personal Injuries Proceedings Act* should, in addition to complying with the provisions of s. 1.11: 'QPRIME occurrences' of this Manual, ensure an investigation is conducted into the incident with a view to establishing whether evidence exists to support a prosecution.

If the investigation reveals evidence supporting a prosecution, the investigating officer should:

(i) prepare a Court Brief (QP9) and full brief of evidence in relation to the offence;

(ii) submit the Court Brief (QP9) and full brief of evidence to an appointed brief checker for approval; and

OPM Issue 113 Public Edition

(iii) upon receipt of the brief checker's approval, submit a report, together with the Court Brief (QP9) and full brief of evidence to the officer in charge of the officer's region or command for referral to the Official Solicitor, Department of Justice (DJ) for prosecution.

Upon receipt of a Court Brief (QP9) together with a full brief of evidence relating to an intended prosecution for the offence against the *Personal Injuries Proceedings Act*, officers in charge of regions or commands should consider all the available evidence relating to the alleged offence. Where appropriate the matter should be referred to the Official Solicitor, DJ with a request to commence a prosecution.

However, in circumstances where a member of the Service may have committed the offence, the provisions of 'Complaint Resolution Guidelines' of the Ethical Standards Command SharePoint page are to be complied with.

13.28 Education (General Provisions) Act

The *Education (General Provisions) Act* (E(GP)A) contains provisions which include:

(i) offences of wilful disturbance and trespass at State educational institutions;

(ii) directions, orders and offences about conduct or movement related to State instructional institutions and non-State schools; and

(iii) compulsory schooling and participation in education and training and penalties for their non-compliance.

13.28.1 Directions and offences under the Education (General Provisions) Act

Wilful disturbance and trespass at State educational institutions

Section 333: 'Wilful disturbance' of the *Education (General Provisions) Act* (E(GP)A) provides that a person must not:

(i) wilfully disturb the good order or management of a State educational institution; or

(ii) insult a staff member of a State educational institution in the presence or hearing of a student of the institution, who is, at the time in question:

(a) in or about the institution; or

(b) assembled with others for educational purposes at or in any place.

However, this section does not apply to a person who was, at the time of question, a student of the State educational institution (see s. 333(3) of the E(GP)A).

Section 334: 'Trespass' of the E(GP)A provides that a person must not be on the premises of a State educational institution unless the person has lawful authority or a reasonable excuse for being on the premises.

Directions and orders about conduct or movement at, or entry to, premises of State instructional institutions

Chapter 12, Part 5, ss. 335–342, of the E(GP)A provides for directions and orders about conduct or movement at, or entry to, premises of State instructional institutions and related offences.

The E(GP)A allows for State instructional institution's principals to give a person, other than an exempt person:

(i) a written direction, about that person's conduct or movement at the institution's premises, for up to 30 days after the day on which the direction is given, if the principal is reasonably satisfied it is necessary for a reason outlined in s. 337: 'Direction about conduct or movement' of the E(GP)A;

(ii) an oral direction, requiring that person to immediately leave and not re-enter the institution's premises for 24 hours after the time of the direction if the principal reasonably suspects the person has done or is about to do one of a number of acts outlined in s. 339: 'Direction to leave and not re-enter' of the E(GP)A; and

(iii) a written direction requiring that person not to enter the premises of a State instructional institution, for up to 60 days after the day on which the direction is given, if the principal is reasonably satisfied one of the acts under s. 340: 'Prohibition from entering premises' of the E(GP)A is likely.

If a State instructional institution's principal proposes to give a direction under s. 337 or s. 339 to a person at the institution's premises, the principal may require the person to state the person's name and residential address and give evidence of the correctness thereof. An offence is committed if a person fails to comply with a requirement to state name and address or provide evidence of the correctness thereof, unless the person has a reasonable excuse. See s. 336: 'Person may be required to state name and address' of the E(GP)A.

The E(GP)A allows for the Chief Executive to:

(i) also exercise the power under s. 340 if the Chief Executive or principal reasonably believe it is appropriate (see s. 340A: 'Chief executive may prohibit person from entering premises' of the E(GP)A); and

OPM Issue 113 Public Edition

(ii) give a person, other than an exempt person, a written direction prohibiting the person from entering the premises of a State instructional institution for more than 60 days, but not more than 1 year (see s. 341: 'Prohibition from entering premises' of the E(GP)A).

A person who does not comply with a direction given under ss. 337, 339, 340 or 341 of the E(GP)A, unless the person has a reasonable excuse commits an offence (see ss. 337(5), 339(4), 340(6) and 357: 'Noncompliance with court order' of the E(GP)A).

The above directions cannot be given to an exempt person which includes a student of the institution or an employee of the department engaged to perform work at the institution's premises (see 'exempt person' in s. 335: 'Definitions for pt 5' of the E(GP)A).

Directions and orders about conduct or movement at, or entry to, premises of non-State schools

Chapter 12, Part 6, ss. 343–351, of the E(GP)A provides for directions and orders about conduct or movement at, or entry to, premises of non-State schools and related offences.

The E(GP)A allows for non-State school's principals to give a person, other than an exempt person:

(i) a written direction, about that person's conduct or movement at the institution's premises, for up to 30 days after the day on which the direction is given, if the principal is reasonably satisfied it is necessary for the reasons outlined in s. 346: 'Direction about conduct or movement' of the E(GP)A;

(ii) an oral direction, requiring that person to immediately leave and not re-enter the school's premises for 24 hours after the time of the direction, if the principal reasonably suspects the person has done or is about to do one of a number of acts outlined in s. 348: 'Direction to leave and not re-enter' of the E(GP)A; and

(iii) a written direction requiring that person not to enter the school's premises, for up to 60 days after the day on which the direction is given, if the principal is reasonably satisfied that, unless the direction is given, one of the acts under s. 349: 'Prohibition from entering premises' of the E(GP)A is likely.

If a non-State school's principal proposes to give a direction under s. 346 or s. 348 to a person at the institution's premises, the principal may require the person to state the person's name and residential address and give evidence of the correctness thereof. An offence is committed if a person fails to comply with a requirement to state name and address or provide evidence of the correctness thereof, unless the person has a reasonable excuse. See s. 344: 'Person may be required to state name and address' of the E(GP)A.

The E(GP)A allows for the non-State school's governing body, or its nominee to:

(i) also exercise the power under s. 349 if the principal or governing body reasonably believe it is appropriate (see s. 349A: 'Non-State school's governing body or nominee may prohibit person from entering premises' of the E(GP)A; and

(ii) give a person a written direction prohibiting a person from entering the school's premises for more than 60 days, but not more than 1 year (see s. 350: 'Prohibition from entering premises' of the E(GP)A).

A person who does not comply with a direction given under ss. 346, 348, 349 or 350 of the E(GP)A, unless the person has a reasonable excuse commits an offence (see ss. 346(5), 348(5), 349(5) and 350(6) of the E(GP)A).

The above directions cannot be given to a student of the institution, or an employee of the school's governing body engaged to perform work at the school's premises (see 'exempt person' in s. 343: 'Definitions for pt 6' of the E(GP)A).

Prohibition from entering premises of all State instructional institutions and non-State schools for up to 1 year

Under Chapter 12, Part 7, ss. 352 and 353 of the E(GP)A, the Chief Executive may apply to a court for an order prohibiting a person, from entering the premises of:

(i) all State instructional institutions (see s. 353 of the E(GP)A); or

(ii) all State instructional institutions and non-State schools (see s. 352 of the E(GP)A),

for up to one year. The court may make such an order if satisfied on the balance of probabilities that the person poses an unacceptable risk to the safety or wellbeing of members of school communities of the institutions in general.

A person who does not comply with an order given by the court under s. 352 or s. 353 of the E(GP)A commits an offence (see s. 357: 'Noncompliance with court order' of the E(GP)A). However, an application for an order under s. 352 or s. 353 of the E(GP)A may not be made in relation to a student of State instructional institution or non-State school (see s. 352(2) and s. 353(2) of the E(GP)A).

13.28.2 Powers under the Police Powers and Responsibilities Act

The PPRA contains provisions relating to:

(i) move on powers associated with the presence or behaviour of persons at or near a prescribed place, namely a primary, secondary or special school. See Chapter 2, Part 5: 'Directions to move-on' (ss. 46 to 48) of the PPRA and s. 13.23: 'Move-on power' of this Chapter; and

OPM Issue 113 Public Edition

(ii) dealing with breaches of the peace and prevention of offences. See Chapter 2, Part 6: 'Breaches of the peace, riots and prevention of offences' (ss. 50 and 52) of the PPRA and s. 13.4.8: 'Breaches of the peace' of this chapter.

13.28.3 Dealing with offences relating to State instructional institutions and non-State schools

The Department of Education and non-State schools will only make a complaint to, or refer matters to the police when:

(i) offences under the *Education (General Provisions) Act* (E(GP)A) are committed and a prosecution is sought; or

(ii) the PPRA may apply and assistance is required to remove persons from State educational institutions' or non-State schools' premises.

Officers attending or investigating the above matters should:

(i) act in accordance with ss. 2.4: 'Incident Management' and 2.5: 'Investigation' of this Manual;

(ii) interview the appropriate person making the complaint (teacher, principal, etc.);

(iii) obtain copies of all relevant directions previously given; and

(iv) deal with the matter by:

(a) where appropriate, issue a move-on direction (see s. 13.23: 'Move-on power' of this chapter);

(b) where necessary to prevent a breach of the peace happening or continuing, use their powers under s. 50: 'Dealing with breach of the peace' of the PPRA;

(c) where they reasonably suspect an offence has been committed, is being committed or is about to be committed, take steps reasonably necessary to prevent the commission, continuation or repetition of the offence (see s. 52: 'Prevention of offences—general' of the PPRA);

(d) if related to State educational institutions, consider ss. 333: 'Wilful disturbance' and 334: 'Trespass' of the E(GP)A;

(e) where related to trespass, refer to s. 13.17: 'Trespass' of this chapter;

(f) where related to a person not complying with a principal's requirement to state their name and residential address or to give evidence of their correctness under ss. 336 or 344 of the E(GP)A, ask the person whether they have a reasonable excuse for not complying. If the person:

- gives an excuse, ask for details or further details of the excuse; or
- does not answer the question or gives an excuse that is not reasonable, require the person to state the person's name and address under s. 40: 'Person may be required to state name and address' of the PPRA; and

(g) where related to failing to comply with a principle's direction under ss. 337, 339, 340, 346, 348, 349 of the E(GP)A, if appropriate, warn the person, it is an offence to fail to comply with the relevant direction unless the person has a reasonable excuse and that the person may be arrested or otherwise prosecuted for the offence. The Act contains provisions which allow persons against whom directions have been issued, to appeal. When investigating possible offences against these sections, officers are to ensure that no order has been made suspending such a direction.

13.28.4 Compulsory schooling and participation in education and training

Non-compliance with compulsory schooling or participation requirements

The Department of Education (DE) procedures concerning non-compliance with compulsory schooling or participation requirements under ss. 176: 'Obligation of each parent' or 239: 'Obligation to ensure participation' of the E(GP)A, are located on the their Managing student absences and enforcing enrolment and attendance at state schools internet site. The relevant procedures, processes, forms and referral letters are contained on the site. They include:

(i) 'Processes for enforcing parental obligation that a child of compulsory school age is enrolled at a state school';

(ii) 'Processes for enforcing parental obligation that a child of compulsory school age attends on every school day, for the educational program in which the child is enrolled'; or

(iii) 'Processes for enforcing parental obligation that a young person in the compulsory participation phase participates full time in an eligible option'.

Matters will only be referred to police for prosecution with the consent of the DE Chief Executive or delegate (regional director). This referral only occurs after formal processes have been implemented (see ss. 179 and 242: 'Limits on proceedings against a parent' of the E(GP)A).

OPM Issue 113 Public Edition

Commencing proceedings for an offence

Where a representative of DE makes a complaint in relation to a parent breaching the compulsory schooling or participation provisions, the reporting officer is to ensure that all relevant documentation, including statements, copies of written notices sent to the parent/s and the written consent to commence proceedings, are obtained from the DE representative and attached to the relevant QPRIME occurrence.

The reporting officer is to ensure the required evidentiary certificates, which may be issued pursuant to ss. 407 and 410 of the E(GP)A, accompany the written consent (see the document titled 'Template 6' available in OneSchool (Enforcement of Attendance)).

Despite the provisions of s. 799: 'Provisions restricting starting of proceeding' of the PPRA, officers should only commence proceedings for an offence under s. 176 or s. 239 of the E(GP)A following a formal complaint from the DE and where the authority to commence proceedings under s. 179 or s. 242 of the E(GP)A has been obtained.

When investigating such an offence, officers are to ensure that consideration is given to the provisions of ss. 3.4.2: 'The decision to institute proceedings' and 3.4.3: 'The discretion to prosecute' of this Manual.

Investigating officers are to ensure that the representative from the DE who made the complaint is advised of the outcome of the investigation and court proceedings and where a prosecution has failed, provide an explanation of the reasons why the prosecution failed.

Child of school age detected not attending school by officers

The OIC of a station, establishment or relevant CPIU should ensure liaison occurs between the local police and the State educational institutions and non-State schools in the area to establish a local protocol for dealing with instances of police detecting a child of compulsory school age not attending the institution or school.

The development of such a protocol between the Service and the principal of a State educational institution or non-State school may include discussions with the Department of Families, Seniors, Disability Services and Child Safety.

13.29 Noise complaints

The PPRA provides officers with powers to deal with complaints about excessive noise of certain types. The PPRA also provides additional powers to deal with complaints specifically relating to noise emitted by a motorbike being driven on a place that is not a road.

Additionally, three flow charts are contained in Appendices 13.6, 13.7 and 13.8 of this chapter showing the processes for dealing with excessive noise and should be read in conjunction with this section.

Definitions

The definitions for the majority of terms used in this section are contained in s. 69: 'Definitions for ch 4' of the PPRA. However, for the purpose of this section:

Current NAD

means a noise abatement direction, other than a current motorbike NAD, for which the noise abatement period has not expired (see s. 581(3)(a): 'Powers of police officer to deal with excessive noise' of the PPRA).

Current motorbike NAD

means a noise abatement direction contained in a Form 95: 'Noise Abatement Direction (Motorbike)', given to the rider of a motorbike for which the noise abatement period has not expired (see s. 581(3)(b) of the PPRA).

Initial impoundment period for a motor vehicle

means:

(i) a period of 48 hours starting when the motor vehicle is impounded; or

(ii) if the period of 48 hours ends at any time after 5pm and before 8am on a day, a period starting when the motor vehicle is impounded and ending at 8am next occurring after the period of 48 hours ends (see s. 69: 'Definitions for ch 4' of the PPRA).

(Example—A motorbike is impounded at 2am on the 3rd July because the driver of the motorbike committed a motorbike noise direction offence. The initial impoundment period would end at 8am on the 5th July.)

NAD

means a noise abatement direction (see s. 581 of the PPRA).

OPM Issue 113 Public Edition

Noise abatement period

means

(i) for a noise abatement direction given in relation to a motorbike being used on a place that is not a road—48 hours after the direction is given; or

(ii) for any other noise abatement direction—96hrs after the direction is given (see s. 582(4) of the PPRA).

Legislative provisions to deal with excessive noise

The provisions of Chapter 19, Part 3, ss. 576 to 591: 'Powers relating to noise' of the PPRA provide officers with powers to deal with an environmental nuisance caused by noise that is audible at or near any residential or commercial premises and is excessive in the circumstances. The noise that the legislation applies to is noise of a kind mentioned in ss. 578(1)(b), 579(1)(b), 580(1)(b) or 580(2)(b) of the PPRA, namely noise emitted:

(i) from a place by:

(a) a musical instrument;

(b) an appliance for electrically producing or amplifying music or other sounds;

(c) a motor vehicle, other than a motor vehicle on a road;

(d) a gathering of people for a meeting, party, celebration or similar occasion; or

(ii) by a motorbike being driven on a place that is not a road; or

(iii) from a motor vehicle on a road or in a public place and is emitted by an appliance for electronically producing or amplifying music or other sounds including, for example, by a radio, CD player or other similar equipment for producing or amplifying music or other sounds that is in the motor vehicle.

Chapter 19, Part 3 of the PPRA does not apply to an environmental nuisance caused by noise emitted from a place:

(i) while being used for an open air concert or commercial entertainment; or

(ii) by a public meeting under a permit under a law authorising the amplification or reproduction of sound by:

(a) any electrical or mechanical appliance, apparatus or device; or

(b) another way; or

(iii) while the place is being used by motor vehicles under a permit under a law (see s. 576(2): 'Application of pt 3' of the PPRA).

OPM Issue 113 Public Edition

13.29.1 Investigation and first direction

ORDER

As soon as practicable after receiving or being notified of a complaint made by a person including an anonymous complainant about excessive noise, an officer is to investigate the complaint or cause it to be investigated, unless the officer believes the complaint is frivolous or vexatious.

An officer may also take action without a complaint about excessive noise emitted from a motor vehicle on a road or in a public place.

POLICY

A member receiving a complaint about excessive noise is to:

(i) check with the local police communication centre for any record of a current NAD, current motorbike NAD or motorbike noise abatement order relating to the place from which the noise is being emitted; and

(ii) if the person details are known, check QPRIME for any noise direction or order flag against the person;

and convey any relevant information to the officer detailed to investigate the complaint.

The specific conditions of a current NAD and motorbike NAD are recorded in QPRIME against the person details as a:

(i) 'Direction noise/move on/eviction' flag;

(ii) 'MB noise direction' flag; or

(iii) 'MB noise order' flag,

as appropriate.

Officers who:

(i) are detailed to investigate a complaint about noise and are attending in response to the complaint and the complaint relates to noise emitted:

(a) from a place;

(b) by a motorbike being driven on a place that is not a road; or

(c) from a motor vehicle on a road or in a public place; or

(ii) hear noise and the noise is emitted from a motor vehicle on a road or in a public place and are investigating the noise without a complaint having been received; and

a current NAD or a current motorbike NAD is not in force, are to be reasonably satisfied the noise complained of is clearly audible at or near residential or commercial premises or when acting without a complaint being made, the noise is clearly audible at or near residential or commercial premises prior to taking any further action. This may be achieved by attending at or near the residential or commercial premises or when acting without a complaint, the officer is to take note of the location of residential or commercial premises in relation to the road or public place where the motor vehicle is located.

In deciding whether the noise is excessive in the circumstances, officers should have regard to any relevant matters, including:

(i) the degree of interference the noise is causing, or is likely to cause to the conduct of activities ordinarily carried out in the vicinity of the place from which the noise is being emitted and the nature of the lawful uses permitted for premises in the vicinity of the place from which the noise is being emitted; or

(ii) where the investigation relates to noise being emitted from a motor vehicle on a road or in a public place—the degree of interference or annoyance the noise is causing, or is likely to cause, to persons in the vicinity of the road or public place.

An officer who is reasonably satisfied that the noise to which Chapter 19, Part 3: 'Powers relating to noise' of the PPRA applies is excessive in the circumstances:

(i) may:

(a) investigate the emission of excessive noise, or to give a NAD to the person responsible for the emission of excessive noise, from a motor vehicle on a road or in a public place or a motorbike being driven on a place other than a road, require the person in control of a vehicle, to stop the vehicle (see s. 60: 'Stopping vehicles for prescribed purposes' of the PPRA); and

(b) enter the place from which the noise is being emitted without a warrant;

(ii) is to give the person responsible for the noise, a NAD either orally or in writing. When an oral direction is given, the wording of the direction should resemble the following:

'I direct you to immediately abate that excessive noise which is being emitted by (insert source of excessive noise) from this place'

(iii) ensure the direction given, whether orally or in writing, directs any person responsible for the noise, or for permitting the noise to be caused to immediately abate the excess noise from the place. Persons responsible for noise include, if the noise is being emitted from or by a motor vehicle—the person driving the motor vehicle or if the noise is being emitted from another place—the person apparently in charge of the place; or

(iv) if the direction relates to noise emitted by a motorbike being driven on a place that is not a road, give the person(s) responsible for the noise a Motorbike NAD in a Form 95: 'Noise Abatement Direction (Motorbike)' (available in QPRIME and on QPS Forms Select) directing the driver to immediately abate the excessive noise from the motorbike;

(v) if the person to whom a Motorbike NAD is given is a child, ensure a copy of the Form 95: 'Noise Abatement Direction (Motorbike)' is given to the child's parent or guardian if it is reasonably practicable to do so;

(vi) if a NAD or Motorbike NAD is about to be given, is being given or has been given to someone, may require a person to state the person's correct name and address and may require the person to give evidence of the correctness of the stated name and address if, in the circumstances, it would be reasonable to expect the person to be in possession of evidence of the correctness of the stated name or address or to otherwise be able to give the evidence (see s. 40: 'Person may be required to state name and address' of the PPRA).

When officers give a person an NAD, the following particulars are to be recorded in their official police notebook and provided to the local police communications centre:

(i) the name, address of the person(s) to whom a NAD was given;

(ii) the time and date the NAD was given;

(iii) if the NAD was given in relation to noise emitted from or by a motor vehicle, the particulars necessary to properly identify the vehicle;

(iv) a general description of the place or, if the NAD relates only to a part of the place, a general description of the part of the place to which the NAD relates;

OPM Issue 113 Public Edition

(v) the substance of the direction;

(vi) name, rank and station/establishment; and

(vii) other relevant information.

When officers give a person a NAD, the details of the NAD including a motorbike NAD are to be recorded in QPRIME as a 'Direction noise/move on/eviction' flag and a 'MB noise direction' flag as appropriate against the person details.

When a person is given a Motorbike NAD, the issuing officer is to:

(i) record relevant information as required by the preceding paragraph;

(ii) complete a Form 95: 'Noise Abatement Direction (Motorbike)' (available in QPRIME and on QPS Forms Select) and give to the person where possible and if the person is a child to the child's parent or guardian if it is reasonably practicable to do so; and

(iii) ensure the Form 95 is added as an attachment to the relevant QPRIME occurrence.

Officers in charge of police communication centres are to ensure that a register is maintained in which records of NAD are kept.

See also s. 2.1.2: 'Registers required to be kept' and subsection titled 'Enforcement acts (Register entries and what reports to supply from QPRIME)' of this Manual.

13.29.2 Additional powers of police officers on later investigation

PROCEDURE

If a noise abatement direction has been given about a place and within the noise abatement period, an officer is satisfied on further investigation that the officer must again exercise the powers mentioned in s. 581: 'Powers of police officers to deal with excessive noise' of the PPRA about the same place or the same motor vehicle, an officer may:

(i) to investigate the emission of excessive noise from a motor vehicle on a road or in a public place or a motorbike being driven on a place other than a road, require the person in control of a vehicle, to stop the vehicle (see s. 60: 'Stopping vehicles for prescribed purposes' of the PPRA);

(ii) without a warrant, enter the place from which the noise is being emitted (see s. 583: 'Additional powers of police officers on later investigation' of the PPRA);

(iii) identify the person(s) who may be committing an offence under s. 582: 'Compliance with noise abatement direction' of the PPRA, namely the person to whom a NAD or motorbike NAD was given and any person who knows a NAD was given. If applicable require their correct name and address and give evidence of the correctness of the stated name and address pursuant to s. 40: 'Person may be required to state name and address' of the PPRA;

(iv) in relation to the property that is or was being used to produce or contribute to the production of the noise:

(a) lock, seal or otherwise deal with it in a way to prevent its further use;

(b) seize and remove it from the place; or

(c) make it inoperable by removing any part or parts and seizing and/or removing the part or parts from the place.

(see s. 583: 'Additional powers of police officers on later investigation' of the PPRA);

(vi) if the property is a motorbike and:

(a) s. 80: 'Impounding motorbike for motorbike noise direction offence or motorbike noise order offence' of the PPRA applies, impound the motorbike under that section. If consideration is being given to impounding the motorbike (see Chapter 15: 'Impounding motorbikes for noise offences' of the Traffic Manual); or

(b) s. 589: 'Noise abatement order—application for order' of the PPRA applies, make an application for a noise abatement order (see s. 13.29.4: 'Motorbike noise abatement orders' of this chapter).

13.29.3 Property seized and removed under s. 583(2) of the Police Powers and Responsibilities Act

PROCEDURE

When any property is seized and removed from a place under s. 583(2): 'Additional powers of police officers on later investigation', of the PPRA, (other than a motorbike impounded under s. 74: 'Impounding motor vehicles' of the PPRA), the officer seizing and removing the property:

(i) may seek the help of another person (an assistant) the officer reasonably requires and if required, take any assistant, equipment, vehicle, animal or material onto a place the officer reasonably requires and may use necessary and reasonable force (see ss. 612: Assistance in exercising powers', 613: 'Protection for assistants from liability', 614: 'Power to use force—exercise of certain powers' and 615: 'Power to use force against individuals' of the PPRA);

OPM Issue 113 Public Edition

(ii) should advise the occupier:

(a) of the seizure, removal and the police station where the property is being conveyed to;

(b) that the property should be claimed and collected from the nominated police station by the owner or the person from whose possession the property was seized, or someone else acting on behalf of these persons; and

(c) that the claim and the collection of the property should be made during office hours on a business day after the end of the noise abatement period as defined in s. 582(5): 'Compliance with noise abatement direction' of the PPRA;

(iii) should remove the property to a police station or establishment, where it is to be held in safe custody;

(iv) ensure that the relevant provisions of Chapter 4: 'Property' of this Manual are complied with in respect to the seized property; and

(v) ensure that the relevant property register is endorsed with the date and time at which the property may be released.

Officers in charge of stations where property seized under these provisions of the PPRA has been removed to should ensure that:

(i) the property is placed in safe custody in accordance with station/establishment Instructions and Chapter 4: 'Property' of this Manual; and

(ii) the property is only given to the owner or the person from whose possession the property was seized or a person acting for these persons at the expiration of the relevant period and in accordance with s. 585: 'Recovery of seized property' of the PPRA.

However, nothing in s. 585: 'Recovery of seized property' of the PPRA prevents a police officer retaining seized property if the police officer reasonably suspects the property is evidence of the commission of an offence.

PROCEDURE

Where an officer has taken possession of property under the PPRA and the owner or person from whom it was seized has failed to arrange for its collection after fourteen days from its seizure, and the property is not required as an exhibit in connection with any prosecution, that officer should:

(i) draft a letter in a format similar to that shown at Appendix 13.1: 'Suggested format for letter under Police Powers and Responsibilities Act' of this chapter, to the owner, if known, and the person from whom it was seized, ensuring a three month period is noted from the time the property was seized to the time it will be considered to be unclaimed; and

(ii) submit that letter and the original Property Register entry (reporting officer copy) to the relevant officer in charge.

The officer in charge who receives such a report should ensure the letter(s) is forwarded to the owner of the property, if applicable, and the person from whom it was seized.

If after the three month period from the date of seizure the property has not been claimed, the officer in charge should treat the property as unclaimed property and deal with it in accordance with s. 4.6: 'Disposal of property' of this Manual.

For motorbikes impounded under s. 80 of the PPRA, see Chapter 15: 'Impounding motorbikes for noise offences' of the Traffic Manual.

Notice of damage

POLICY

Officers seizing, handling and/or removing property are to take all reasonable precautions to ensure that no damage is done to the property or any other thing.

ORDER

Where damage is caused to anything by an officer when exercising a power under the PPRA, the officer is to promptly give written notice (QP 0730: 'Notice of Damage' (available in QPRIME or on QPS Forms Select) to the person who appears to be the owner of the thing in accordance with the provisions of s. 636: 'Police officer to give notice of damage' of the PPRA.

13.29.4 Motorbike noise abatement orders

Officers may apply for a motorbike noise abatement order under s. 589: 'Noise abatement order—application for order' of the PPRA if a person (the respondent):

(i) contravenes a noise abatement direction in relation to excessive noise emitted by a motorbike driven on a place other than a road; or

OPM Issue 113 Public Edition

(ii) is given 2 noise abatement directions within a period of 1 month in relation to excessive noise emitted by a motorbike and the directions both relate to the driving of the motorbike on the same place which is not a road.

ORDER

A noise abatement order is an order that the driving of the motorbike by the respondent be restricted in the way requested in the application.

If an officer decides to make an application for a noise abatement order, the application:

(i) is to be made within 48 hours after the contravention of a motorbike NAD, or if two motorbike NADs were given in one month, within 48 hours after the contravention of the second motorbike NAD; and

(ii) is to be made to the relevant court using a Form 96: 'Application for a noise abatement order (motorbike)' (available in QPRIME or on QPS Forms Select) or under s. 800: 'Obtaining warrants, orders and authorities, etc. by telephone or similar facility' of the PPRA (see subsection titled: 'Use of Police Powers and Responsibilities Act to obtain warrants, orders etc., by telephone or similar facility' of s. 2.1.1: 'Use of Police Powers and Responsibilities Act' of this Manual).

Before applying, the applicant officer is to complete an application in a Form 96: 'Application for noise abatement order (motorbike)' stating the grounds on which the noise abatement order is sought and all other relevant information.

A copy of a completed Form 96: 'Application for noise abatement order (motorbike)' is to be lodged with the Clerk of the Court of the relevant court within the 48 hours period as outlined above.

If the application is made on the grounds that the respondent contravened a motorbike noise abatement direction which has resulted in a prosecution, the stated date for the application should coincide with the date on which the related prosecution will be next mentioned.

ORDER

As soon as reasonably practicable after a date is set for hearing the motorbike noise abatement order application, the applicant officer is to ensure that notice of the application is given to:

(i) the respondent;

(ii) if the respondent is not the owner of the motorbike, the owner of the motorbike;

(iii) if the respondent is:

(a) a child; or

(b) not the owner of the motorbike and the owner of the motorbike is a child,

the child's parent or guardian if it is reasonably practicable to do so; and

(iv) if the

(a) respondent;

(b) owner of the motorbike; or

(c) child's parent or guardian,

as appropriate, is not the owner of the land on which the contravention happened, the owner of the land if it is reasonably practicable to do so.

When a Form 97: 'Notice of application for noise abatement order (motorbike)' is given to any of the above mentioned persons, the officer giving the notice is to complete and sign the endorsement outlining when the notice was given.

The identity of the owner of a motorbike may be ascertained by asking the driver of the motorbike, checking QPRIME and/or conducting checks with the Department of Transport and Main Roads in accordance with Chapter 7: 'Obtaining information from external bodies' of the Management Support Manual.

To identify the owner of the land, requests for information may be made to external agencies, such as the Department of the Environment, Tourism, Science and Innovation or the Residential Tenancies Authority, in accordance with Chapter 7 of the Management Support Manual.

The applicant officer is required to provide the evidence which is available in support of the motorbike noise abatement order application to the relevant police prosecutions corps no later than fourteen days before the matter is set for hearing wherever practicable. The evidence includes:

(i) a copy of the relevant Form 96: 'Application for noise abatement order (motorbike)';

(ii) if the application is on the grounds that the respondent contravened a motorbike NAD, a copy of the Form 95: 'Noise abatement direction (motorbike)';

(iii) if the application is on the grounds that the respondent was given two motorbike NAD within a period of one month in relation to excessive noise emitted by a motorbike and the directions both relate to the driving of the

OPM Issue 113 Public Edition

motorbike on the same place which is not a road, copies of both directions (i.e. Form 95: 'Noise abatement direction (motorbike)');

(iv) statements/affidavits by the applicant officer, and others taken from witnesses, including those of a corroborative, conflicting or negative nature;

(v) copies of each endorsed Form 97: 'Notice of application for noise abatement order (motorbike)' given in compliance with the previous order; and

(vi) a Form 98: 'Noise abatement order (motorbike)' prepared for issuance by the relevant magistrates court.

13.29.5 Duties of police prosecutors and officers in charge after the application for a motorbike noise abatement order is determined

PROCEDURE

After an application for a Motorbike Noise Abatement Order is heard and determined, the police prosecutor who prosecuted the application is to:

(i) if the application was successful, obtain the Form 98: 'Noise abatement order (motorbike)' from the court and:

(a) ensure a 'MB Noise Order' flag is on entered in QPRIME against the person named in the order with details of the order; and

(b) send the order to the officer in charge of the station or establishment to which the applicant officer was attached.

Officers in charge, upon receipt of a motorbike noise abatement order, are to ensure:

(i) that it is added as an attachment to the relevant QPRIME occurrence; and

(ii) appropriately filed.

13.29.6 Appeals against motorbike noise abatement order

Section 591: 'Noise abatement order—appeal against order' of the PPRA allows an adult or child against whom a noise abatement order has been made to appeal against the order to the district court or, the childrens court constituted by a judge, respectively within 28 days after the day the order was made.

Officers are to comply with the relevant provisions of s. 3.11: 'Appeals' of this Manual when appeals are, or are to be, commenced.

13.29.7 Offences/powers

POLICY

A police officer who reasonably suspects an offence against provisions of Chapter 19, Part 3, ss. 576 to 591: 'Powers relating to noise' of the PPRA has been committed and a person may be able to give information about the offence, the officer may require the person to answer a question about the offence (see s. 588: 'Power to require answers to questions' of the PPRA).

A person required to answer a question under s. 588: 'Power to require answers to questions' of the PPRA and contravenes such a requirement given by a police officer may commit an offence under s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA unless the person has a reasonable excuse.

If a person fails to comply with the requirement, prior to taking any action under s. 791 of the PPRA, officers are to comply with the provisions of s. 633: 'Safeguards for oral directions or requirements' of the PPRA by warning the person that it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse and that the person may be arrested for the offence. Additionally, the police officer is to give the person a reasonable opportunity to comply with the requirement.

Offences relating to excessive noise, failing to comply with a noise abatement direction and failure to answer questions should, where possible, be commenced by way of complaint and summons, notice to appear or an infringement notice where applicable (see s. 3.5: 'The institution of proceedings' of this Manual). In some cases, the arrest provisions of s. 365 of the PPRA may apply.

13.29.8 Other noise complaints

PROCEDURE

Complaints made about motor vehicles creating excessive noise on a road, where the provisions of s. 580 of the PPRA do not apply, should be dealt with as a breach of s. 291: 'Making unnecessary noise or smoke' of the Transport Operations (Road Use Management—Road Rules) Regulation (See codes 2296 and 2297 of the Infringement Notice Offence Codes and Penalties on the Service Intranet or s. 69A(1)(d) of the PPRA).

OPM Issue 113 Public Edition

Persons making complaints relating to noise which are outside the scope of s. 580 of the PPRA and cannot be otherwise dealt with by police should be referred to the local government authority. Complaints which cannot be dealt with by the local government authority should be referred to the Environmental Protection Agency.

13.30 Starting a civil proceeding

Officers are at times required to commence a civil proceeding in a Queensland court. In Queensland a civil proceeding starts when an originating process is issued by the court (see rule 8: 'Starting proceedings' of the Uniform Civil Procedure Rules (UCPR)).

The UCPR provides for the following types of originating processes:

(i) Claim (Form 2);

(ii) Application:

(a) (Form 5: 'Originating application—used to start a proceeding); or

(b) (Form 9: 'Application'—used to obtain an order in a proceeding that is already underway);

(iii) Notice of appeal; and

(iv) Notice of appeal subject to leave.

(These forms may be obtained from website: https://www.courts.qld.gov.au/about/forms)

A proceeding must be started by claim unless these rules require or permit the proceeding to be started by application (see rule 9: 'Claim compulsory' of the UCPR). Rule 10 of the UCPR outlines when a proceeding must be started by application, rule 11 outlines when a proceeding may be started by application.

An example of commencing a civil proceeding by originating application (Form 5) is when a police officer makes an application for:

(i) an order under s. 694: 'Application by police officer for order if ownership dispute' of the PPRA (see s. 4.7.1: 'Disputed ownership (disposal)' of this Manual); or

(ii) a variation or revocation of an offender prohibition order under s. 13Q: 'Varying or revoking an offender prohibition order' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* (CP(OROPO)A).

See Appendix 13.9: 'Example of completed Form 5—Originating Application' of this chapter. See also s. 694: 'Application by police officer for order if ownership dispute' of the PPRA.

An example of commencing a civil proceeding by application (Form 9) is when a police officer makes an application for or for authorisation of substituted service when documents are unable to be served personally on the respondent under s. 13ZL(5): 'Service of documents' of the CP(OROPO)A. See Appendix 13.13: 'Example of completed Form 9—Application' of this chapter.

Suggested procedure for police commencing a civil proceeding in a Queensland court

PROCEDURE

When an officer seeks to commence a civil proceeding in a Queensland court, the applicant officer should:

(i) liaise with the local Service prosecutor and the registrar of the relevant Queensland court to ensure the required originating process, forms and affidavits in relation to the civil proceeding are used and a suitable hearing date is obtained;

(ii) complete the required originating process in accordance with the subsection titled 'Completing the originating process' of this section;

(iii) complete an affidavit in relation to the application:

(a) see Appendix 13.14: 'Example of completed Form 46—Affidavit by reporting officer' (for s. 694 of the PPRA); or

(b) see Appendix 13.15: 'Example of completed Form 46—Affidavit by reporting officer' (for s. 13ZL of the CP(OROPO)A);

of this chapter, ensuring not to include hearsay evidence (see rule 430 of the UCPR);

(iv) sign each and every page of their affidavit (see rule 432 of the UCPR);

(v) where evidence of additional witnesses is to be relied upon to aid the application, ensure it is supplied in the form of an affidavit which has been sworn or affirmed in accordance with rule 432 of the UCPR. (Note—Officers are not to attach copies of previously obtained QP 0125: 'Statement of Witness' to the originating process in lieu of a properly sworn or affirmed affidavit);

OPM Issue 113 Public Edition

(vi) complete a Form 47: 'Certificate of Exhibit or Exhibits' for each document which is an exhibit and is mentioned in an affidavit. In completing a Form 47, ensure that a letter, number or other identifying mark is placed on the Form 47, on the relevant document and is referred to in the affidavit. For example, the first exhibit from Senior Constable Stephen James BROWN could be marked and referred to as 'SJB 1'. Each document is to be attached to the relevant Form 47. See rule 435 of the UCPR regarding exhibits. See also Appendix 13.14: 'Example of completed Form 46—Affidavit by reporting officer' (for s. 694 of the PPRA) showing an example of a completed Form 47;

(vii) file the originating process, including forms and affidavits with the registrar of the relevant Queensland court (see Chapter 2, Part 6: 'Where to start a proceeding' of the UCPR);

(viii) serve a copy of the above court stamped documents on all persons listed as respondents in the originating process in accordance with the provisions of Chapter 4: 'Service' of the UCPR. Officers serving copies of the originating process and any affidavits are to complete an 'Affidavit of Service' and return it before the date of the hearing of the application to the relevant court. An example of a completed 'Affidavit of Service' is shown in Appendix 13.12: 'Example of completed Affidavit of Service' to this chapter;

(ix) forward to the Service prosecutor all documentation in relation to the matter. A covering report should also be attached to the file showing the date of hearing; and

(x) attend at the court at the nominated day and time. The officer starting the proceeding may be required to give evidence.

Completing the originating process

PROCEDURE

When completing an originating process, officers are to ensure:

(i) the words 'a state-related person' is inserted after their name in the originating process;

(ii) a business address for service, contact telephone numbers, fax numbers and email address of the applicant are entered (see rule 17 of the UCPR);

(iii) if a solicitor is appointed to act for the applicant or plaintiff, the residential or business address of the plaintiff or business address of the applicant, the name and firm of the solicitor, the address of the solicitor's place of business, the solicitor's telephone number, fax number, email address and document exchange address are entered;

(iv) all affected persons are named (see rule 26 of the UCPR);

(v) the relief sought and the name and section of the Act under which the application is made is specified (see rule 26 of the UCPR);

(vi) the day set for hearing the application is specified (see rule 26 of the UCPR);

(vii) all affidavits to be relied on at the hearing are listed (see rule 26 of the UCPR); and

(viii) at least two original copies of the process are signed (i.e. one for filing) (see rules 19 and 27 of the UCPR).

All forms are available from QPS Forms Select or the Queensland Courts website.

For service of an interstate originating process see s. 14.29.6: 'Interstate service of an originating process' of this Manual.

13.31 Electronic service of prescribed (and related) documents

Chapter 23, Part 1AA: 'Electronic service of documents' of the PPRA, provides officers the option to electronically serve prescribed (and related) documents on a person through approved electronic service methods. Important to note, staff members are unable to electronically serve authorised prescribed documents on a person under this section.

Prior to utilising electronic service, an officer must meet the following criteria:

(i) complete a thorough assessment to determine the person's suitability to be electronically served;

(ii) ensure the person understands the document to be electronically served and understands the explanation and extent for consenting to electronically receive potential related documents;

(iii) ensure the person provides consent in the presence of an officer; and

(iv) comply with the legislated limitations when consent to electronically serve documents on a person terminates and ensure the person themselves hasn't withdrawn consent.

See s. 789E: 'Serving documents by electronic communication' of the PPRA.

Consent when given to an officer by the person, to electronically receive authorised prescribed documents, pertains to the initial originating occurrence only. Where a new event, not related to the original occurrence, requires service of a

OPM Issue 113 Public Edition

new (unrelated) authorised prescribed document, officers are to initiate a new consent process with the person for that matter.

Definitions

For the purposes of this section:

eSend

means the software capability to securely send electronic documents from QPRIME to a person's unique electronic address.

eServe

means the electronic delivery of prescribed or related document(s), served by an officer to a consented unique electronic address.

Authorised prescribed document

means a prescribed document mentioned in s. 13.31.1: 'Authorised prescribed document' of this chapter.

Related document

means any subsequent document relating to the originating prescribed document sent, with consent, to a person using an approved electronic service method (see s. 13.31.2: 'Methods of electronic service' of this chapter).

Unique electronic address

means a personal email address or personal mobile phone number used by the person and is not an electronic address shared with any other person or associated to a business entity (e.g. work email).

13.31.1 Authorised prescribed document

The following prescribed documents are authorised and approved for consideration by eServe:

(i) QP 0699: 'Notice to appear';

(ii) DV 01: 'Application for a protection order' or copy;

(iii) DV 04: Application to vary a domestic violence order' or copy;

(iv) Police protection direction (PPD);

(v) PPD Grounds;

(vi) Police protection notice (PPN);

(vii) PPN Grounds;

(viii) QP 0937: 'Release from custody conditions' or copy;

(ix) DFV temporary protection order or copy;

(x) DFV domestic violence order or a copy;

(xi) DFV varied order or copy;

(xii) DFV intervention order, or copy; and

(xiii) DFV notice of proceedings.

See also Schedule 5A: 'Prescribed documents for service by electronic communication' of the PPRA.

13.31.2 Methods of electronic service

Authentication of a person's unique electronic address and verification of the person's identity receiving the prescribed or related documents, requires robust processes to negate privacy concerns and prevent the misuse of electronic service communications. Therefore, officers obtaining consent to eServe documents are to capture the consent response in the presence of the person and serve the impending document(s) electronically by only using the Service approved methods.

Two methods have been approved to electronically serve prescribed and related documents on a person, these are:

(i) QLiTE NextGen 'Serve/Deliver' function; and

(ii) QPRIME eSend report.

The benefits of using either QLiTE NextGen 'Serve/Deliver' or QPRIME's eSend report to securely serve documents on a person, is the ability to:

(i) validate the person's unique electronic address upon initial entry of data to the required fields; and

OPM Issue 113 Public Edition

(ii) populate and capture important legislated safeguards on QPRIME, see s. 13.31.5: 'Explaining and recording of consent' of this chapter.

For assistance using eServe delivery methods, see the relevant QLiTE NextGen or QPRIME User Guides available on the Electronic service of prescribed documents SharePoint page.

Interim arrangements

While the Service expands the software capability to securely facilitate the electronic service of documents on a person, some authorised prescribed documents are currently being withheld from the initial QPRIME eSend product release scheduled for 3 September 2025.

This includes the court bundle of DFV documents scanned in the PPN/DV01 transfer report, specifically the:

(i) police protection notice (PPN);

(ii) PPN Statement; and

(iii) DV01 application.

A future release of QPRIME plugins will expand the capability and functions of the QPRIME eSend report, however as an interim solution, officers wishing to utilise electronic service of these documents pursuant to s. 111(4): 'Filing' of the DFVPA—for when the PPN is personally served on a respondent and a unique electronic address (email) for the respondent has been provided—electronic service from a members work email account may be utilised (see also s. 13.31.4: 'Suitability assessment to eServe prescribed (and related) documents' subsection 'Domestic violence orders—additional suitability assessment to eServe DFV documents' of this chapter).

ORDER

Where an unexpected disruption is experienced with QLiTE NextGen 'Serve/Deliver' function, officers are to revert to hard copy service of the prescribed document and complete a QPRIME eSend report as soon as reasonably practicable (this will ensure the officer has captured the consent response and relevant safeguards on the occurrence).

13.31.3 Considerations for electronic service of prescribed (and related) documents

Officers considering to electronically serve a prescribed document on a person, are to:

(i) undertake a suitability assessment to eServe the person (see s. 13.31.4: 'Suitability assessment to eServe prescribed (and related) documents' of this chapter);

(ii) provide the person with an explanation of consent to receive documents from the Service by electronic service methods (see s. 13.31.5: 'Explaining and recording of consent' of this chapter);

(iii) obtain a unique electronic address from the person to enable eServe (see s. 13.31.6: 'Considerations when obtaining a unique electronic address' of this chapter);

(iv) record the eServe discussion with the person, using the officer's BWC capturing;

(a) the explanation of consent to receive documents by electronic service;

(b) the consent response provided by the person; and

(c) the unique electronic address as nominated by the person;

(v) where operationally possible, have the person confirm access to the document in the presence of the officer; and

(vi) ensure the person receiving the documents has understood the following:

(a) the documents to be electronically served on the person may contain court appearance information;

(b) the documents may contain conditions in the prescribed (or related) document for the person to follow and where relevant, explain any other legal requirements in relation to the documents; and

(c) a failure to notify the Service of any change to the unique electronic address may have legal implications (e.g. missed court appearance dates).

Officers may eServe authorised prescribed documents when:

(i) the person has consented, in the presence of an officer, to receive prescribed documents to their unique electronic address prior to electronic service of the document occurring (see s. 13.31.5: 'Explaining and recording of consent' of this chapter); and

(ii) none of the following conditions are met:

(a) the person is a child under 16 years of age;

(b) the person is of impaired capacity (that includes impairment to cognitive functioning and intoxication that has affected the person's thought process, see Schedule 6: 'Dictionary' of the PPRA);

(c) the person is detained or has been detained since consent was obtained:

OPM Issue 113 Public Edition

- in a corrective service facility;
- in a youth detention centre; or
- in an authorised mental health service or public sector health service facility under provisions of the *Mental Health Act*;

(d) the person has provided written notice to withdraw consent; or

(e) six months has passed from the day consent to be eServed was provided to the Service;

13.31.4 Suitability assessment to eServe prescribed (and related) documents

The initial consent provided by a person for electronic service of a prescribed document, extends to consent to receiving related documents in the future, therefore officers should revert to personal service of documents when they reasonably believe there is a future risk that the person is likely to:

(i) be detained:

(a) in a corrective service facility;

(b) in a youth detention centre; or

(c) in an authorised mental health service or public sector health service facility under provisions of the *Mental Health Act*; or

(ii) access to the nominated unique electronic address could be hindered.

When completing a suitability assessment for service of documents by eServe methods, officers are to consider the overall circumstances of a person.

ORDER

Officers may serve prescribed documents (and related documents) on a person by eServe methods if, having regard to the circumstances of the person requiring the document service, the officer reasonably believes:

(i) the document will be received by the person within a reasonable time;

(ii) the document will be readily accessible for the person (e.g. considerations for connectivity issues or presenting barriers to access a device);

(iii) the document is useable and can be referred to by the person for subsequent reference; and

(iv) it is appropriate to do so in the circumstances, given the purpose and effect of the document.

See s 789E: 'Serving documents by electronic communication' of the PPRA.

Domestic violence orders—additional suitability assessment to eServe DFV documents

ORDER

The Service is committed to protecting victims of crime and holding domestic violence respondents to account. When considering to eServe documents for domestic violence orders, officers are to consider the following risks:

(i) whether the order imposes additional conditions that may be better suited to an in person explanation;

(ii) the seriousness of behaviour and urgency for the order to be served;

(iii) the type of emotional response the order, or conditions of the order, are likely to elicit from the respondent - including risk of retribution (serving officers may need to review QPRIME history or consult with the applicant officer to assess this emotional response risk);

(iv) the vulnerability of the aggrieved (including named person or named children) and whether the eServe of documents may expose the victim to risk of harm;

(v) the respondent's propensity for violence (i.e. DV-PAF risk factors and flags recorded for the person);

(vi) the likelihood and need to seize weapons from the respondent; and

(vii) current case management approaches and focussed deterrence strategies for the respondent.

Giving DFV documents to an aggrieved

Officers are to be aware that PPN/DV01 transfer reports (transferred to Department of Justice via ETC) contain multiple documents, including the respondent's criminal history and DV history. When providing DFV documents to an aggrieved or named person via eServe/eSend delivery methods, officers are to ensure the respondent's criminal history and DV history are not included.

Where eServe methods are deemed not suitable

Where an officer determines a person is not suitable for eServe delivery methods, the officer is to record the person's unsuitability on the relevant occurrence. Commencing an offer to eServe a person in the field via QLiTE NextGen

OPM Issue 113 Public Edition

devices, officers will be prompted by on-screen information to record the outcome of the eServe suitability assessment (suitable/not suitable). Where officers conclude the person is unsuitable to eServe, the officer is to record the person as not suitable.

ORDER

Where an officer determines eServe methods are not suitable for the person, the officer is to revert to personal service of document procedures.

13.31.5 Explaining and recording of consent

Prior to obtaining consent to eServe documents, an officer must ensure an explanation of consent is given to the person either:

(i) orally and given in a way that is easily understood by the person; or

(ii) in writing and the person acknowledges in writing to having received an explanation for consent.

To assist officers in delivering an oral explanation of consent to a person:

(i) the QLiTE NextGen device provides the necessary on-screen information covering the legislated safeguards required to be explained; and

(ii) where desired, the QP 1252: 'Fact Sheet – Giving consent for electronic service of documents by the Queensland Police Service' (available Published forms of the QPS Intranet) can be given to, read by or read to the person to assist the explanation.

Where explanation and consent has been given in writing, the officer is to ensure they:

(i) scan a copy of the signed acknowledgment for receiving an explanation of consent to be eServed, in the relevant occurrence in QPRIME; and

(ii) complete the QPRIME eSend report, recording consent, in the relevant occurrence.

see also s. 789G: 'Consent for service by electronic communication' of the PPRA.

ORDER

When obtaining consent for the electronic delivery of prescribed documents from a person, the persons is to be in the physical presence of the officer (see s. 789G: 'Consent for service by electronic communication' of the PPRA). The officer is to record the eServe conversation on the officer's BWC and ensure:

(i) they capture:

(a) the explanation of consent (see s. 13.31.5: 'Explaining and recording of consent' of this chapter);

(b) the person's consent response; and

(c) the person's nominated unique electronic address,

see s. 789K: 'Record of explanation, consent and unique electronic address' of the PPRA;

(ii) the BWC recording:

(a) is uploaded to Evidence.com by the end of their shift; and

(b) is tagged with 'electronic service' for the ease of future referencing, along with any other relevant procedural tagging for evidential preservation (see s. 4: 'Field audio and video recordings' of the DERIE);

(c) link is added to the relevant QPRIME eSend report,

which will assist delegate officers (where required) to undertake a proof of service review and issue an evidentiary certificate (see s. 789L: 'Evidentiary provision' of the PPRA and s. 13.31.11: 'When eServe is effected (evidentiary certificate)' of this chapter; and

(iii) make a record of the nominated unique electronic address:

(a) where the officer has access to QLiTE NextGen—by recording the unique electronic address on the person's record within the relevant occurrence via the 'Serve/Deliver' function;

(b) where the officer has access to QPRIME eSend report (desktop application)—by recording the unique electronic address on the person record within the relevant occurrence via the eSend report; or

(c) where:

- the officer has no access to QLiTE NextGen or QPRIME; or
- the person is otherwise unable to provide their consent orally,

the officer is to:

- record the unique electronic address in the officer's notebook;

OPM Issue 113 Public Edition

- have the person sign an acknowledgement stating consent has been given to the Service to be eServed documents;
- when operationally possible, complete the QPRIME eSend report; and
- upload a scanned copy of the signed acknowledgement in QPRIME in the relevant occurrence;

(iv) have the person confirm the unique electronic address is accurately recorded by the officer;

(v) inform the person on the potential consequences for failing to notify a change to their nominated unique electronic address; and

(vi) where operationally possible, ask the person if they received the eServed prescribed document (and any related documents).

In most instances eServed documents will be received by the person immediately, however in the event of an unexpected delay, officers should advise the person to check the unique electronic address at a later time (no longer than 24 hours) and advise the person where failure is suspected the person is to contact Policelink (see also ss. 13.31.13: 'Where eServe fails' and 13.31.14: 'Replacement of prescribed (or related) documents' of this chapter).

In some circumstances, the officer issuing the explanation for eServe delivery may be different to the officer who captures the unique electronic address. When this occurs, it is important to note on the occurrence the 'roles' of the separate officers (e.g. Officer SMITH gave the explanation while Officer JONES recorded the consent response and nominated unique electronic address). It is however preferred, where possible, that one officer gives and records the:

(i) explanation;

(ii) consent response; and

(iii) nominated unique electronic address.

Explaining consent and the contents of the documents being served

When explaining electronic service of documents to a person, officers are not discharged from any other legislated obligations that require the officer to explain the contents of the prescribed document itself (i.e. s. 110: 'Explanation' of the DFVPA, which requires officers in the service of a PPN, to explain the notice including: the grounds, the conditions, the reasons the officer imposed conditions, the duration of conditions, and the consequences of contravening the notice). See also ss. 177(4): 'Contravention of domestic violence order' and 178(4): 'Contravention of police protection notice' of the DFVPA.

ORDER

Officers **must** ensure an explanation of consent for electronic service of prescribed (and related) documents has been given to the person, prior to obtaining the actual response to the offer to be eServed. Officers providing the explanation of consent to a person, must advise the person about each of the following matters:

(i) the purpose and effect of the prescribed document to be served;

(ii) the related documents to the prescribed document which may be included and where known, explain purpose of the related documents;

(iii) the nature of consent (e.g. agreement to electronically receive documents from the Service);

(iv) the person can refuse to give consent for the electronic service of documents;

(v) the person may withdraw consent at any time by giving written notice to the Service, and for the person to withdraw consent the person can;

(a) submit an online withdrawal of consent request via the Policelink website; or

(b) where the person has no access to internet, advise an officer in person of their intent to withdraw consent; and

(vi) consent will cease (automatically expire);

(a) 6 months from the day when original consent for electronic service of the prescribed document was provided, unless withdrawn earlier by the person;

(b) where the person has been detained in a corrective services facility or youth detention centre; or

(c) where the person has been detained, under provisions of the *Mental Health Act* (MHA), in an authorised mental health service or public sector health service facility.

See s. 789H: 'Matters relating to consent for service by electronic communication' of the PPRA.

13.31.6 Considerations when obtaining a unique electronic address

When obtaining a unique electronic address from the person, who has consented to electronic service, the unique electronic address can be:

OPM Issue 113 Public Edition

(i) an email account; or

(ii) a mobile phone number,

however, must:

(i) be for personal use by the person; and

(ii) not be a shared or a work electronic address.

While operationally sound to obtain both the personal email and personal phone number for the person, they are not legally obliged to provide both to enable electronic service.

Email is the preferred unique electronic address as QLiTE NextGen may limit the data size to only deliver documents to an email account (e.g. DFV documents). QPRIME allows up to 10MB to be uploaded in file size for both pdf and jpeg files.

13.31.7 Action where a person has consented to eServe and has since been detained

ORDER

Where an officer becomes aware that a person recorded in QPRIME with the status consent given, has since that date that consent was given, been detained in:

(i) a corrective services facility;

(ii) a youth detention centre;

(iii) an authorised mental health service under provisions of the MHA; or

(iv) a public sector health service facility under provisions of the MHA,

the officer is to:

(i) search for the relevant eSend report for the person for the occurrence the consent relates to and action the End consent button;

(ii) enter an OEL on the relevant occurrence stating detention type and date of detention (reasoning why consent ceased); and

(iii) expire the nominated unique electronic address associated to the consent record.

Officers are to be mindful of legislated safeguards which terminate electronic service consent provisions, in particular careful consideration is to be given to the overall longevity of the consent remaining in place for the person and their eligible for future related document service.

Where consent is likely to be hindered in the future (e.g. detention), officers should revert to personal service methods.

Authorised prescribed documents are not to be electronically served where consent:

(i) has not been established with the person or the person has been deemed unsuitable; or

(ii) offer to electronically serve documents has been declined by the person,

unless otherwise legislated (i.e. s. 184A: 'Substituted service' of the DFVPA).

Consent for electronic service does not relieve officers from the responsibility to personally serve prescribed documents or related documents on the person, nor does it prevent the officer from serving prescribed documents or related documents on a lawyer acting for the person in a proceeding, where appropriate and authorised.

13.31.8 eServe related documents

Where a person consents to the receipt of a prescribed document by electronic service, officers may also eServe the person with related document when legislation permits or requires the document to be served on the person and is in relation to the matters outlined in the initial prescribed document service.

Where a time delay exists between the initial service of an authorised eServe document and an intent to serve a related document, officers are to review the person's circumstances and be satisfied the person remains suitable to be eServed.

Officers are to be mindful of situations where:

(i) consent for electronic service cease to exist; or

(ii) where a change to conditions may elicit an emotional response from the person that could be adverse to the individual (e.g. DFV TPO imposes new conditions),

in these circumstances officers should revert to personal service to engage with the subject person (see s. 13.31.4: 'Suitability assessment to eServe prescribed (and related) documents' and subsection 'Domestic Violence orders—additional suitability assessment to eServe DFV documents' of this chapter).

OPM Issue 113 Public Edition

While an onus is placed on a person to update the Service with a change of unique electronic address, officers are to be mindful that a person may lose accessibility to their unique electronic address (i.e. lose their device, forget their login password, their phone is seized by police).

ORDER

Prior to electronically delivering a related document to a person, officers are to review the person's circumstances by way of viewing QPRIME and be satisfied the:

(i) unique electronic address remains valid for the person and is accessible by the person;

(ii) person's consent has not expired (expires six months after consent was given for the prescribed document);

(iii) consent has not been withdrawn by the person through a written notice to the Service;

(iv) consent has not ceased to exist due to the person being or has been detained in:

(a) a corrective service facility or youth detention centre; or

(b) a mental health service or public sector health service facility.

13.31.9 Requests to change unique electronic address

Where a person, in the presence of any officer, advises of a change to their nominated unique electronic address, the officer is to ensure verification of the person's identity has been completed prior to any change of address. Verification of identity will minimise the risk of fraudulent applications or misuse of electronic communications.

ORDER

An officer receiving requests to change a person's unique electronic address, are to process the request immediately and are to:

(i) confirm the identity of the person whilst in the presence of the officer (where possible sighting a government issued identification card);

(ii) ensure BWC records the request to change the unique electronic address and the persons nomination of the new unique electronic address;

(iii) ensure the original nominated unique consented electronic address is expired on the relevant occurrence (this is the originating event for when the prescribed document was eServed and where initial consent was obtained);

(iv) add the new unique electronic address to the relevant occurrence, ensuring the six-month auto expiry remains consistent to the original date being the day when consent was given; and

(v) record an OEL entry in the relevant occurrence, noting:

(a) the type of identification sighted for the person (for example, Qld D/L No. xxxx sighted Exp.01.01.2026); and

(b) the request has been received in person from the person to change the unique electronic address and recorded on BWC.

OPM Issue 113 Public Edition

13.31.10 Withdrawal of consent from eServe methods

Consent to electronically receive prescribed (and related) documents by eServe methods is optional, a person may opt out or withdraw consent from the eServe process at any time after giving initial consent. To opt-out, prior to the six-month expiration date of eServe, the person is required to provide the Service with a written notice to withdraw their electronic service consent (see s. 789J: 'Withdrawal of consent etc.' of the PPRA).

ORDER

Where a person notifies an officer with a request to withdraw their eServe consent, the officer is to:

(i) guide the person to the online Withdrawal of electronic service consent webpage on the Policelink reporting page of the QPS Internet; or

(ii) where the person is unable to access the internet (e.g. no access to device or internet service) provide assistance to withdraw the consent by;

(a) recording the withdrawal of consent in the officer's official police notebook;

(b) capturing the persons signature for withdrawal of consent in the official police notebook;

(c) uploading the signed withdrawal of consent on the relevant QPRIME occurrence (the occurrence containing the originating eServed prescribed document);

(d) search for the relevant eSend report on the occurrence for which the consent relates to and action the 'End consent' button; and

(e) ensuring the consented unique electronic addresses has expired for the person.

Policelink members will process online withdrawal of consent requests from members of the public.

13.31.11 When eServe is effected (evidentiary certificate)

A prescribed document or related document is taken to be personally served on the person, on the day the officer sends the document by electronic communication to the nominated unique electronic address, unless the contrary is proved (see s. 789L: 'Evidentiary provision' of the PPRA).

For contested prosecutions, proof of service involving eServe documents may be provided by a QP 1251: 'Evidentiary certificate' certified by the Commissioner or authorised delegate (Delegation D 24.74), being a:

(i) commissioned officer;

(ii) senior sergeant; or

(iii) sergeant.

If the prosecuting authority intends to rely on the certificate in a criminal proceeding it must give a copy of the certificate to the defendant or the defendant's lawyer before the hearing day. If the defendant intends to challenge a matter stated in the certificate, the defendant must prove the contrary.

ORDER

Officers required to provide proof of electronic service for prescribed or related documents, are to:

(i) prefill the QP 1251 certificate with the relevant officer details as per the role and functions performed by officers effecting electronic service delivery (e.g. one officer completed all roles, or nominate where applicable the names of the officer who provided the explanation, the officer who obtained consent and, the officer who effected actual eServe of the document);

(ii) obtain the signature of an authorised delegate on the QP 1251; and

(iii) upload the signed QP 1251 in the relevant QPRIME occurrence report prior to the submission of the brief of evidence (see also s. 9.9.7: 'Preparation of briefs of evidence' of this Manual).

13.31.12 Statement of police service—eServed DFV documents

An officer who has electronically served a domestic violence order or another prescribed DFV document must file a DV 21A: 'Statement of Police Service' with the registry of the court hearing the proceeding, unless a court orders otherwise (see: Part 3, Division 2, Rule 14 'Statement of police service' of the DFVPR).

See also s. 9.6.6: 'Electronic Service of DFV prescribed (and related) documents' of this Manual.

ORDER

An officer electronically serving a domestic violence order (or another related DFV document) is to file a DV 21A: 'Statement of police service' (see s. 9.6.6 of this Manual).

13.31.13 Where eServe fails

When an officer records a unique electronic address for a subject person, the e-Service system tools will perform an initial validation check to ensure the email address is properly formed (i.e. includes the @ symbol) and the mobile phone number meets minimum standards (i.e. commences with 04). It is important to note this validation process cannot check for typos or incorrect spelling of names.

Where the nominated unique electronic address fails validation, the officer is to establish another nominated unique electronic address for the person. Once the unique electronic address is validated, the consented electronic address will be recorded against the person's profile on QPRIME and the eSend function will be enabled.

In a small number of cases, eServe failures may occur (i.e. the person's mailbox is full) and may not be immediately known to the officer. Where failure does occur, the delivery system will record an OEL entry against the relevant occurrence and automatically initiate a task to the original initiating officer's station for follow up action.

It is the initiating officer OIC's responsibility to ensure the failed eServe task is assigned to an officer and document service is completed on the person.

ORDER

An officer receiving a QPRIME task for eServe failure is to:

(i) review the OEL entry on the relevant occurrence (the OEL may state reasons for failure);

(ii) contact the subject person and attempt to resolve the reasons for failure; and

(iii) initiate alternative arrangements for effective document service (such as personal service).

Where attempts to eServe documents fail, the officer is to revert to personal service.

OPM Issue 113 Public Edition

13.31.14 Replacement of prescribed (or related) documents

A person may seek a replacement document from the Service, for reasons the eServed prescribed document or related document either was deleted, was lost, or not received by the person.

ORDER

Where an officer is requested by a person to resend or replace eServed documents and no change is requested to alter the nominated unique electronic address, the officer is to:

(i) undertake an eServe suitability assessment for the person; and

(ii) ensure verification of the person's identity is completed prior to electronically sending the document, as this will minimise the risk for fraudulent misuse of electronic service communications.

Where it is deemed by the officer that eServe is no longer suitable for the person, the officer is to revert to personal service.

13.31.15 Incorrectly received eServed documents

While accuracy in recording the person's unique electronic address is essential, there remains the small possibility that documents could be received by an unintended recipient due to human errors whilst recording personal data for the person.

Documents sent by eServe methods are accompanied with information messages directing the recipient to contact Policelink if they believe they have incorrectly received the document. Where it has been confirmed the recipient incorrectly received the documents, a supplementary report will be added to the relevant occurrence and a task sent to the investigating station linked to the occurrence for an officer to follow up and action document service on the correct person.

13.31.16 Using eSend report to give other documents

Other official documents that are required to be given to a person may be sent by the eSend delivery system, provided they are not:

(i) a prescribed or a related document (see Schedule 5A: 'Prescribed documents for service by electronic communication' and s. 789D: 'Definitions' of the PPRA); or

(ii) excluded under s. 7A: 'Act does not apply to particular transactions etc.' and Schedule 1: 'Excluded transactions' of the *Electronic Transactions (Queensland) Act*.

Prior to using the eSend delivery system to give other official documents to a person, officers are to be satisfied the person has:

(i) access to the nominated electronic address (i.e. device capable of internet access); and

(ii) freely consents to receiving the documents to their nominated email address or phone number for this purpose.

ORDER

Where an email address or phone number is freely provided to an officer for the receipt of documents by electronic communications, for the purpose of receiving the nominated documents, the officer is to send the document via the eSend delivery system to enable the delivery record to be captured in QPRIME.

13.32 Electronic signatures

ORDER

Officers are only approved to use the following two methods for electronic signatures (eSignature):

(i) QPRIME eSignatures; and

(ii) QLITE NextGen eSignatures,

see Delegation D 24.75 and s. 789M: 'Approved method for electronically signing documents' of the PPRA.

Officers are not permitted to use electronic signature methods via alternative software programs (i.e. Adobe DocuSign).

QPRIME eSignature will require a one-off process from the officer to upload a current wet look signature against their login profile in QPRIME. By uploading an eSignature, officer's will be able to import their unique eSignature into any reports where the electronic signature functionality is enabled (Further information can be obtained from the user guide located on the QPRIME eSignature SharePoint page).

QLiTE NextGen eSignature will require an officer to create their own unique signature block to be captured when logging into sign-in credentials for the device. The signature captured, is retained inside NextGen system and is automatically imported to forms and documents for the officer, when they are completed via QLiTE NextGen (Further information can be obtained from the user guide located on the QLiTE NextGen SharePoint page).

OPM Issue 113 Public Edition

13.33 Social media

The Service has developed policies and procedures relating to the use of social media, see the Use of Social Media Policy webpage on the Service Intranet. The QPS Use of Social Media Policy covers the following areas:

(i) managing, monitoring and analysing social media accounts;

(ii) approval and implementation procedures for the establishment and use of an official Queensland Police Service social media channel or site including 'myPolice' website blogs;

(iii) alignment with Service responsibilities under the *Disaster Management Act;*

(iv) use of social media for personal, non-work related purposes;

(v) legislative and policy requirements and information management principles;

(vi) governance structure roles and responsibilities across the Service; and

(vii) risk management strategies for information security, defamation, privacy and intellectual property infringement.

13.34 Removal of particular online content

Historically, offenders have published images and recordings of illegal acts to online social media platforms with a purpose to garnish viewer attention towards their own offending behaviours or encourage other offenders, particularly young people, to engage in likeminded illegal activities. These images and recordings of the criminal behaviour published online, where if seen, can re-traumatise victims of crime and evoke fear response amongst the community resulting in an increased perception of crime, contribute to feelings of an unsafe community, or spread misinformation.

Chapter 21A: 'Removal of particular online content' of the PPRA allows authorised officers to give removal notices to social media platforms or online social networks, requiring the provider to remove nominated online content from the provider's site within a set timeframe (see s. 745D: 'Removal notice' of the PPRA). Contravention of the removal notice will allow the Commissioner to consider applying to the Supreme Court of Queensland for a civil penalty order that can be imposed on the provider.

The operational implementation of removal notices is being trialled by both the Crime Command and Security, Counter-Terrorism and Forensic Services Command (SCTFSC). Any member identifying 'particular online content' and seeking to remove the content from online circulation are to, in the first instance, obtain advice from the Digital Intelligence and Community Engagement (DICE) team.

Authorised officers are to read this policy in conjunction of s. 2.10.6: 'Online intelligence' of this Manual, when accessing online content during the investigation process.

OPM Issue 113 Public Edition

Definitions

For the purposes of this section:

Provider

means a service hosting a social media platform or online social network that enables material to be accessed or delivered online. It does not include a person that merely provides a service that enables material to be accessed or delivered but is not of itself a social media platform or online social network.

Removal notice

means the formal written notice (QP 1250), given to a provider by an authorised officer, requesting removal of particular online content within a set timeframe (see s. 745D(2): 'Removal notice' of the PPRA).

Takedown request

means a request given by a law enforcement agency to a provider, seeking voluntary removal of online content deemed to have violated laws or breached the provider's policies, community guidelines, or terms of service.

Authorised Officers

The Commissioner has appointed the following members as authorised officers who may give removal notices to providers, pursuant to s. 745C: 'Authorised officers' of the PPRA. These members are (includes appointed or acting):

(i) Superintendent, Crime Command;

(ii) Superintendent, Security, Counter-Terrorism and Forensic Services Command;

(iii) Inspector, Crime Command;

(iv) Inspector, Security, Counter-Terrorism and Forensic Services Command;

(v) Senior Sergeant, State Intelligence Group;

(vi) AO7 Principal Intelligence Officer, Digital Intelligence and Community Engagement, State Intelligence Group;

(vii) AO6 Senior Intelligence Officer, Digital Intelligence and Community Engagement, State Intelligence Group;

(viii) Detective Senior Sergeant, Financial and Cyber Crime Group;

(ix) Detective Senior Sergeant, Argos; and

(x) Detective Senior Sergeant, Counter-Terrorism Investigation Group.

See Instrument of Authority D 24.76.

Particular online content—qualifying criteria

Where an authorised officer identifies particular online material published on a social media platform or online social network, and is satisfied the material;

(i) depicts conduct that constitutes any of the following offence(s) against an Act of Queensland which involves:

(a) the driving or operating a vehicle;

(b) violence or a threat of violence;

(c) taking, damaging, destroying, removing, using, interfering with or entering property; or

(d) an offence involving a weapon; and

(ii) was published by the subject person on the social media platform or online social network for the purpose of:

(a) glorifying the conduct; or

(b) increasing the person's reputation or the reputation of someone else because of their involvement; and

(iii) has been accessed by a person in Queensland; and

(iv) is suspected by the authorised officer to be either:

(a) unlawful conduct that happened in Queensland; or

(b) was published on the social media platform or online social network by a person who was in Queensland or is ordinarily a resident in Queensland,

the authorised officer may give the provider of the social media platform or online social network a removal notice, requiring the provider to remove the online material from the platform or network.

ORDER

Where online material classified as 'particular online content' has been located online, the investigating member is to ensure:

(i) where a removal notice is likely to be issued, an occurrence report with crime class 'Online Content Removal—Platform Provider—demand notice'; or

(ii) where a voluntary takedown request is likely to be issued, an occurrence report with crime class 'Online Content Removal—Platform Provider—voluntary removal',

is entered in QPRIME.

Removal notice (Form QP 1250)

In giving a removal notice (QP 1250) to a provider of a social media platform or online social network, the authorised officer is to complete the QP 1250 in a way that clearly:

(i) identifies the reasons for the removal notice, including an outline of the;

(a) conduct which constitutes an offence against an Act of Queensland;

(b) suspected purpose or intent for why the person published the material (e.g. increasing the reputation of the person); and

(c) connection to Queensland (e.g. outline why the authorised officer suspects the conduct happened in Queensland); and

(ii) describe the published material in a way that enables the provider to identify and remove the content; and

(iii) state the date and time, no earlier than 24 hours from the time the notice is given, for when the material must be removed; and

(iv) warns the provider that if they fail to comply with the removal notice, the Commissioner may apply for a civil penalty order (see s. 745E 'Civil penalty order' of the PPRA).

OPM Issue 113 Public Edition

ORDER

Whilst Crime Command and SCTFSC enact a 12-month operational trial for the Service implementation of removal notices, all authorised officers are to consult with Crime and Intelligence Legal Services (CILS) Division prior to the giving of any removal notice.

The date and time nominated on the removal notice requesting the timeframe for when the provider is to remove the online content, should take into consideration all extenuating factors that will allow sufficient time for the provider to action the request (e.g. time zone differences).

Voluntary removal by provider

While a QP 1250 may be suitable to give to a provider, given the circumstances of the material located online, the use of voluntary takedown requests should also be considered by investigating members. Voluntary takedown requests maintain positive working relationships built by the Service and cooperative providers. These providers often align their own community guidelines to societal expectations and are willing to remove content upon receipt of law enforcement requests.

Online material deemed outside the scope of reasons as applicable to the giving of a QP 1250, should be considered for the issuing of a voluntary takedown request. For assistance with submitting a voluntary takedown request on a provider, assistance may be sought from the Digital Intelligence and Community Engagement (DICE) team.

ORDER

Voluntary takedown requests should be considered where applicable to the circumstances of the material hosted online and implemented at the discretion of the investigating member.

Giving the removal notice

Officers intending to issue a removal notice (or takedown request) to a provider, must firstly familiarise themselves with the social media platform or online social network processes for receiving law enforcement requests. Procedures for accepting law enforcement requests vary between providers and instructions for specific providers can be found on the Crime Command 'Online Content Removal' SharePoint page. Additional guidance for submitting law enforcement requests may be obtained from Digital Intelligence and Community Engagement (DICE) team.

ORDER

Where an authorised officer has approved the issuing of a QP 1250 to a social media platform or online social network, the officer giving the notice is to ensure:

(i) an occurrence report (crime class: 'Online Content Removal—Platform Provider—demand notice') has been created via PIR2, this occurrence report is to outline:

(a) the method of delivery to serve the QP 1250 (e.g. nominate the online law enforcement portal URL location or business email account where the notice was served);

(b) the provider's service name (e.g. Facebook) including the service provider name (e.g. Meta);

(c) the location of the online content (e.g. nominate URL internet address hosting the content);

(d) the date and time the QP 1250 was given;

(e) the date and time nominated on the QP 1250 for the provider to comply with the notice;

(f) the name, rank and employee number of the authorised officer who authorised the giving of the QP 1250; and

(ii) a copy of the signed QP 1250 is uploaded into the relevant QPRIME occurrence;

(iii) an affidavit of service (QP 1250A 'Removal notice—affidavit of service') is completed by the officer giving the notice, ensuring the affidavit is uploaded to the relevant occurrence; and

(iv) a workflow has been assigned to the relevant work unit (usually the investigating member's work unit) to undertake a review and monitor process for compliance with the QP 1250.

Non-Compliance with removal notices

When the requested removal date nominated on the served QP 1250 passes, the investigating member is to conduct a review of the file and confirm the accessibility of the nominated content. If the content remains accessible, the authorised officer who gave the notice should be notified. The authorised officer is to make a determination if an application for a 'Civil penalty order' should be sought (see subsection 'Civil penalty order—provider fails to comply with removal notice' of this section).

Importantly, where it is found that a provider has taken reasonable steps to remove the nominated online content from their social media platform or online social network, the provider is taken to have complied with the removal notice (refer s. 745D(6): 'Removal notice' of the PPRA).

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Extension of time requests

A provider may seek an extension of time from the authorised officer in an attempt to comply with the QP 1250. Where it is considered appropriate, the authorised officer should grant the provider this extension of time request. In doing so, the authorised officer is to ensure:

(i) a supplementary report is entered on the relevant occurrence outlining;

(a) original expiration date and time;

(b) date and time of the new extension;

(c) reasons for granting an extension to the provider; and

(ii) upload to the relevant occurrence, the related correspondence received from the provider.

Members are to be mindful of coordinated universal time zone differences.

Exemption to publishing particular online content

Journalists publishing material, which depicts unlawful conduct as outlined above, in the course of their activities as a journalist, are exempt from publishing the material (see s. 745D(1A): 'Removal notice' of the PPRA).

Civil penalty order—provider fails to comply with removal notice

If a social media platform or social media network contravenes the removal notice (QP 1250), by either failing to comply with conditions of the removal notice by the specified time or by failing to take reasonable steps to comply with the removal notice, the Commissioner may apply to the Supreme Court for a civil penalty order (see s. 745E 'Civil penalty order' of the PPRA).

Authorised officers requesting the commencement of an application for a civil penalty order (CPO) are to send a request through their relevant Superintendent for onforwarding via the Strategy and Performance Officer to the Office of the General Counsel. The request will be assessed for approval by the Director, QPS Legal Services.

ORDER

Requests seeking commencement of an application for a CPO, are to include:

(i) a copy of the removal notice;

(ii) a copy of the affidavit of service (QP 1250A); and

(iii) a draft affidavit which will assist Legal Services in preparing the Supreme Court application (a final form of the affidavit will likely be filed if an application is made).

The draft affidavit for the application must address:

(i) the circumstances in which the provider of a social media platform or online social network has:

(a) failed to comply with the conditions of the removal notice by the specified time; or

(b) failed to take reasonable steps to comply with the removal notice; and

(ii) communications (if any) between the authorised officer and the provider with respect to the removal notice, including any requests from the provider for an extension of time.

The request is to also include an electronic (live) link to the particular online content, so Legal Services can assess:

(i) the content of the nominated material against the criteria of s. 745D of the PPRA; and

(ii) whether the content remains available online through the nominated provider.

It is important to note that the application for a civil penalty order must be made to the Supreme Court within one year after the day of the alleged contravention relating to the given removal notice. Authorised officers are to be mindful of this timeframe and where required, seek further guidance and advice from QPS Legal Services.

13.35 Designated business and community precincts

A designated business and community precinct (DBCP) is a designated area prescribed by regulation under s. 808D: 'Designated business and community precincts' of the PPRA. These precincts are established to enhance public safety and amenity, reduce anti-social behaviour, and prevent or minimise disruptions to businesses.

The DBCP framework is similar to the existing safe night precinct framework outlined in Part 6AB of the *Liquor Act*. It provides police with enhanced powers to deter, detect, and respond to harmful behaviours, thereby maintaining public safety and order. Designated precincts are located in key business and commercial areas as prescribed by regulation in the Police Powers and Responsibilities Regulation. In some instances, a DBCP may overlap with a safe night precinct.

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Move on directions in a designated business and community precinct

Officers are authorised to issue move-on directions within a DBCP. These directions require an individual or group to leave the precinct and not return for up to 24 hours.

The use of move-on powers in a DBCP is subject to the safeguards outlined in ss. 48: 'Direction may be given to person' and 633: 'Safeguards for oral directions or requirements—police officers' of the PPRA. Additionally, individuals issued with a move-on direction in a DBCP must be warned that failure to comply with the direction, without a reasonable excuse may result in the issuance of a police banning notice under s. 602C: 'Police officer may give initial police banning notice' of the PPRA.

See also s. 13.23: 'Move on power' of this chapter.

Police banning notices in a designated business and community precinct

A DBCP is classified as a relevant public place under s. 602C: 'Police officer may give initial police banning notice' of the PPRA, enabling police to issue initial police banning notices.

The eligibility criteria for issuing a police banning notice in a DBCP include the person including a child has:

(i) behaved in a disorderly, offensive, threatening or violent way (e.g. see s. 602C of the PPRA); and

(ii) behaviour was at or in the vicinity of a relevant public place; and

(iii) person's ongoing presence or presence in the immediate future, at the relevant public place and any other place stated in the notice, poses an unacceptable risk of:

(a) causing violence;

(b) impacting on the safety of other persons attending; or

(c) disrupting or interfering with the peaceful passage, or reasonable enjoyment of other persons,

at the place.

OR:

(i) contravened a move-on direction issued within the DBCP; or

(ii) received a move-on direction within the previous 7 days for the same precinct and is engaging in behaviour that meets the threshold for another move-on direction (s. 602C of the PPRA).

As with other relevant public places, persons including a child issued with a police banning notice in a DBCP are entitled to:

(i) apply to cancel the notice (s. 602JA of the PPRA); or

(ii) seek a review of decisions related to the notice under Chapter 19, Part 5A, Division 5: 'Review of Notices' of the PPRA.

Applications made under s. 602JA of the PPRA pertain solely to the cancellation of the notice. Officers do not have authority to amend the terms of the police banning notice.

Reasonable excuses for contravention

A person including a child subject to a police banning notice may return to a DBCP to undertake a necessary task if it is impractical to perform the task elsewhere. However, the person including a child may only remain in the precinct for the duration required to complete the task (see s. 602(Q): 'Offence to contravene notice' of the PPRA).

Court banning orders

Unlike Safe Night Precincts, courts are not authorised to issue banning orders for DBCPs under s. 43J: 'Making a banning order' of the *Penalties and Sentences Act*.

Overlapping precincts

In cases where a DBCP overlaps with a Safe Night Precinct, officers should consider the fact that a ban issued under:

(i) the DBCP framework is intended to address anti-social behaviour within the DBCP and is not shared with ID scanners in Safe Night Precincts.

(ii) the Safe Night Precinct framework is designed to minimise harm related to alcohol, drugs, and violence and applies specifically to Safe Night Precincts or licensed premises.

See s. 13.7.5: 'Police banning notices' of this chapter.

Jack's Law in a designated business and community precinct

Under s. 39BA(1): 'Use of hand held scanner without warrant in relevant places' of the PPRA, officers are authorised to use hand-held scanners within DBCPs without requiring prior approval from a senior officer.

See s. 14.27: 'Jack's Law—Use of hand held scanners without warrant' of this Manual.

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Appendix 13.1 Suggested format for letter under Police Powers and Responsibilities Act

(s. 13.29.3)

Police Station
19 Knowsley Street
Coorparoo Qld 4151

20 July 2000

Ms Denise SMITH
4/56 Cyprus Street
Greenslopes Qld 4120

Dear Ms SMITH

As you are aware, on Saturday 3 July 2000, Senior Constable JOHNSON from this station had cause to investigate complaints of excessive noise issuing from your premises at the above address. As a result of those complaints, Senior Constable SMITH took possession of 1 Sanyo brand 3 in 1 stereo, serial number 885968.

This property is now stored at the Property Section, Upper Mount Gravatt Police Station, 1234 Logan Road, Upper Mount Gravatt.

The property has been in the possession of the Service since 3 July 2000 and you have not as yet arranged to collect it.

This letter is forwarded to advise you that should you fail to collect the property on or before 3 September 2000, the Commissioner of the QPS may order that this property be forfeited to the State.

You will receive no further notice in relation to this matter. Should you wish to retrieve the property please arrange for its removal prior to the above date.

Yours sincerely

I.J. PLANT
Sergeant 9999
Officer in Charge

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Appendix 13.2 Deleted

Appendix 13.3 Deleted

Appendix 13.4 Deleted

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Appendix 13.5 Suggested format for advice regarding a complaint of an offence against s. 52A of the Criminal Code

(s. 13.26)

[Station/establishment header]

Date ……. / ……... / ……

To: **Commissioner**
Queensland Human Rights Commission (QHRC)

Initial advice *

On ……. / ……... / ……. a complaint was received at ……. (place) which alleged an offence against s. 52A of the Criminal Code.

This matter has been recorded on the Queensland Police system (QPRIME) and assigned occurrence number QP……..

* The complainant consents to their personal details being passed to the QHRC.

Name ……

Address ……

Telephone ……

* The complainant does not consent to their personal details being passed to QHRC.

Final advice * Occurrence number: ……

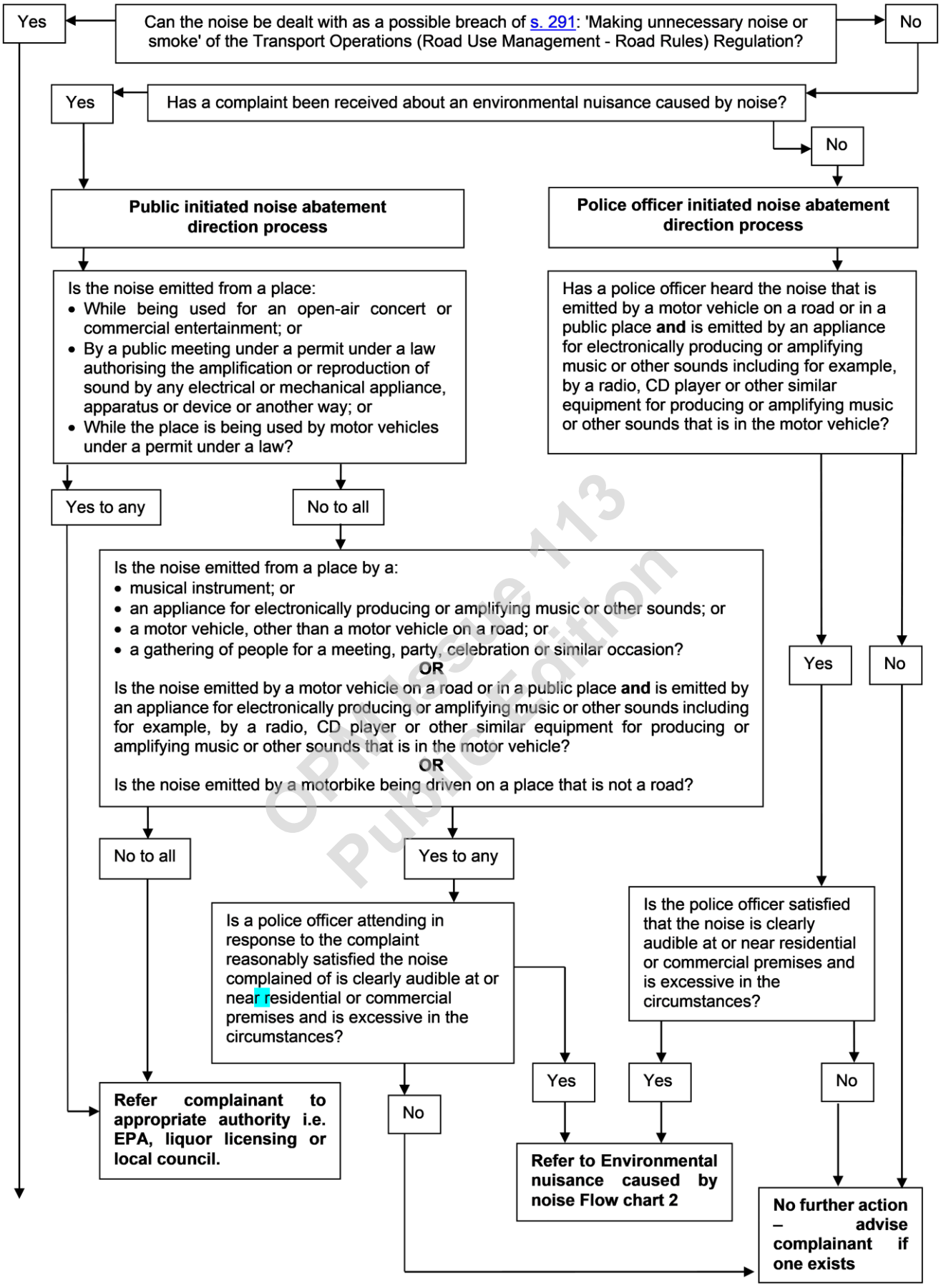
The investigation has resulted in:

* the offence not being substantiated
* insufficient evidence to commence a prosecution
* complaint withdrawn
* proceedings commenced. First appearance at ……. Magistrates Court on ……. / ……... / ……. at ……. am/pm

Further information may be obtained in accordance with s. 156 of the *Anti-Discrimination Act 1991*.

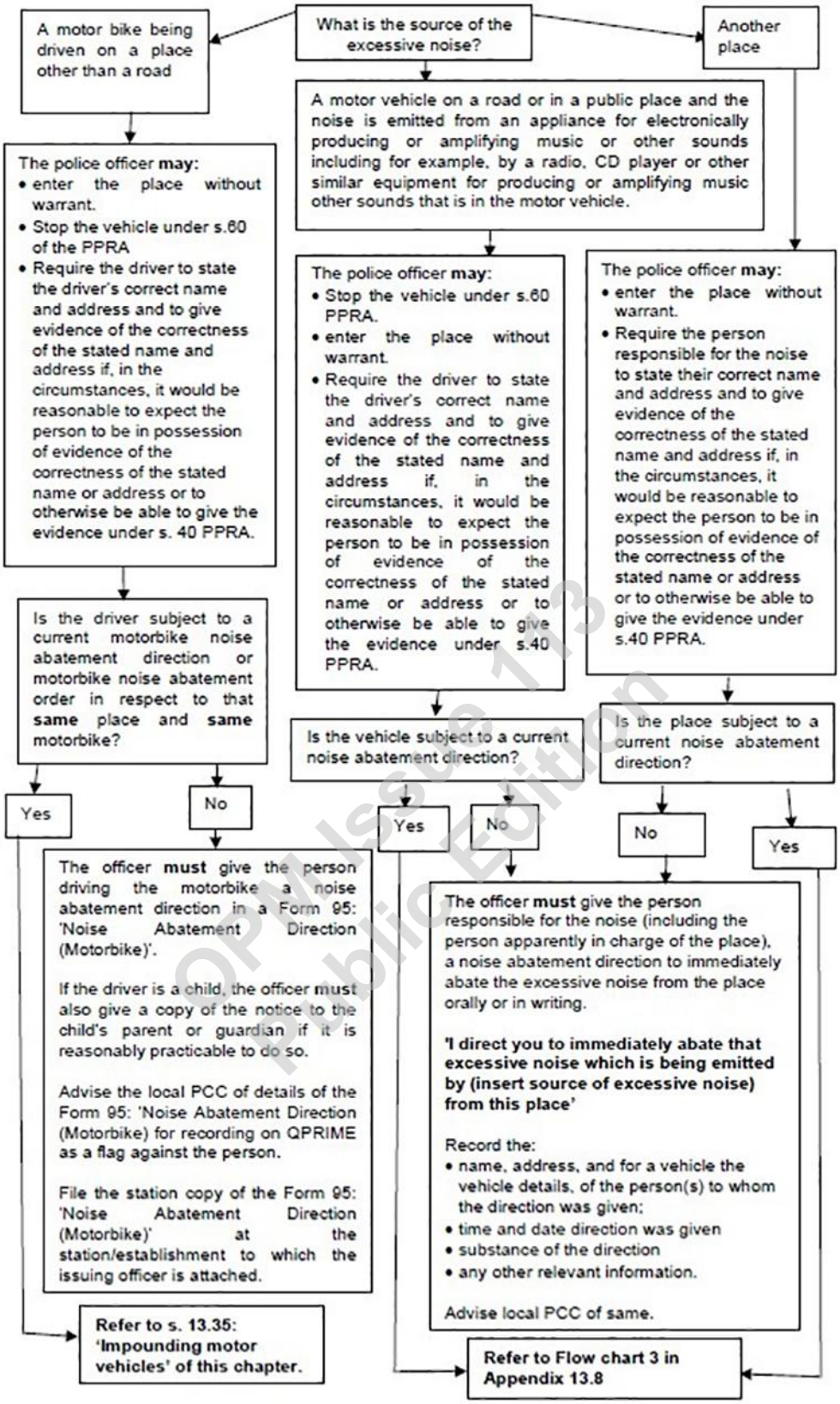
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Appendix 13.6 Environmental nuisance caused by noise—flow chart 1



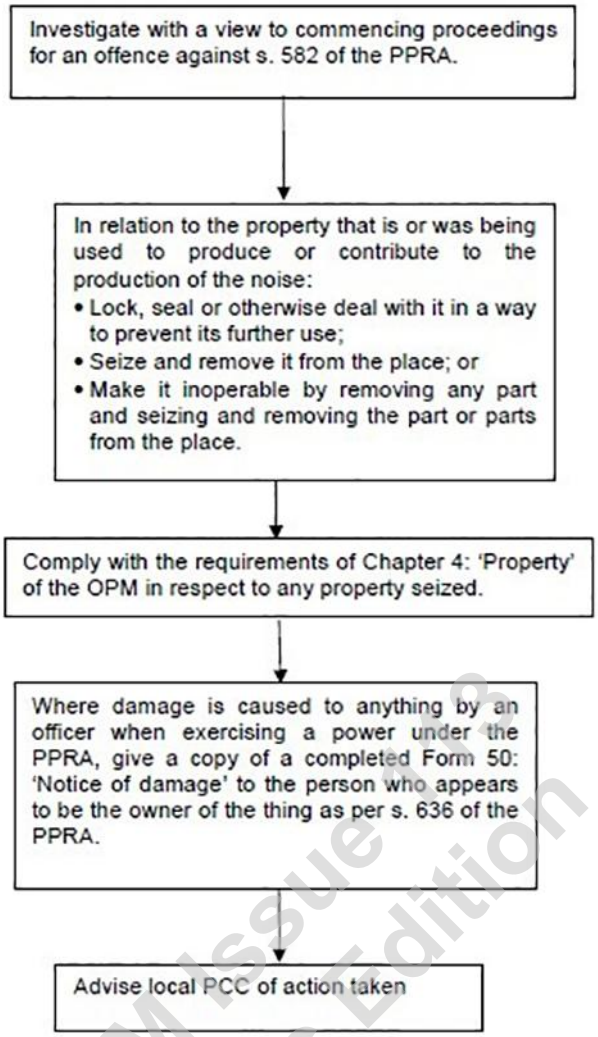
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Appendix 13.7 Environmental nuisance caused by noise—flow chart 2



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Appendix 13.8 Environmental nuisance caused by noise—flow chart 3



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Appendix 13.9 Example of a completed Form 5—Originating application

(s. 13.30)

MAGISTRATES COURTS OF QUEENSLAND

REGISTRY: Mackay

NUMBER: _____

Applicant: **Senior Constable Stephen James Brown, a state-related person**

AND

Respondent: **Joseph Daniel Smith**

ORIGINATING APPLICATION

To the respondent: TAKE NOTICE that the applicant is applying to the Court for the following orders:

1. In the matter of section 694 of the *Police Powers and Responsibilities Act 2000*, an order for the delivery of one Malvern Star bicycle to the person appearing to the court to be the owner thereof, or if the owner cannot be ascertained, such order with respect to the property as the court deems appropriate.

This application will be heard by the Court at Mackay Magistrates Court on: 20 July 2001 at 10 am.

Filed in the Mackay Magistrates Court Registry on 20 May 2001:

Registrar: _____

If you wish to oppose this application or to argue that any different order should be made, you must appear before the Court in person or by your lawyer and you shall be heard. If you do not appear at the hearing the orders sought may be made without further notice to you. In addition you may before the day for hearing file a Notice of Address for Service in this Registry. The Notice should be in Form 8 to the Uniform Civil Procedure Rules. You must serve a copy of it at the applicant's address for service shown in this application as soon as possible.

On the hearing of the application the applicant intends to rely on the following affidavits:

1. Affidavit of Senior Constable S J Brown sworn 17 May 2001

If you intend on the hearing to rely on any affidavits they must be filed and served at the applicant's address for service prior to the hearing date.

If you object that these proceedings have not been commenced in the correct district of the Court, you must apply to the Court for dismissal of the proceedings.

THE APPLICANT ESTIMATES THE HEARING SHOULD BE ALLOCATED 4 Hours

PARTICULARS OF THE APPLICANT:

Name: Senior Constable S J Brown

Applicant's business address: Mackay Police Station, 12 Brisbane St, Mackay

Address for service: Mackay Police Station, 12 Brisbane St, Mackay

Telephone: 9694444

Fax: 9572113

E-mail address: Brown.SJ@police.qld.gov.au

Signed: S J Brown

Description: Applicant

Dated: 20 May 2001

This application is to be served on: Joseph Daniel Smith of: 13 Gordon Street, Mackay

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Appendix 13.10 Example of a completed Form 46—Affidavit by reporting officer

(s. 13.30)

MAGISTRATES COURTS OF QUEENSLAND

REGISTRY: Mackay

NUMBER: _____

Applicant: **Senior Constable Stephen James Brown**

AND

Respondent: **Joseph Daniel Smith**

Stephen James Brown of Mackay Police Station, 12 Brisbane Street, Mackay states on oath:

1. I am a Senior Constable of Police.

2. On 3 March 2001, I was on duty at the Mackay Police Station when a person I now know to be Daniel Francis BRYANT came into the station. He gave me a red Malvern Star bicycle and stated that he had found the bicycle while walking along Dansie Street, Mackay. He stated that the bicycle had been left behind an industrial rubbish bin in that street. He also told me that he did not wish to claim the bicycle should the owner not be located.

3. I took possession of the bicycle and lodged it in the property room at Mackay Police Station.

4. I subsequently made a check on the Queensland Police Service Property of Interest System, but was unable to locate the owner of the bicycle.

5. I subsequently made inquiries with a number of local bicycle retailers, but was unable to find any information which would assist in identifying the owner of the bicycle.

6. On 4 May 2001 a journalist employed by the Mackay Mercury newspaper visited the Mackay Police Station at the invitation of the officer in charge. The journalist gathered information in relation to the large amount of property on hand at the Mackay Police Station.

7. On 6 May 2001, an article appeared in the Mackay Mercury Newspaper titled 'Police Seek Help in Finding Owners'. The tenor of this article was that a large amount of property was on hand at the Mackay Police Station for which owners had not been located. As a result, police were seeking assistance from members of the public to locate owners. This article also advertised an open day at the Mackay Police Station to be held the following day, during which members of the public were invited to view the amount of property at the Mackay Police Station, and to identify any of their own property which had been lost or stolen.

8. On 7 May 2001, I was at the Mackay Police Station supervising the viewing of property by members of the public, when I was approached by a person now known to me as Joseph Daniel SMITH. This person pointed to the red Malvern Star bicycle previously mentioned and stated that it was his, and that it had been stolen from him some months prior.

9. I then questioned SMITH in an attempt to confirm the truth of his claim.

10. SMITH was unable to answer questions as to identification of the bicycle, such as from where he had purchased it, the purchase price, or the gearing configuration. SMITH also claimed that the bicycle had been stolen from him on or about 26 April 2001, whereas the bicycle had been in police possession since 3 March 2001.

11. I then advised SMITH that I did not believe that he was the true owner of the bicycle and that I was not prepared to give it to him.

12. I now make application to the court for an order for the delivery of the property mentioned to the person appearing to the court to be the owner thereof, or if the owner cannot be ascertained, to make such order with respect to the property as the court deems appropriate.

13. Exhibit SJB 1 to this affidavit is a photograph of a red Malvern Star bicycle which was handed to me by the male person Daniel Francis BRYANT at Mackay Police Station on 3 March 2001.

14. All the facts and circumstances herein deposed to are within my own knowledge save such as are deposed to from sources and information and my knowledge and source of information appear on the face of this my affidavit.

Sworn by Stephen John Brown on 17 May 2001 at Mackay in the presence of:

S J Brown Deponent	A B Clerk Justice of the Peace (Qual)

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Appendix 13.11 Example affidavit in support of an application under s. 694 of the Police Powers and Responsibilities Act

(s. 13.30)

MAGISTRATES COURTS OF QUEENSLAND

REGISTRY: Mackay

NUMBER: _____

Applicant: **Senior Constable Stephen James Brown**

AND

Respondent: **Joseph Daniel Smith**

CERTIFICATE OF EXHIBIT

Exhibit SJB 1 to the affidavit of Senior Constable S J Brown sworn 17 May 2001:

[Photograph as specified in example text of Appendix 13.10]

S J Brown
Deponent

A B Clerk
Justice of the Peace (Qual)

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Appendix 13.12 Example of completed affidavit of service

(s. 13.30)

MAGISTRATES COURTS OF QUEENSLAND

REGISTRY: Mackay

NUMBER: 1123/01

Applicant: **Senior Constable Stephen James Brown**

AND

Respondent: **Joseph Daniel Smith**

Peter Francis Jones of Mackay Police Station, 12 Brisbane Street, Mackay states on oath:

1. I am a Constable of Police.

2. On Thursday 19 July 2001 at 4.20pm at 13 Gordon Street, Mackay I served Joseph Daniel Smith by personal service with:

(i) a copy of the Originating Application in the matter of an application under section 694 of the *Police Powers and Responsibilities Act 2000*, for an order for the delivery of one Malvern Star bicycle to the person appearing to the court to be the owner thereof, or if the owner cannot be ascertained, such order with respect to the property as the court deems appropriate; and

(ii) a copy of the Affidavit of Stephen James Brown mentioned in that originating application.

Both documents having been previously filed at the Registry of Mackay Magistrates Court and marked with the registry number 1123/01.

3. Joseph Daniel Smith was identified to me by stating his name upon my request.

Sworn by Peter Francis Jones on 20 May 2001 at Mackay in the presence of:

P F Jones
Deponent

A B Clerk
Justice of the Peace (Qual)

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Appendix 13.13 Example of a completed Form 9—Application

(s. 13.30)

MAGISTRATES COURT OF QUEENSLAND

REGISTRY:
NUMBER:

Applicant:

AND

Respondent:

APPLICATION

TAKE NOTICE that the Applicant is applying to the Court for the following orders:

1. A Substituted Service Order under Section 57(5) of the Child Protection (Offender Prohibition Order) Act 2008 is authorised whereby the document for a –

   Proposed Offender Prohibition Order
   Offender Prohibition Order
   Corresponding Order
   Registered Corresponding Order
   Notice of Application for a Temporary Order

   may be served by - *(Set out the method of service required)*

2. This application be dealt with without notice to the respondent as reasonable attempts have been made to serve the respondent with the above documents without success.

This application will be heard by the Magistrates Court at Brisbane, 363 George Street.
on: (date of hearing) at am/pm.

Filed in the Brisbane Registry on *(date)*:

Registrar: *(registrar to sign and seal)*

If you wish to oppose this application or to argue that any different order should be made, you must appear before the Court in person or by your lawyer and you shall be heard. If you do not appear at the hearing the orders sought may be made without further notice to you.

On the hearing of the application the applicant intends to rely on the following affidavits:
1. Affidavit of sworn *(date)*.

THE APPLICANT ESTIMATES THE HEARING SHOULD BE ALLOCATED 5 minutes

Signed:

Description: Applicant
Dated:

Application filed on behalf of the Applicant
Form 9 R. 32

(Name, address for service, telephone number and fax number of party filing document)

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Appendix 13.14 Example of completed Form 46—Affidavit by reporting officer (for s. 694 of the Police Powers and Responsibilities Act)

(s. 13.30)

MAGISTRATES COURTS OF QUEENSLAND

REGISTRY: Mackay

NUMBER: _____

Applicant: **Senior Constable Stephen James Brown**

AND

Respondent: **Joseph Daniel Smith**

CERTIFICATE OF EXHIBIT

Exhibit SJB 1 to the affidavit of Senior Constable S J Brown sworn 17 May 2001:

[Photograph as specified in example text of Appendix 13.10]

S J Brown
Deponent

A B Clerk
Justice of the Peace (Qual)

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Appendix 13.15 Example of completed Form 46—Affidavit by reporting officer (for application for substituted service under s. 57 of Child Protection (Offender Reporting and Offender Prohibition Order) Act)

(s. 13.30)

MAGISTRATES COURT OF QUEENSLAND

REGISTRY:
NUMBER:

Applicant:

AND

Respondent:

AFFIDAVIT

I,
(name of person making affidavit)

of

make oath and say that:

1. I am the applicant in this action

2. I have made reasonable attempts to personally serve the respondent with a document for a -
Proposed Offender Prohibition Order
Offender Prohibition Order
Corresponding Order
Registered Corresponding Order
Notice of Application for a Temporary Order

Details of attempted service:

3. It appears the above document will not able to be served without the making of a Substituted Service Order under Section 57(5) of the Child Protection (Offender Prohibition Order) Act 2008 in order to be able to serve the document on the respondent.

Details of substituted order requested:

4. As reasonable attempts have been made to serve the respondent with the above documents without success I request that this application be allowed without the giving of notice of the application to the respondent.

SWORN by the abovenamed deponent at on / /200 , before me:

Justice of the Peace Deponent

OPM Issue 113 Public Edition

Appendix 13.16 Deleted

OPM Issue 113
Public Edition

Chapter 14—Operational Skills and Practices

14.1 Introduction 1117

14.2 Definitions 1117

14.3 Use of force 1117

14.3.1 Decision-making and planning the approach 1118
14.3.2 Situational Use of Force Model (2016) 1118
14.3.3 Open hand tactics 1120
14.3.4 Closed hand tactics 1121
14.3.5 Use of lethal force 1121
14.3.6 Responding to a person in crisis 1121
14.3.7 Post arrest collapse (medical risk factors) 1122
14.3.8 Monitoring restrained prisoners (positional asphyxia) 1124
14.3.9 Use of force reporting 1124
14.3.10 Operational Skills and Tactics (OST) training 1126
14.3.11 Operational Skills and Tactics training exemptions 1128

14.4 Service-issued weapons 1129

14.4.1 Authorisation to possess weapons off duty as part of an officer's performance of duty 1131
14.4.2 Authorisation to possess weapons off duty where a possible threat exists 1132
14.4.3 Staff members (authorisation to possess or use weapons as part of the performance of their duty) 1135
14.4.4 Exemptions (s. 2(1)(m) Weapons Act) 1135
14.4.5 Participation in Service firearms training by non-Service members 1136

14.5 Issue of firearms 1136

14.5.1 Service rifles 1137

14.6 Possession, maintenance, care and safety of weapons and officers' responsibilities 1139

14.6.1 Possession of weapons and ammunition when travelling 1139
14.6.2 Security of weapons and ammunition 1140
14.6.3 Maintenance of firearms 1140
14.6.4 Safety of firearms 1141
14.6.5 Responsibilities of officers in charge of stations and establishments 1141
14.6.6 Firearms training officers (responsibilities) 1142
14.6.7 Firearms and firearm holster modifications 1143
14.6.8 Return of accoutrements while on extended absence 1143
14.6.9 Operational equipment development and approval 1143
14.6.10 Load bearing vests 1145
14.6.11 Deleted 1145
14.6.12 Carriage and use of knives, multifunction and rescue tools 1145

14.7 Use of firearms 1146

14.8 Psychological first aid 1148

14.8.1 Deployment of a dedicated psychological first aid (PFA) resource 1148
14.8.2 Notification for Workforce Management and Wellbeing Division 1149
14.8.3 Responsibilities of a dedicated psychological first aid (PFA) resource 1150

14.9 Carriage of firearms—generally 1150

14.9.1 Plain clothes officers 1150
14.9.2 Officers in uniform 1151
14.9.3 Use of appropriate holsters 1151

14.10 Surrendering firearms, handcuffs, batons and ammunition 1151

14.11 Carriage of firearms, ammunition, handcuffs, batons, conducted energy weapons and Oleoresin Capsicum (OC) spray etc. on aircraft at airports 1151

OPM Issue 113 Public Edition

14.11.1 Definitions 1151
14.11.2 Carriage of weapons and prohibited items on prescribed aircraft and at security controlled airports (Aviation Transport Security Act) 1152
14.11.3 Additional storage and packaging requirements for transport of dangerous goods 1152
14.11.4 Deleted 1154
14.11.5 Carriage of weapons and prohibited items at airports and through screening points 1154

14.12 Carriage of firearms in court, the Family Court and in Crime and Corruption Commission premises 1154

14.12.1 Carriage of firearms and controlled items in Queensland courts 1154
14.12.2 Carriage of firearms in Family Court premises 1154
14.12.3 Carriage of firearms by officers attending Crime and Corruption Commission premises 1154

14.13 Carriage of firearms in mental health units or hospitals 1155

14.14 Carriage of firearms and ammunition in correctional centres, detention centres and watch-houses 1156

14.14.1 Carriage of firearms and ammunition in correctional centres and detention centres 1156
14.14.2 Carriage of firearms and ammunition in watch-houses 1156

14.15 Weapon mounted light source 1156

14.16 Carriage of firearms—domestic violence 1157

14.17 Officers affected by a relevant medical condition 1157

14.18 Batons 1158

14.18.1 Use of batons 1158
14.18.2 Issue and surrender (extendable batons) 1158
14.18.3 Extendable baton training 1159
14.18.4 Carriage of extendable batons 1159
14.18.5 Storage (extendable batons) 1159
14.18.6 Maintenance and replacement (extendable batons) 1159
14.18.7 Long batons 1159

14.19 Handcuffs 1160

14.19.1 Use of handcuffs 1160
14.19.2 Handcuffing of children 1162
14.19.3 Carriage of handcuffs 1162
14.19.4 Storage of handcuffs 1162
14.19.5 Flexible handcuffs 1162
14.19.6 Body belts and leg cuffs 1163

14.20 Protective body armour 1163

14.20.1 Protective body armour (Service-issued) 1163
14.20.2 Protective body armour (privately-owned) 1166
14.20.3 Integrated load bearing vests 1167

14.21 Oleoresin Capsicum (OC) spray 1169

14.21.1 Use of Oleoresin Capsicum spray 1169
14.21.2 Decontamination and aftercare 1170
14.21.3 Interviewing a person affected by Oleoresin Capsicum spray 1170
14.21.4 Reporting the use of Oleoresin Capsicum spray 1170
14.21.5 Issue and return of Oleoresin Capsicum spray canisters 1171
14.21.6 Recording of Oleoresin Capsicum spray canisters 1171
14.21.7 Disposal of used, damaged or expired Oleoresin Capsicum spray canisters 1171
14.21.8 Carriage of Oleoresin Capsicum spray canisters 1172
14.21.9 Transport of Oleoresin Capsicum spray canisters 1172
14.21.10 Training of Oleoresin Capsicum spray 1172

14.22 Responsibility for Service equipment 1172

OPM Issue 113 Public Edition

14.22.1 Operational equipment 1173
14.22.2 General equipment 1174
14.22.3 Uniform Items 1174
14.22.4 Reporting loss or damage or defect 1174
14.22.5 Equipment management strategies 1175

14.23 Conducted energy weapons (Tasers) 1176

14.23.1 Definitions 1176
14.23.2 Taser training 1177
14.23.3 Use of Tasers 1177
14.23.4 Use of more than one Taser 1178
14.23.5 Using the Taser on people who are suspected of mental ill-health 1179
14.23.6 Special precautions to avoid eye and head injuries 1179
14.23.7 Probe removal and disposal 1179
14.23.8 Reporting the use of a Taser 1179
14.23.9 Carriage of a Taser 1180
14.23.10 Storage 1181
14.23.11 Taser repairs and replacement 1181
14.23.12 Downloading data from a Taser 1181
14.23.13 Officer in charge and district officer responsibilities 1181
14.23.14 Review of Taser incidents 1183

14.24 Priority codes 1183

14.24.1 Priority codes 1184
14.24.2 Criteria for assigning a priority code 1184
14.24.3 Negotiated response 1185
14.24.4 Outcomes of negotiated response agreements 1185
14.24.5 Approval of Regional/Command/District negotiated response policies 1186
14.24.6 When negotiated response agreements may be entered into 1186
14.24.7 When negotiated response agreements may not be entered into 1187
14.24.8 Procedures to be adopted when negotiated response agreements cannot be fulfilled 1187
14.24.9 Single officer patrols 1187

14.25 Radio communications 1187

14.25.1 GWN talkgroups, radio channels, identification and call signs 1187
14.25.2 Correct radio procedure 1188
14.25.3 Radio and communication procedures generally 1188
14.25.4 Requests for urgent assistance and remote monitoring 1189
14.25.5 Use of activity codes during radio transmissions 1190
14.25.6 Use of operations talkgroups, interoperable talkgroup and analogue operational talk channels 1190
14.25.7 Repairs to radio equipment 1191
14.25.8 Recording radio transmissions 1191

14.26 Use of force options for intercepting offenders in vehicles 1191

14.26.1 Pre-emptive force against an offender in a vehicle 1193

14.27 Jack's Law—Use of hand held scanners without warrant 1193

14.27.1 Senior police officers for Jack's Law 1196
14.27.2 Issuing a hand held scanner authority for a public place 1196
14.27.3 Procedure for issuing a hand held scanner authority 1197
14.27.4 Exercising Jack's Law powers at a relevant place 1197
14.27.5 Scanning a person at a relevant place and public places 1199
14.27.6 Searching of a person 1200
14.27.7 Hand held scanner recordings, audits and reporting 1200

14.28 Miscellaneous operational matters 1201

14.28.1 Rendering assistance to stranded motorists and passengers 1201
14.28.2 Remotely piloted aircraft systems 1202
14.28.3 Queensland Health harm reduction services 1203
14.28.4 Police bicycle patrols 1203

OPM Issue 113 Public Edition

14.28.5 First Aid response and Service First Aid kits 1204
14.28.6 Responding to persons with altered levels of consciousness 1206
14.28.7 Borrowing or using non-Service property for operational purposes 1207

14.29 Miscellaneous duties performed by police 1207

14.29.1 Service of civil processes and other documents 1207
14.29.2 Public Trustee 1209
14.29.3 Family Law Act 1209
14.29.4 Extraneous duties of officers and officers in charge of stations 1209
14.29.5 Service of New South Wales court attendance notices 1209
14.29.6 Interstate service of an originating process 1211

14.30 Use of tyre deflation devices 1212

14.30.1 Authority to deploy tyre deflation devices 1213
14.30.2 Authorising TDD Use 1213
14.30.3 Identification of approved sites 1214
14.30.4 Use of approved sites 1214
14.30.5 Use of non-approved sites 1214
14.30.6 TDD deployment methods 1215
14.30.7 Officer responsibilities 1215
14.30.8 TDD use during a pursuit 1216
14.30.9 QPRIME Use of Force report 1216
14.30.10 Significant Event Message reporting by exception 1217
14.30.11 Cross border activities 1217
14.30.12 TDD training 1217
14.30.13 TDD use of force reviews 1217
14.30.14 Protection of methodologies 1218
14.30.15 Maintenance 1218
14.30.16 Compensation 1219

14.31 Use of Taser 10 energy weapons 1219

14.31.1 Definitions for Taser 10 use 1220
14.31.2 Use of Taser 10 1221
14.31.3 Data transfer from a Taser 10 1223
14.31.4 Taser management responsibilities 1223

Appendix 14.1 Deleted 1226

Appendix 14.2 Authority to possess weapons 1227

Appendix 14.3 Airport security 'areas' and 'zones' 1228

Appendix 14.4 Threats to personal safety 1229

Appendix 14.5 Threats to property security 1230

Appendix 14.6 Other calls for service 1231

Appendix 14.7 Security controlled airports 1232

Appendix 14.8 Quick reference (use of force reporting requirements) 1233

OPM Issue 113 Public Edition

14.1 Introduction

This chapter consolidates matters relating to operational skills and practices employed by police. Officers should be aware of their powers and responsibilities in terms of legislation and best practices in connection with the contents of this chapter.

14.2 Definitions

For the purpose of this chapter:

Firearms training officers

are officers who have successfully completed a course of instruction, or as otherwise determined by the Service.

POST Instructors

are police operational skills and tactics instructors, who have successfully completed a course of instruction or as otherwise determined by the Service.

Service handgun

means a Service-issue handgun.

Service rifle

means a Service-issued rifle.

Service weapon

means a weapon issued by the Service to members of the Service for use in the performance of duties and includes an approved weapon.

Approved weapon

means a weapon approved for use in the performance of duties in accordance with Service policy or otherwise by a deputy commissioner or the Commissioner.

Taser training officers

are police operational skills and tactics instructors, who have successfully completed a course of instruction or as otherwise determined by the Service.

OPM Issue 113 Public Edition

14.3 Use of force

For the purpose of this section:

Officer

is reference to a police officer, protective services officer and watch-house officer.

Officers responding to an incident involving non-compliant offender(s) should aim to gain and maintain control without the use of unnecessary force.

ORDER

Officers are to only use the minimum amount of force necessary to safely resolve an incident.

The preservation of human life should remain a primary focus of officers attending any incident.

The force a protective services officer may use does not include force likely to cause grievous bodily harm or death.

It is lawful to use such force as may be reasonably necessary to overcome any force used in resisting the execution of any lawful process or arrest. However, it is unlawful to use more force than is justified by law to affect a lawful purpose.

If an officer is required to use physical force to affect a lawful process, or in self-defence of themselves or others, control should be established as quickly as practicable. Once control and restraint has been achieved, officers should transition from ‘use of force’ to ‘provision of care’ without unnecessary delay and ensure an ongoing assessment of the subject person is conducted.

The time it takes for an officer to transition from using force and establishing control to becoming the care provider could be the difference between a subject person making a full recovery or the situation deteriorating rapidly and becoming a medical emergency.

If an officer suspects a subject person is suffering a medical emergency (which includes a change in consciousness), urgent medical assistance is to be requested without delay ensuring clear, succinct and correct information is provided

in the request. Once medical assistance is in attendance a casualty handover is to be conducted (see s. 14.3.7: 'Post arrest collapse (medical risk factors)' of this section).

It is the responsibility of all officers involved in any interaction with the public, in particular those matters involving a use of force, to assist colleagues in doing their job. This may include fixing something that is going wrong, intervening where a use of force is excessive and reporting instances of excessive use of force (see s. 14.3.9: 'Use of force reporting' of this section).

For all use of force reporting requirements, in addition to the information contained in this section, see Appendix 14.8: 'Quick reference (use of force reporting requirements)' of this chapter.

Continual threat assessment

During any interaction, officers are to conduct a continual threat assessment. This means considering any **person, object or place** which could put the officer (or others) at risk, and understanding that in all situations every person, object or place falls into one of two categories. These categories are:

(i) high risk, which refers to an obvious risk such as attending an armed robbery call or responding to a person armed with a weapon; and

(ii) assessed risk, which refers to a situation where an officer has assessed a person, object or place and considers a response based on the circumstances, the information known at the time and the officer's previous experience and training.

14.3.1 Decision-making and planning the approach

Prior to attending an incident, officers should plan an approach that allows for the minimum use of force necessary to be applied, in order to resolve the incident.

Whilst attending an incident, officers should conduct continual threat assessments, and continually re-assess plans, to make sound decisions about management of an incident and application of appropriate situational use of force. The safety of the general public, police and any individual/s subject to a use of force situation should be considered during the decision-making process.

Officers may develop an Incident Action Plan (IAP) by applying relevant elements of the ICENRIRE incident management model (see s. 1.12.7: 'Incident action plans' of this Manual).

At all times, the mission priority should be at the centre of planning and the decision-making process.

Planning includes, but is not limited to:

(i) gathering information and intelligence;

(ii) assessing threats and developing a working strategy;

(iii) considering powers and policy;

(iv) identifying options and contingencies; and

(v) engaging appropriate resources.

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Physical force should only be used as an operational necessity when other options have failed or have been assessed as being inappropriate for the circumstances.

Officers should familiarise themselves with the content of the Method of Entry (MOE) Learning Guide available on the Frontline Skills Training webpage on the Service Intranet. The Guide provides information about MOE techniques.

Officers should refer to s. 1.5: 'Planning' of this Manual for further information.

14.3.2 Situational Use of Force Model (2016)

The Service has adopted a 'Situational Use of Force (SUOF) Model' as a guide to assist officers when dealing with incidents requiring the use of force.

For the purpose of this section, officer refers to a police officer, watch-house officer and protective services officer.

The SUOF Model visually represents the use of force options available to officers, with communication central to all available options. Officers are to be aware that communication skills includes consideration and application of both verbal and non-verbal communication. Protective services officers and watch-house officers are only to consider the use of force options in which they are trained and authorised to use. Protective services officers and watch-house officers are not to use SUOF Model options likely to cause grievous bodily harm or death.

The 'Situational Use of Force Model' is not restrictive. Officers may select other use of force options to escalate or de-escalate the use of force, as necessary. When applying any use of force option officers should communicate effectively with all involved people, with the aim of de-escalation of the incident and/or resolution of the incident with minimum amount of force used. De-escalation means decreasing the magnitude, identified risks and/or intensity of a situation, with an aim to avoid or minimise the use of physical force.



Use of force considerations

The functions of the Service are contained in s. 2.3: 'Functions of service' of the PSAA. Briefly, these are as follows:

(i) the preservation of peace and good order;

(ii) the protection of all communities in the State;

(iii) the prevention of crime;

(iv) the detection of offences and bringing of offenders to justice;

(v) the upholding of the law generally;

(vi) the administration, in a responsible, fair and efficient manner and subject to due process of law and directions of the Commissioner;

(vii) the provision of services, and the rendering of help reasonably sought, in situations of emergency or otherwise; and

(viii) the provision of services for the security of state buildings.

The Service has adopted the philosophy of 'Consider all Options and Practise Safety' (COPS). Officers should embrace this philosophy when dealing with incidents which may require the use of force.

Officers should consider all the 'use of force' options available to them and all the circumstances of an incident when determining the most appropriate 'use of force' option(s) to be used.

Officers should bear in mind that all 'use of force' applications must be:

(i) authorised;

(ii) justified;

(iii) reasonable / proportionate / appropriate;

(iv) legally defensible; and

(v) tactically sound and effective.

In this regard:

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(i) police officers should consider the provisions of ss. 615: 'Power to use force against individuals—police officers' and 616: 'Power to use force against individuals in critical situations' of the PPRA and s. 283: 'Excessive force' of the CC;

(ii) protective services officers should consider the provisions of s. 615A: 'Power to use force against individuals—protective services officers' of the PPRA and s. 283: 'Excessive force' of the CC; and

(iii) watch-house officers should consider the provisions of ss. 652: 'Power to use force against individual at watch-house', 653: 'Power to use force—transfer etc. of person in custody to or from court cell or other place' and 612: 'Assistance in exercising powers' of the PPRA and s. 283: 'Excessive force' of the CC.

Officers should also consider the following factors when selecting a 'use of force' option:

(i) the physical attributes of the person concerned as opposed to the police officer or watch-house officer;

(ii) the circumstances and location of the incident;

(iii) the possibility that the police officer or watch-house officer may be required to increase or decrease the initial 'use of force' option as the situation changes;

(iv) the possibility of injury to the police officer or watch-house officer;

(v) the possibility of injury to the person concerned;

(vi) the possibility of injury to other persons;

(vii) in the case of police officers, the requirement to act quickly and professionally (having made the decision to make an arrest) to prevent an escalation of an incident; and

(viii) the requirement for decisions made by police officers and watch-house officers to satisfy the 'SELF Test' (see the 'SELF Test' decision making model on the Service Intranet).

There is a risk of causing injury or death to a person by the application of some 'use of force' options. Therefore, police officers and watch-house officers should exercise due care at all times when using any of these options.

Communication

Communication includes the application of both verbal and non-verbal communication skills. Officers should, in aiming to de-escalate any conflict situation, use calm and even communication with a view towards negotiation rather than use of force. Effective communication involves engagement and trying to establish a connection with another person. Examples of effective communication skills in this context can include:

(i) calling the person by their name;

(ii) asking open-ended and clarifying questions;

(iii) taking steps to put the person at ease;

(iv) trying different approaches to making a connection; and

(v) explaining what you're doing.

Situational containment

Situational containment is the process of assessing a situation and identifying the hazards, potential risks, threat levels and the likelihood of situation escalation. Situational containment maintains control through containment of a threat within a cordoned area whilst minimising the threat of escape and any potential triggers of escalation or expansion.

Tactical repositioning

Tactical repositioning is a decision to move to an alternate position when faced with a real and present danger in order to allow officers to tactically plan and assess a response to an incident. Tactical repositioning may enhance control and safety without providing a significant advantage to the threat and can include withdrawing, creating distance, advancing or moving to cover.

Other resources

Other resources are the use of improvised equipment, items, weapons or personnel necessary to effectively resolve an incident, in accordance with the provisions of this section, where application of standard options is not appropriate or available. This may include the activation of specialist units or personnel (e.g. SERT, EORT, negotiators), the use of their methodologies, tactics and equipment. Other resources may also include obtaining assistance from agencies or authorities external to the QPS to assist in resolving the incident (e.g. QFD, health professionals etc.).

14.3.3 Open hand tactics

Open hand tactics are skills that may be used by officers when control of a policing situation cannot be achieved otherwise. Open hand tactics equip officers with a range of operational skills and tactics which assist officers in performing their functions safely, efficiently and effectively. Application of these tactics may allow officers to achieve and maintain control of a subject or policing situation.

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Open hand tactics may include but are not limited to:

(i) come along and escort holds;

(ii) wrist and arm locks;

(iii) arm restraint holds and upper body holds;

(iv) pressure point control tactics;

(v) transition techniques; or

(vi) ground restraint.

Pressure point control tactics

Pressure point control tactics are taught to police officers and watch-house officers as part of operational skills and tactics training.

Police officers and watch-house officers should not use pressure point control tactics to areas above the shoulders of individuals, unless:

(i) an incident is assessed as high risk and there is an immediate operational necessity to apply the restraint; or

(ii) acting or aiding in self-defence.

In particular, this applies to crowd control situations and demonstrations generally.

14.3.4 Closed hand tactics

Closed hand tactics refers to officers using their body to strike a person in order to defend themselves, or to achieve a tactical advantage. Such tactics include but are not limited to punches, elbows, knee strikes or kicks. Application of these tactics may allow officers to achieve and maintain control of a subject or policing situation.

Closed hand tactics are an available option to defend against the threat of serious injury, and in particular circumstances may be the only effective tactical option available to an officer. Officers are to only use the minimum amount of force necessary to resolve an incident.

14.3.5 Use of lethal force

The terms ‘lethal force’ and ‘less lethal force’ are defined in the SMD.

Criminal Code

Sections 271: ‘Self-defence against unprovoked assault’ and 272: ‘Self-defence against provoked assault’ of the CC provides circumstances where a person is excused from criminal responsibility for the use of force in self-defence in preservation from death or grievous bodily harm although such force may cause death or grievous bodily harm.

Section 273: ‘Aiding in self-defence’ of the CC makes it lawful for a person aiding another person to use a like degree of force to defend the other person where the use of force would have been lawful for the person to have used in the circumstances.

Police Powers and Responsibilities Act

Section 616: ‘Power to use force against individuals in critical situations’ of the PPRA provides police officers with the power to cause death or grievous bodily harm in certain circumstances. The force used may include force likely to cause grievous bodily harm to a person or a person’s death but before using such force the police officer must, if practicable, first call on the person to stop doing the act (ss. 616(4) and 616(5) of the PPRA).

However, under the provisions of s. 652: ‘Power to use force against individual at watch-house’ and s. 653: ‘Power to use force—transfer etc. of person in custody to or from court cell or other place’ of the PPRA, the force a watch-house officer can use does not include force likely to cause grievous bodily harm to a person or the person’s death.

Police officers and watch-house officers should consider all of the ‘use of force’ options available to them and all of the circumstances of an incident when determining the most relevant level of force to be used.

14.3.6 Responding to a person in crisis

A person in crisis:

(i) refers to an individual experiencing a temporary or prolonged state of psychological, emotional or behavioural instability that impairs their ability to function or respond to situations rationally and safely;

(ii) may exhibit behaviours that pose a risk to:

(a) themselves;

(b) others; or

(c) property,

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such as self-harm, aggression or erratic and unpredictable actions. They may also struggle to process information, communicate effectively or comply with directions;

(iii) may present with symptoms that align with diseases such as:

(a) schizophrenia;

(b) bipolar disorder;

(c) severe mood disorders; and

(d) delusional episodes.

Various factors can contribute to these episodes, including changes in medication. Distinguishing between drug-induced and naturally occurring psychosis can be challenging; however, both conditions have the potential to be life-threatening and must be treated as medical emergencies.

These episodes can escalate rapidly, particularly if the individual is suffering from hyperthermia (elevated body temperature). This condition poses a serious risk of sudden respiratory or cardiac arrest, potentially leading to death within minutes without prompt medical attention. The situation may be further complicated by the presence of substances such as alcohol, cannabis, opioids, or other drugs.

ORDER

When responding to persons in crisis, officers are:

(i) not to make clinical diagnoses;

(ii) to consider all options, practice safety and apply de-escalation strategies where possible;

(iii) to seek medical assistance for the person as soon as practicable and where required arrange transport of the person by ambulance service. Officers should not transport a person to a hospital or other medical facility in a Service vehicle unless exceptional circumstances exist.

Exceptional circumstances may include situations where medical assistance is not available within a reasonable time period and medical advice indicates the person needs medical treatment immediately, or where if requested to transport the persons (e.g. for safety reasons) by ambulance or paramedic staff.

See also s. 14.3.7: 'Post arrest collapse (medical risk factors)' of this chapter and the 'Police Operational Skills and Tactics Learner Guide' (the POST Learner Guide) which is located on the Training and Development SharePoint page.

14.3.7 Post arrest collapse (medical risk factors)

Officers may encounter individuals in custody who are at risk of collapsing or experiencing a fatal incident due to:

(i) physical resistance;

(ii) pre-existing conditions; or

(iii) other factors,

often without warning. Officers are to closely monitor and assess detainees in compliance with s. 16.13: 'Health of prisoners and persons in custody' of this Manual.

Officers are to be aware that the risk of a person collapsing or suffering from a fatal incident may be increased by:

(i) pre-existing medical conditions;

(ii) alcohol or drug use;

(iii) psychostimulant-induced episode or crisis (see s. 14.3.6: 'Responding to a person in crisis' of this chapter);

(iv) positional asphyxia (see s. 14.3.8: 'Monitoring restrained prisoners (positional asphyxia)' of this chapter); or

(v) use of restraints, including:

(a) mechanical restraints (e.g. handcuffs);

(b) physical restraint holds; or

(c) multiple officers restraining the individual.

Officers must provide constant face-to-face monitoring for persons in crisis, particularly when there is a high risk of positional asphyxia (see s. 14.3.8: 'Monitoring restrained prisoners (positional asphyxia)' of this chapter).

Officers are to ensure that transporting and watch-house officers are informed of the arrest circumstances to ensure ongoing health assessments are conducted of the person in custody.

The 'Custody and Arrest Risk Evaluation' (CARE) guide supports officers in identifying potential health risks, especially after intense struggles or physical exertion. Officers should continuously assess custody situations and use their discretion to determine appropriate actions.

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Immediate medical assistance should be sought if the following signs are observed:

(i) profuse sweating and simultaneous shivering;

(ii) loss of consciousness;

(iii) semi-conscious and unresponsiveness;

(iv) seizure;

(v) respiratory rate below 6 breaths per minute;

(vi) severe headache;

(vii) chest pain;

(viii) obvious respiratory distress; or

(ix) gagging, coughing or choking lasting longer than 4 minutes after OC Spray.

CUSTODY AND ARREST RISK EVALUATION (CARE) GUIDE	
INDICATORS Officers who observe or detect multiple indicators should exercise extreme diligence in regard to the subject's health and wellbeing.	
ALCOHOL RELATED • Alcohol consumption and intoxication • Acute alcohol intoxication • History of alcohol abuse	**DRUG RELATED** • Recent drug consumption • Stimulants (ephedrine, amphetamines, cocaine and ecstasy) • Depressants (minor tranquillisers, cannabis, heroin, morphine, codeine and methadone) • Hallucinogens (ketamine, LSD, mescaline, cannabis and ecstasy) • Steroids • Volatile substances (aerosols, solvents, petrol and glue) • Anti-psychotic drugs • History of drug abuse • Poly drug use (consumption of more than one drug)
BEHAVIOUR RELATED • Previous and current mental illness • Bizarre behaviour • Shouting • Paranoia • Violence against others • Display of above normal physical strength • Sudden tranquillity and/or lethargy • Confusion and/or disorientation • Hallucinations • Loss of inhibitions • Restless	**PHYSICAL RELATED** • Obesity • Large stomach (beer belly) • Profuse sweating • Shivering • 'Ragged' or laboured breathing • Lack of effectiveness of OC Spray • Cyanosis (blueness) of lips and/or nail beds • Moderate physical activity • Intense physical activity • Restrained under bodyweight • Excessive compression of neck • Exposure to Taser deployment/s • Flushed (or pallid) complexion

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14.3.8 Monitoring restrained prisoners (positional asphyxia)

Positional asphyxia can occur when body position interferes with respiration. This risk is heightened when a person is restrained in the prone position. Officers are to limit prone restraint to the minimum time necessary to gain and maintain control of that person. When using force to control a person, officers are to:

(i) be cognisant of their duty of care to the person being restrained;

(ii) Consider all Options and Practice Safety (COPS);

(iii) only use force that is reasonably necessary with regard to their continual threat assessment in accordance with the provisions of s. 14.3: 'Use of force' of this chapter.

Risks associated with body-weight pressure

Officers are to be aware of the potential for serious health risks when applying body-weight pressure to obtain physical control of a person. Wherever possible officers are to avoid prolonged application of body-weight pressure to critical areas such as the chest, back, abdomen, pelvis, neck, face or head of a person, unless it is reasonably necessary to achieve and maintain control of that person. Any such pressure should be minimised or removed as soon as practicable.

Prolonged body-weight pressure on these areas can impair respiratory function by restricting movement of their chest and diaphragm thereby impacting their ventilatory capacity. Furthermore, applying body-weight pressure to the chest, abdomen, or pelvis can decrease venous blood return to the heart, potentially leading to cardio-pulmonary compromise and, in some cases, death (see also s. 14.3.7: 'Post arrest collapse (medical risk factors)' of this chapter).

The following factors increase the risk of a person experiencing positional asphyxia:

(i) substance use and intoxication;

(ii) mental state such as a person in crisis in conjunction with certain restraints (see s. 14.3.6: 'Responding to a person in crisis' of this chapter);

(iii) violent muscular activity;

(iv) high stress situations;

(v) physical characteristics such as obesity; and

(vi) any physical positioning that may place pressure on the abdomen or chest.

ORDER

Officers should ensure restrained persons are placed in an upright or seated position or rolled onto their side for the purpose of transportation. Officers are not to transport restrained persons in a prone or face down position.

Prior to transporting any person under arrest or otherwise in police custody in a Service vehicle, officers are to:

(i) conduct an AVPU consciousness scale assessment (see 'AVPU consciousness scale' as contained in chapter three of the Tactical First Aid Learner Guide available on the Operational Training Services Media Library SharePoint page); and

(ii) where possible verbally articulate and visually record the AVPU assessment on their BWC; and

(iii) provide via police radio communications, or other means if radio communications are not available, the relevant Police Communications Centre (PCC) the outcome of the AVPU consciousness scale assessment on the assessed person.

If, due to circumstances beyond the control of the officer conducting the transport, communication with PCC is not reasonably practical, for example their location is without police radio or mobile telephone network coverage, officers are to report the outcome of the person's AVPU consciousness scale assessment to the relevant PCC once communication becomes practicable.

14.3.9 Use of force reporting

For the purposes of this section:

First aid

means the provision of first aid services required for the initial treatment of a person suffering an injury (e.g. placing a compression bandage on a wound).

Injury

means an identifiable bodily injury to a person requiring first aid or medical treatment by a qualified ambulance officer (including honorary ambulance officers), nurse or doctor at the time of the incident.

The term injury includes abrasions, cuts, and fractures requiring first aid or medical treatment. An injury is more than mere pain, discomfort, bruising or swelling alone that does not require first aid or medical treatment.

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The term injury does not include psychological injury and psychiatric injury.

Medical treatment

means carrying out a medical procedure for the initial treatment of a person suffering an injury (e.g. suturing an open wound and resetting a broken limb).

Medical treatment does not include treatment beyond initial diagnostic tests, advice or treatment.

Reportable use of force incident

means an incident where:

(i) an officer uses:

(a) a Service-issued firearm;

(b) a Taser;

(c) OC spray;

(d) any chemical or irritant agent by specialist police personnel e.g. PSRT;

(e) a tyre deflation device; or

(f) boxing in techniques against an occupied vehicle of interest, whether stationary or mobile;

(ii) an injury occurs to any person (including an officer), as a result of:

(a) an officer using open or closed hand tactics;

(b) an officer using restraining accoutrements;

(c) an officer using a baton;

(d) the deployment of a police dog as a use of force option; or

(e) the deployment of a police horse as a use of force option e.g. crowd control;

(iii) an officer presents and uses an object as a use of force option against a person e.g. fence paling, branch, guide post, etc; or

(iv) an officer is the driver of a Service vehicle involved in a pursuit, whether the primary unit or not (see s. 15.5: 'Pursuits' of this Manual).

An incident that occurs in a training environment is not a reportable use of force incident.

Use of Service-issued firearm, Taser and OC spray

For the definition of 'use of':

(i) a Service-issued firearm (see s. 14.7: 'Use of firearms' of this chapter);

(ii) a Taser (see s. 14.23.8: 'Reporting the use of a Taser' of this chapter); and

(iii) OC spray (see s. 14.21.4: 'Reporting the use of Oleoresin Capsicum spray' of this chapter),

(iv) a tyre deflation device (see s. 14.30: 'Use of tyre deflation devices' of this chapter); and

(v) boxing in techniques against an occupied vehicle of interest, whether stationary or mobile (see ss. 15.1.5: 'Use of Service vehicles to employ boxing in techniques against an occupied stationary VOI'; 15.1.6: 'Restrictions on locations to employ boxing in techniques against an occupied stationary VOI'; and 15.6.2: 'Use of Service vehicles to employ boxing in techniques against a mobile VOI' of this Manual).

Responsibility of all officers

It is the responsibility of all officers when interacting with the public, in particular those matters involving a use of force to:

(i) assist your colleagues in doing their job;

(ii) fix something that is going wrong;

(iii) intervene when a use of force is excessive; and

(iv) report instances of excessive use of force (see s. 14.3: 'Use of force' of this chapter).

Use of force report

When a reportable use of force incident occurs:

(i) the member using the reportable use of force option, or their supervisor if the member is incapacitated, is to ensure a 'Use of force report' is completed; and

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(ii) a person other than the subject person is injured, the reporting member is to ensure an 'Injury report' is completed,

in the relevant QPRIME occurrence within 24 hours of the occurrence being generated.

QPRIME custody report 'use of force' tab to be completed

ORDER

Where an officer has initially:

(i) arrested or detained a person; or

(ii) received in a watch-house a transferred prisoner from corrective services,

the officer is to complete or cause to be completed the QPRIME custody report use of force tab in accordance with the QPRIME User Guide.

Additional reporting requirements

Completion of a 'Use of force report', Custody report 'Use of force' tab or 'Injury report' is in addition to any:

(i) reporting requirements of the Incident/Injury Notification and Reporting System on the Service Intranet; and

(ii) applicable significant event reporting requirements (see s. 1.18: 'Significant events' of this Manual).

Policelink client service officers are to enter the 'Use of force report' and where applicable the 'Injury report' in QPRIME when contacted by the reporting member.

See Appendix 14.8: 'Quick reference (use of force reporting requirements)' of this chapter to assist members in determining their use of force reporting requirements.

Where a member is required to complete a 'Use of force report' or 'Injury report' the member is to ensure the data is entered on the related QPRIME occurrence.

Special Emergency Response Team exempt from use of force reporting

Members of the Special Emergency Response Team are exempted from the QPRIME use of force reporting requirements of this policy unless otherwise directed by the Deputy Commissioner, Disaster and Emergency Management.

Public Safety Response Team exempt from QPRIME use of force reporting requirements in certain circumstances

Officers performing duty as members of the Public Safety Response Team are exempted from the QPRIME use of force reporting requirements of this policy where the reportable use of force incident involved a Service approved use of force option being removed from its carrier, case or holster, and carried and presented only, without it otherwise being used, deployed or fired, unless otherwise directed by the Deputy Commissioner, Disaster and Emergency Management.

Protective services officer use of force reporting

Whenever a protective services officer uses a use of force option, the officer is to;

(i) complete the QPRIME custody report use of force tab or injury report; and

(ii) complete an IMAC incident report.

14.3.10 Operational Skills and Tactics (OST) training

The Service has Operational Skills and Tactics (OST) training which is based on the 'Situational Use of Force Model'.

POLICY

For the purposes of this section, a 'training year' is the twelve-month period commencing on 1 July.

Operational Skills and Tactics (OST) training comprises of the following elements;

Operational Skills Training	Is holistic use of force training for the Queensland Police Service. The combination of 'less than lethal' and 'lethal' use of force options that form the basis of this training can be drawn from the Operational Skills, Conducted Energy Weapon (Taser), Service Pistol, Tactical First Aid, and Active Armed Offender training curriculum. This training may take the form of theoretical and skills based instruction. This training may introduce new techniques or tactics or alternatively; revise previously instructed techniques and tactics. This training may include an online learning product.

OPM Issue 113 Public Edition

Dynamic Interactive Scenario Training (DIST)	DIST is focussed on enhancing officers practical policing skills, decision making, and problem solving through scenario based training. The techniques and tactics that form the basis of this training can be drawn from the Operational Skills and Tactics, Service Pistol, Conducted Energy Weapon (Taser), Tactical First Aid, and Active Armed Offender training curriculum.
Pistol and Taser Requalification	Pistol requalification is the practical requalification with the Service Pistol. Officers are required to demonstrate competence with the Minimum Firearms Training Requirement, and tests of elementary training. Pistol training is based on the Service Pistol curriculum. Taser requalification is the practical requalification with the Conducted Energy Weapon (Taser). Officers are required to demonstrate competence with target deployment and tests of elementary training. Taser training is based on the Conducted Energy Weapon (Taser) curriculum.
Rifle Requalification	Rifle requalification is the practical requalification with the Service Rifle. Officers are required to demonstrate competence by achieving the designated rifle qualification standard, and tests of elementary training.

Delivery of OST training

POLICY

Operational Skills Training should be completed before Dynamic Interactive Scenario Training.

ORDER

Unless otherwise exempted (see s. 14.3.11: 'Operational Skills and Tactics training exemptions' of this Manual) by a Regional assistant commissioner, district officer or public service equivalent, all:

(i) Officers and watch-house officers are to undertake and complete any online training component associated with OST training as a prerequisite to undertaking training;

(ii) police officers are to undertake Operational Skills Training, Dynamic Interactive Scenario Training, and Pistol and where qualified Taser Requalification;

(iii) police officers who have successfully completed the Service rifle training course, should undertake Rifle Requalification; and

(iv) watch-house officers and protective services officers are to successfully complete the specific OST training course which reflects their available use of force options;

each training year.

Operational Skills and Tactics competence

ORDER

Officers who undertake OST training are required to maintain and demonstrate the required standard of competence with their operational skills and will be assessed as competent or not competent by an OST instructor.

If an officer fails to demonstrate the required standard of competence during:

(i) Operational Skills Training, Dynamic Interactive Scenario Training or Pistol and Taser Requalification training, for which they have previously qualified, they are immediately deemed not competent and the officer:

(a) is to relinquish the specific accoutrements in question to the OST instructor or to their respective officer in charge; and

(b) cannot perform operational duties,

until the officer successfully completes the training and is deemed competent; or

(ii) Rifle Requalification, for which they have previously qualified, the officer is not to use the Service rifle until the officer successfully completes the training and is deemed competent.

First Year Constables who successfully complete the relevant initial Service firearms, CEW (Taser) and policing skills qualifying courses as police recruits, are considered 'OST qualified' for twelve months from the date the officer is sworn in.

The Chief OST Instructor is responsible for ensuring the necessary systems are in place to enable OST training for officers to take place.

OPM Issue 113 Public Edition

Recognised prior learning

POLICY

The Chief OST Instructor can apply the principles of recognised prior learning to any part of the OST curriculum for any officer who can demonstrate through prior learning the required OST skills. Recognised prior learning can only be examined on written application through the chain of command to the Chief OST Instructor by the officer concerned, who will need to demonstrate to the satisfaction of the Chief OST Instructor the recognition of prior learning is appropriate under the circumstances.

14.3.11 Operational Skills and Tactics training exemptions

Officers who are unable to meet Operational Skills and Tactics (OST) training requirements in accordance with s. 14.3.10: 'Operational Skills and Tactics (OST) training' of this chapter are to make application for an exemption.

Grounds for OST exemptions

The following grounds and approval periods for OST exemptions apply:

(i) Provisional Restriction (PR) for medical restrictions of 12 months or more (reviewed at 24 months);

(ii) Temporary Medical Restriction (TMR) for medical restrictions of less than 12 months;

(iii) Pregnancy or Breast Feeding (P/BF) (reviewed at 12 months) (see 'officers who are pregnant or breastfeeding attending firearms training' of this section); and

(iv) Special Circumstances Restriction (SCR) (reviewed at 12 months).

For SCR exemptions, examples can include those officers:

(i) subject to criminal or workplace investigations;

(ii) subject to a legal process e.g. domestic violence; or

(iii) on extended leave or secondments to external agencies.

An application for an OST exemption is to be made on a QP 0913: 'Application for Exemption from Operational Skills and Tactics (OST) Training' and submitted to the OIC for the approval by the district officer.

For SCR exemptions the regional assistant commissioner or equivalent is the approving authority.

Before an application for PR and TMR exemptions can be submitted, the officer must first contact the Injury Management Section, Safety and Wellbeing Division who will allocate a case number for inclusion on the QP 0913 and will manage the officer's injuries in coordination with the officer's region.

If an OST exemption has been granted and an extension is sought, a new application is to be submitted 4 weeks prior to the expiry of the current exemption.

Regions are to:

(i) maintain a record of all officers who have been exempted from undertaking OST training on Ignite;

(ii) ensure officers who are exempted from undertaking the practical component of OST training complete any computer based or non-practical skills curriculum training;

(iii) ensure a new QP 0913, if applicable is submitted 4 weeks prior to the expiration of an approved exemption; and

(iv) record the exemption in the regional register.

ORDER

Officers exempted from OST training are not to perform operational duties, including special services. An assistant commissioner or equivalent may provide an exemption to an officer who is only exempt in the firearms component of OST training to work in an operational role where a firearm is not required e.g. watch-house duties.

Where an officer is not qualified in Operational Skills and Tactics training, they are to travel to and from work in plain clothes. This does not apply if the officer is only exempt in the firearms component of OST training.

Exemptions only apply to practical skills training. Exempted officers are required to undertake all computer based or non-practical skills training within the exempted period.

Officers who are pregnant or breastfeeding attending firearms training

Officers who are pregnant are not to participate in firearms training or attend a firearms range and are to apply for an OST exemption as soon as they become aware they are pregnant.

Officers who are breastfeeding:

(i) are not to be directed to attend firearms training; and

(ii) if they decide not to participate in firearms training are to submit a QP 0913.

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Officers who are breastfeeding and who choose to attend firearms training are to:

(i) review the Health and Safety Lead and Breastfeeding fact sheet contained on the Safety and Wellbeing SharePoint page;

(ii) advise their district firearms training officer (who will apply for and obtain personal protection equipment (PPE) from Safety and Wellbeing and record the officer's decision on Ignite);

(iii) ensure they advise the officer in charge of a firearms practice that they are breastfeeding; and

(iv) wear all issued PPE and comply with the health guidelines.

Returning from OST training exemptions

When an officer returns from an OST training exemption, the officer is to undertake and complete:

(i) the current OST training curriculum prior to performing operational duties; and

(ii) all specified components of the OST training curriculum identified in the training matrix for the exemption period within 12 months of returning to operational duties.

Where an officer is able to complete OST training but has been exempt from the requirement to complete OST training for 3 or more years, the officer in charge of the officer's Education and Training Office is to:

(i) conduct a training needs analysis of the officer; and

(ii) deliver any additional training in order to meet the required standard of competence in OST.

ORDER

The Chief OST Instructor is to maintain a training matrix recording all elements covered in OST training over a 5-year period in order to:

(i) provide assistance and advice in the performance of the training needs analysis; and

(ii) identify the general needs of officers returning from OST training exemptions.

14.4 Service-issued weapons

For the purposes of this section:

Operational duty

means where officers are performing operational duties that are likely to involve physical interaction with members of the public.

Rostered duty

includes:

(i) scheduled duty as per the member's roster;

(ii) being recalled to duty while on call on a rotational basis;

(iii) being recalled to duty while permanently on call in locations with one or 2 permanently stationed officers;

(iv) being recalled to duty on overtime while not on call, provided the officer (though not subject to) would be in compliance with s. 5A.7: 'Alcohol limits' of the PSAA (see also s. 59: 'Possession or use of weapon under the influence of liquor or a drug prohibited' of the WA); or

(v) special duties.

Possession of a Service-issued weapon

Police officers, special constables, trainee members and other authorised members of the Service (see s. 2(1)(e): 'Application of Act' of the *Weapons Act* (WA)) may possess and use Service-issued weapons under the following conditions:

(i) only as part of the performance of their official duties;

(ii) in compliance with the relevant provisions of Service policy and Service-approved training; and

(iii) while off duty, only if acting in accordance with the Commissioner's direction regarding off-duty possession and use of weapons (see s. 2(1)(e)(ii) of the WA).

All authorised members are to adhere to the security precautions outlined in Part 21: 'Safety precautions generally' of the Weapons Regulation.

(see ss. 792: 'Performance of duty' of the PPRA and 2.3: 'Functions of service' of the PSAA).

OPM Issue 113 Public Edition

ORDER

Members are prohibited from possessing Service-owned and issued weapons whilst not on rostered duty, except in accordance with:

(i) s. 14.4.1: 'Authorisation to possess weapons off duty as part of an officer's performance of duty' of this chapter;

(ii) s. 14.4.2: 'Authorisation to possess weapons off duty where a possible threat exists' of this chapter;

(iii) s. 14.18.4: 'Carriage of extendable batons' of this chapter; and

(iv) s. 14.19.3: 'Carriage of handcuffs' of this chapter.

Protective body armour

Officers may possess protective body armour only with prior approval granted by the Commissioner, in accordance with Delegation D 8.1.

Wearing firearms and accoutrements whilst on rostered duty

ORDER

Officers recalled to duty on overtime, who:

(i) are not on call; and

(ii) would not comply with s. 5A.7 of the PSAA if they had been on a rostered shift,

are required to have a written exemption in accordance with the subsection 'Exceptions to wearing Service-issued weapons and prohibited items on duty' of this section below. Officers granted such exemptions are restricted to duties where the carriage and use of Service-issued weapons would not reasonably be expected.

Operational Skills and Tactics (OST) training

OST training is mandatory for all authorised members and is based on the 'Situational Use of Force Model' (see s. 14.3.2: 'Situational use of force model (2016)' of this chapter) linked to Service-issued accoutrements.

ORDER

All authorised members are to undertake OST training each training year in accordance with s. 14.3.10: 'Operational Skills and Tactics (OST) Training' of this chapter.

All OST qualified officers are to wear their:

(i) Service-issued firearm;

(ii) Taser;

(iii) oleoresin capsicum (OC) spray;

(iv) handcuffs; and

(v) extendable baton,

at all times whilst on operational duty.

All OST qualified Protective services officers (PSOs) are authorised to use:

(i) handcuffs; and

(ii) extendable batons,

in the performance of their duties.

All OST qualified Watch-house officers (WOs) are authorised to use:

(i) handcuffs;

(ii) body belts;

(iii) leg cuffs; and

(iv) oleoresin capsicum (OC) spray,

in the performance of their duties.

Exceptions to wearing Service-issued weapons and prohibited items on duty

Officers are to be aware exceptions to this order are outlined in the following sections of this Manual:

(i) s. 1.7.8: 'Police in schools';

(ii) s. 14.11: 'Carriage of firearms, ammunition, handcuffs, batons, conducted energy weapons and Oleoresin Capsicum (OC) spray etc. on aircraft at airports';

(iii) s. 14.12: 'Carriage of firearms in court, the Family Court and in Crime and Corruption Commission premises';

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(iv) s. 14.13: 'Carriage of firearms in mental health units or hospitals';

(v) s. 14.14: 'Carriage of firearms and ammunition in correctional centres, detention centres and watch-houses';

(vi) s. 14.16: 'Carriage of firearms—domestic violence';

(vii) s. 14.18.4: 'Carriage of extendable batons'; and

(viii) s. 14.23.9: 'Carriage of a Taser'.

Officers are exempt from this order where it is not practicable to carry their Service-issued firearm and accoutrements whilst travelling to or from the locations outlined in the above exceptions (e.g. police prosecutors and officers required to attend court, whilst travelling to and from court).

Further exemptions to this order may be granted in writing by:

(i) a director; or

(ii) a superintendent, or higher-ranking officer.

All ACs and executive directors are to maintain a central register of all written exceptions granted to officers within their areas of responsibility.

Wearing firearms and accoutrements whilst off rostered duty (travelling to and from work)

Where it is necessary for an officer to possess a Service-issued firearm, Taser and/or OC spray off duty see ss. 14.4.1: 'Authorisation to possess weapons off duty as part of an officer's performance of duty' and 14.4.2: 'Authorisation to possess weapons off duty where a possible threat exists' of this chapter.

OST qualified officers should carry their Service-issued:

(i) handcuffs; and

(ii) extendable baton,

whilst in transit to and from duty.

14.4.1 Authorisation to possess weapons off duty as part of an officer's performance of duty

For the purpose of this section:

Officer's performance of duty

refers to instances such as:

(i) police motorcyclists who take a Service motorcycle home; or

(ii) officers who are on-call on a regular basis and would be required to respond immediately to an incident from their home,

and would reasonably be expected to travel and be in possession of their accoutrements, including Service firearm and, if issued, a conducted energy weapon (Taser) and/or oleoresin capsicum (OC) spray.

Where it is necessary for an officer to possess a weapon off duty due to a possible threat to the officer or their immediate family, see s. 14.4.2: 'Authorisation to possess weapons off duty where a possible threat exists' of this chapter.

Authorisation framework

In accordance with s. 2(1)(e)(ii): 'Application of Act' of the *Weapons Act* (WA), district officers or branch managers (where an officer is not attached to a police district) may grant specific authorisation to an officer under their command to possess a Service-issued weapon at their residence or another location as part of that officer's performance of duty. This authorisation is subject to the following conditions:

(i) in the case of firearms:

(a) a suitable weapons storage facility is supplied and is properly fitted by the Service at the officer's residence or other place or a personal safe is properly fitted and is approved by the Service;

(b) the officer stores the firearm in the relevant weapons storage facility and the locking mechanism of the facility is engaged. If the weapons storage facility provides more than one locking mechanism (e.g. a keyed lock and a combination lock) all locking mechanisms provided are to be used; and

(c) any ammunition is stored elsewhere to the firearm in a manner consistent with s. 99: 'Requirements for storing small arms ammunition and power device cartridges' of the Explosives Regulation (ER); and

(ii) in all cases, the officer observes security precautions consistent with the WA and Weapons Regulation (WR) for the category of the weapon.

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Short-term or limited authorisations

In situations where an officer requires possession of a Service-issued weapon at their residence or another location for a short or limited period, district officers may authorise possession without requiring full compliance with the storage requirements outlined in subparagraphs (i) and (ii) above. An officer granted such authorisation is to:

(i) comply with the storage requirements of s. 60: 'Secure storage of weapons' of the WA and s. 94: 'Storage of particular weapons not in person's physical possession—secure storage facilities' of the WR; or

(ii) where compliance with (i) is not practical, adhere to the storage requirements outlined in:

(a) s. 95: 'Storage of weapon not in person's physical possession if away from secure storage facilities or visitor to Queensland—secure storage'; and

(b) s. 96: 'Safety precautions for weapons in or on vehicles' of the WR; and

(iii) additionally in the case of a firearm, ensure that ammunition is stored separately from the firearm in accordance with s. 99: 'Requirements for storing small arms ammunition and power device cartridges' of the ER.

Considerations for granting authorisation

When determining whether to grant specific authorisation under s. 2(1)(e)(ii) of the WA, district officers or branch managers should consider:

(i) the nature of the duties being performed by the officer;

(ii) the officer's personal circumstances, including the presence of children or other individuals in the residence or authorised location; and

(iii) whether the possession of a Service weapon at the officer's residence or other location is necessitated by more than minor inconvenience.

Authorisations given to officers for the possession of a Service weapon at an officer's residence or other place are to be recorded by the district officer or branch manager giving the authorisation. All ongoing or long-term authorisations are to be reviewed on a yearly basis to establish the necessity or otherwise of the authorisation to continue.

Where an officer is authorised to have possession of a Service weapon at their residence or other place as part of that officer's performance of duty on an ongoing basis, the district officer or branch manager is to:

(i) ensure QPRIME flags, against the officer and the residence, records the authorisation and the details of the weapons(s); and

(ii) the weapon storage facility; and

(iii) any ammunition storage and weapons clearing facilities,

installed at the officer's residence are inspected annually by an appropriately nominated officer.

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14.4.2 Authorisation to possess weapons off duty where a possible threat exists

For the purpose of this section, the term 'weapon' is limited to the following terms:

(i) Service owned 'category H' weapons (e.g. handguns) issued to an officer;

(ii) Service owned 'category E' weapons (protective body armour) issued to an officer;

(iii) privately owned 'category E' weapons (e.g. protective body armour);

(iv) Service owned 'category R' weapons (e.g. oleoresin capsicum (OC) spray etc.) issued to an officer; and

(v) Service owned 'restricted items' (e.g. handcuffs, baton etc.) issued to an officer.

ORDER

Members are not to possess a conducted energy weapon (Taser) while off duty.

Authorisation framework

If it is deemed necessary for an officer to possess a weapon off duty as part of an officer's performance of duty, see s. 14.4.1: 'Authorisation to possess weapons off duty as part of an officer's performance of duty' of this chapter.

The authority for officers to possess a weapon whilst not on duty is provided by the Commissioners direction in accordance with s. 2(1)(e)(ii): 'Application of Act' of the *Weapons Act* (WA).

All members of the Service who are authorised to possess one of the aforementioned weapons can, where a threat exists, request to possess such a weapon when off duty.

When an officer receives or is made aware of a possible threat to themselves or their immediate family they should familiarise themselves and comply with:

(i) Threats to police employees flowchart;

(ii) Safety and Wellbeing SharePoint page;

(iii) Specialist Operations, Threats to Police Employees SharePoint page;

(iv) s. 2.33: 'Security, Counter-Terrorism and Forensic Services Command' of this Manual; and

(v) Use of social media policy (available on the Service Intranet).

The supervising commissioned officer is to review:

(i) the officer's original request to possess a weapon off duty within 3 months of the request;

(ii) any continuation of the original approval within 12 months of the decision; and

(iii) annually where the officer continues to maintain off duty possession of a weapon.

Where circumstances change, an officer can decide to no longer possess a weapon off duty.

In deciding if it is necessary to possess a weapon when off duty, an officer must be satisfied on reasonable grounds that a threat:

(i) exists;

(ii) has been directed at themselves or a member of their immediate family;

(iii) represents a significant risk of grievously bodily harm or death; and

(iv) all other reasonable steps have been taken to mitigate the risk posed by the threat.

An officer is not to make a final decision to possess a weapon when off duty until they have:

(i) sought and received advice and guidance from their OIC;

(ii) considered any alternative options to mitigate the risk posed by the threat; and

(iii) submitted written notification to their OIC.

When a decision is made that it is necessary for an officer to possess a weapon off duty, the officer is to:

(i) submit a written report outlining:

(a) what weapon(s) the officer intends to possess off duty;

(b) how the officer proposes to secure the weapon(s) when not in their physical possession; and

(c) how the officer proposes to carry the weapon(s) when in their physical possession;

(ii) ensure their decision to possess a weapon off duty is recorded by the Prepare, Prevent, Protect Group (PPPG), Security, Counter-Terrorism and Forensic Services Command; and

(iii) ensure the officer, their family member(s) under threat and their residence are appropriately flagged in QPRIME.

When notified of an officer's request to possess or use a weapon off duty, the OIC is to:

(i) ensure that the provisions of s. 2.33 of this Manual have been complied with;

(ii) arrange for the officer, any relevant family members and their residence to be flagged in QPRIME as either 'Protected Security Person' (PSP) or Protected Security Location' (PSL);

(iii) ensure each flag is recorded to expire within 3 months of the officer's decision, with a notification date set 2 weeks prior to expiry;

(iv) ensure the QPRIME flags against the officer and the residence records the details of the weapon(s) (including serial number if applicable) in the possession of the officer; and

(v) ensure the station/establishment's accoutrements register is noted to record the officer's decision.

When notified of an officer's request to possess a weapon off duty, the supervising commissioned officer is to ensure:

(i) the provisions of s. 2.33 of this Manual have been complied with;

(ii) the officer's request is recorded by PPPG in relation to the threat;

(iii) the officer, any relevant family members and their residence are flagged in QPRIME;

(iv) the officer's request is reviewed:

(a) before the end of the initial 3-month period; and

(b) within 12 months and annually thereafter,

of the original approval and decide:

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(a) to direct the officer to no longer possess a weapon off duty (except as it relates to privately-owned personal body armour);

(b) to confirm the officer's decision to possess a weapon off duty for a:

- further 3 months (with or without any conditions); or
- longer period, less than 12 months and, where appropriate, commence a process to provide the officer with a secure storage facility in accordance with s. 60: 'Secure storage of weapons' of the WA (with or without any conditions);

(v) any decision is communicated in writing to both officer and the OIC of the relevant station/establishment; and

(vi) the:

(a) approved weapons storage facility; and

(b) any ammunition storage and weapons clearing facilities,

installed at the officer's residence are inspected after approval is granted for an officer to possess weapons off duty and annually by an appropriately nominated officer.

Where an officer decides it is no longer necessary to possess a weapon off duty, the officer is to:

(i) no longer possess a weapon off duty (except in the case of privately-owned protective body armour); and

(ii) notify their OIC of their decision in writing.

Storage of the weapon

Where a member of the Service decides it is necessary to possess a weapon when off duty but it is not necessary to maintain physical possession (i.e. carriage) of the weapon, the officer is to:

(i) comply with the storage requirements of s. 60: 'Secure storage of weapons' of the WA and s. 94: 'Storage of particular weapons not in person's physical possession—secure storage facilities' of the Weapons Regulation (WR); or

(ii) where that is not practical to comply with subsection (i), the officer is to comply with the storage requirements of ss. 95: 'Storage of weapon not in person's physical possession if away from secure storage facilities or visitor to Queensland—secure storage' and 96: 'Safety precautions for weapons in or on vehicles' of the WR.

In the case of a category H weapon (handgun), ammunition for the weapon is to be stored separately to the weapon (see s. 99: 'Requirements for storing small arms ammunition and power device cartridges' of the ER).

Physical possession of the weapon

Where a member of the Service decides it is necessary to possess a weapon off duty and they need to maintain physical possession of the weapon, they should do so:

(i) in their place of residence, in such a manner as to take all reasonable safety precautions to ensure that no other person will gain possession of the weapon;

(ii) elsewhere:

(a) in the same manner as they are authorised to do so whilst performing their functions as a member of the Service (see s. 14.9: 'Carriage of firearms—generally' of this chapter); and

(b) in accordance with Chapter 14: 'Operational Skills and Practices' of this Manual.

ORDER

Officers are not to use:

(i) non-Service-issued accoutrements, holsters or equipment; or

(ii) Service-issued accoutrements, holsters or equipment, for which they do not hold current Operational Skills and Tactics qualifications,

to carry a weapon whilst off duty.

Use of force reporting

ORDER

Where an off-duty officer is required to:

(i) present their Service firearm;

(ii) discharge their Service firearm; or

(iii) use their baton, oleoresin capsicum (OC) spray or handcuffs,

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to protect themselves or a family member, the officer is to contact the regional duty officer or patrol group inspector responsible for the incident location as soon as reasonably practicable.

The officer is to comply with s. 14.3.9: 'Use of force reporting' of this chapter in relation to the use of force.

The RDO or patrol group inspector is to:

(i) investigate the use of force;

(ii) review the level of safety of the officer and family members as a result of the incident; and

(iii) brief the relevant officer's district officer in relation to the incident.

14.4.3 Staff members (authorisation to possess or use weapons as part of the performance of their duty)

Assistant commissioners, chief superintendents and superintendents are delegated the authority to approve staff members to possess or use weapons as part of their official duties, in accordance with s. 2(1)(e): 'Application of Act' of the *Weapons Act* (WA) (see Delegation D 8.7).

ORDER

When staff members are assigned to duties requiring the possession or use of weapons, including participation in Service approved weapons training programs, the relevant assistant commissioner, chief superintendent, or superintendent may issue a specific authorisation under s. 2(1)(e) of the WA. A template for such authorisation is provided in Appendix 14.2: 'Authority to possess weapons' of this chapter.

Conditions for authorisation

Authorisation may only be granted if one of the following conditions is met:

(i) the assistant commissioner, chief superintendent or superintendent is satisfied that the staff member possesses the necessary expertise or experience; or

(ii) the staff member has satisfactorily completed approved training, in the safe handling of weapons.

Restrictions on authorisation

Authorisation must not be granted to any staff member who:

(i) is currently or has previously been named as a respondent in a domestic violence order (DVO) or an interstate order as defined under the DFVPA; or

(ii) is otherwise ineligible to obtain a weapons licence under s. 10B: 'Fit and proper person—licensees' of the WA to possess weapons.

Obligations of authorised staff

Staff members who are authorised to possess or use weapons under this policy, or who have previously been authorised, must immediately notify their relevant assistant commissioner, chief superintendent, or superintendent if they:

(i) are named as a respondent in a DVO or in an interstate order within the meaning of the DFVPA; or

(ii) become otherwise ineligible to hold a weapons licence under the WA.

Revocation of authorisation

If an assistant commissioner, chief superintendent or superintendent becomes aware that a staff member no longer meets the eligibility criteria, they are to take appropriate action to revoke the authorisation where required.

Record-keeping

Authorisations given to staff members for the possession or use of weapons as part of the performance of duty are to be forwarded to the Inspector, Manager Operations, Weapons Licensing Group, who is responsible for maintaining a register of the details of staff members provided with this authority.

14.4.4 Exemptions (s. 2(1)(m) Weapons Act)

Authority to grant exemptions

Assistant commissioners or other delegated persons, as authorised under s. 2(1)(m): 'Application of Act' of the *Weapons Act* (WA) (see Delegation D 8.1) may grant exemptions to officers for the possession and use of weapons outside the performance of their duties. Such exemptions are limited to participation in officially sanctioned competitions, such as police games.

This delegated authority is strictly limited to applications submitted by officers using the approved Form 15F: 'Application for an exemption' (available on Weapons Licensing Group SharePoint page).

Officers seeking an exemption are to:

OPM Issue 113 Public Edition

(i) fully complete a Form 15F: 'Application for an exemption'; and

(ii) submit it through their chain of command to:

(a) the relevant assistant commissioner; or

(b) for officers seconded to other government agencies, the Executive Director, Legal Division.

Upon receiving an application, the assistant commissioner or delegated officer must liaise with the Director, Weapons Licensing Group, to obtain an exemption number and ensure the accuracy of the Weapons Licensing computer records.

Whenever an assistant commissioner or other delegated person exercises the delegated power to issue exemptions pursuant to s. 2(1)(m) of the WA, the minimum requirement in any exemption should include the following conditions:

(i) the exemption specifically authorises the possession and/or the use of the specified weapon, which may include the location and storage of the weapon;

(ii) the time frame the exemption remains in force;

(iii) whenever any weapon subject to the exemption is not in the officer's actual physical possession, it is to be secured in a storage facility for the category of weapon as provided for in ss. 93–96 of the Weapons Regulation; and

(iv) any ammunition is stored elsewhere to the firearm in a manner consistent with s. 99: 'Requirements for storing small arms ammunition and power device cartridges' of the Explosives Regulation.

ORDER

Exemptions are not to be issued for the use of Service firearms in:

(i) non-police related sports;

(ii) target shooting competitions; or

(iii) practice sessions.

14.4.5 Participation in Service firearms training by non-Service members

For the purpose of this section:

Non-Service member

refers to a person who is not a police officer, recruit or staff member as defined in ss. 2.2: 'Membership of service' and 2.5: 'Administration of staff members' of the *Police Service Administration Act*.

Examples of non-Service members include visiting interstate or international police.

Where non-Service members seek to participate in Service-approved firearms training, a report seeking approval is to be submitted to the assistant commissioner of the region or command.

Assistant commissioners of regions or commands deciding whether to approve such applications should consider the applicability or otherwise of s. 53: 'An unlicensed person may use a weapon at an approved range' of the *Weapons Act* (WA).

Where s. 53 of the WA applies, the assistant commissioner of a region or command may give approval for a non-member of the Service to participate in Service-approved firearms training.

The officer making application for a non-Service member to participate in Service-approved firearms training is to ensure a Form 33A: 'Declaration by an unauthorised person for use of a weapon at an approved range' (available on the QPS Internet website) is completed and submitted with the application report.

ORDER

Where approval has been given by the assistant commissioner of the region or command, the participation of a non-Service member in Service-approved firearms training, is to be conducted in compliance with s. 53 and any other relevant provisions of the WA.

14.5 Issue of firearms

Firearms related material contained in this Manual should be read in conjunction with the applicable Operational Skills and Tactics (OST) training manuals and good practice guides.

The provisions of the Operational Procedures Manual are to take precedence over the contents of these manuals where any inconsistency between these manuals and Service policies, procedures or orders arises.

A Service firearm should not be issued to an officer unless the officer has been trained and qualified in the use of the particular type of firearm, as determined by a qualified firearms training officer.

OPM Issue 113 Public Edition

Service firearms may be issued on a personal or station/establishment basis, depending on the needs of each station/establishment.

Procedures for the requisition of Service firearms are contained on the QPS Armoury SharePoint page.

Should a Service firearm require replacement, a form QP 413: 'Requisition for weapon/restricted item' is to be completed and the reason for replacement is to be inserted in the comments box.

ORDER

All police officers are to undertake firearms training, unless otherwise exempted by their District officer. The Chief OST Instructor is to ensure that the necessary systems are in place to enable firearms training to take place.

Firearms training will be conducted over two sessions, identified as Block 1 and Block 2 OST training. To carry or use a Service firearm, officers are to qualify on each training session to a standard as determined by the Chief OST Instructor.

Officers who fail to qualify are to undertake further instruction at the earliest opportunity. Officers who fail to qualify after further instruction are to:

(i) deliver as soon as practicable, any Service firearm in their possession to:

(a) the firearms training officer who conducted such training; or

(b) another officer nominated by the firearms training officer; and

(ii) are not to use or carry that type of Service firearm until such time as the officer qualifies.

District officers are to maintain a record of officers in their area of responsibility, who are, or have been, exempted from undertaking the firearms training sessions of Blocks 1 and 2 OST training (see s. 14.3.10: 'Operational Skills and Tactics (OST) training' of this chapter).

Officers are not to use or carry a Service-issued firearm unless they have successfully completed firearms training to a standard as determined by the Chief OST Instructor.

In circumstances where a Service firearm is taken possession of as an exhibit following an incident involving an officer, a replacement firearm should normally be issued to that officer subject to consideration of the circumstances of the incident and the psychological state of the officer (see ss. 1.17.8: 'Purpose of a critical incident review' and 14.8: 'Psychological first aid' of this Manual).

Officers should not possess or use a Service firearm which has not been issued to them.

Officers are not to use or carry privately owned firearms while on duty, unless special circumstances exist and the OIC of their region or command has approved of the use of such firearm. In determining whether to approve the use of such firearm, the OIC should comply with s. 14.6.9: 'Operational equipment development and approval' of this chapter.

OPM Issue 113 Public Edition

14.5.1 Service rifles

For the purpose of this section:

Performance of duty

excludes Service-approved rifle training, other activity authorised pursuant s. 2(1)(m) of the *Weapons Act*, and activities involving the handling, maintenance or inspection of a Service rifle.

Use of Service rifles

Service rifles provide officers the capability to engage threats more accurately and at greater range than service pistols, enhancing safety by preventing weapon overmatch against offenders armed with long-arm weapons such as rifles or shotguns.

Service rifles are issued to stations or establishments for use by officers qualified as Service rifle users in the following circumstances:

(i) when a threat assessment indicates a Service rifle is an appropriate use of force option (see s. 14.3.2: 'Situational Use of Force Model (2016)' of this chapter;

(ii) during tactically dangerous situations (see s. 17.3.7: 'Tactically dangerous situations' of this Manual);

(iii) for the containment of high-risk situations until the arrival of the Special Emergency Response Team (see s. 17.10.4: 'Special Emergency Response Team (SERT)' of this Manual);

(iv) for high-risk operational functions performed by specialist units; or

(v) for the destruction of animals and livestock (see s. 13.16.4: 'Destruction of animals' of this Manual).

ORDER

Unless exceptional circumstances exist, officers are not to use a Service rifle in the performance of their duty unless currently qualified. First response Service rifle users are to ensure, where available, a Service rifle is carried in their

Service vehicle when on duty. An OIC may direct a Service rifle is not carried in a Service vehicle in accordance with local risk management assessment (e.g. in remote communities or during protests).

Carriage, storage and maintenance

OICs are responsible for ensuring that Service rifles issued to their station or establishment are stored in compliance with the Minimum Storage Standards for Weapons available on the Capital Planning Team SharePoint page.

In addition to this section, Service rifle users and OICs are to comply with:

(i) s. 14.6.4: 'Safety of firearms' of this chapter; and

(ii) s. 14.22.1: 'Operational equipment' of this chapter.

Service rifles are to be carried, stored, and maintained in accordance with manufacturer's instructions and where applicable in a Service-approved rifle case (see s. 14.6.9: 'Operational equipment development and approval' of this chapter).

Carriage in Service vehicles

Service rifles carried in Service vehicles are to be unloaded and secured in a lockable, Service approved:

(i) rifle storage unit that is fixed to the vehicle;

(ii) hard rifle case; or

(iii) soft rifle case.

Officers are to comply with the following storage requirements:

(i) fixed rifle storage units in Service vehicles must be lined with soft foam to protect the rifle and its optical sight. If the unit is not foam-lined, the rifle must be placed in a soft rifle case before being secured in the unit. The unit must remain locked, with the key attached to the vehicle's ignition fob key ring;

(ii) hard rifle containers must be padlocked at both ends; and

(iii) soft rifle containers must be secured with a padlock through the zip loops, with an additional padlock placed through the carry straps for added security.

Padlocks, used to secure rifle containers and cases, are to meet the following requirements:

(i) padlocks are to have short shanks to prevent partial opening of the rifle container; and

(ii) padlocks are to be keyed alike to ensure operational efficiency.

ORDER

Rifles are not to be physically held or transported outside a Service approved fixed storage unit, hard container or soft case whilst travelling in a vehicle, unless authorised or exceptional operational circumstances exist e.g. using a police vehicle to quickly travel from one location to another during a major incident.

Rifle users are to ensure the rifles are always in an unloaded condition when placed within a Service approved fixed storage unit, hard rifle container, or soft rifle case of a Service vehicle.

Soft rifle cases

Where a rifle container is unable to be effectively carried in a Service vehicle, an OIC may authorise the use of a commercially available rifle soft case (see the Central Approved Operational Equipment List available on the Operational Equipment and Armoury (OEA) SharePoint page).

Where the use of a soft rifle case has been authorised, the OIC of the station or establishment is to ensure the Service rifle is zeroed at intervals not exceeding 6 months.

Carriage in Service vehicles without lockable boots

In vehicles without lockable boots (e.g. station wagons), Service-approved rifle containers or cases should, where possible, be covered to prevent the rifle from being easily identifiable as a firearm.

Rifle ammunition and magazines

Rifle magazines and ammunition are to be readily available and stored with the rifle container or case. While the Explosives Regulation (ER) does not apply to ammunition required for operational use), training ammunition or replacement ammunition stored at a station or establishment must comply with s. 99: 'Requirements for storing small arms ammunition and power device cartridges' of the ER.

For authorised off-duty possession, the requirements of s. 14.4.1: 'Authorisation to possess weapons off duty as part of an officer's performance of duty' of this chapter apply until the officer is recalled to duty.

OPM Issue 113 Public Edition

Use of force reporting

ORDER

Officers who remove a Service rifle from its container or carry case, in the performance of their duty are to complete a Use of Force report in the relevant QPRIME occurrence. For carriage exemptions applicable to specialist units see s. 14.7: 'Use of firearms' of this chapter.

Training

The Chief OST Instructor is responsible for ensuring the necessary systems and resources are in place to qualify sufficient numbers of officers statewide annually.

Assistant commissioners are to ensure sufficient numbers of officers undertake Service-approved training for their area of responsibility to the required level (Senior firearm instructor (SRI), rifle qualified district firearm training officers (DFTO), rifle user). To be authorised to carry or use a Service rifle, officers are to re-qualify annually.

Logbook and inspections

Each Service rifle has a corresponding official QPB 72: 'Service rifle logbook' that is to be issued individually against the serial number of the relevant Service rifle.

OICs of stations or establishments issued with a Service rifle are to ensure:

(i) upon receipt from the armoury:

(a) the Service rifle is not to be operationally deployed until the rifle undergoes a live fire grouping and zeroing practice for both the rifle's optical and where applicable open sights; and

(b) the full details of the rifle zeroing practice, including the officer conducting the zeroing and number of rounds fired, are to be recorded in the rifle's QPB 72 'Service rifle logbook';

in accordance with the provisions of the Service Rifle Learner Guide;

(ii) the issued QPB 72: 'Service rifle logbook' is to be maintained for each rifle and record the following details:

(a) the rifle's serial number;

(b) progressive total of rounds fired;

(c) dates of Armoury inspections; and

(d) when the rifle was sighted;

(iii) rifles are inspected by a rifle qualified DFTO for cleanliness and serviceability at every training session and as part of the monthly accoutrement inspection (see s. 14.6.5: 'Responsibilities of officers in charge of stations and establishments' of this chapter); and

(iv) the rifle and its corresponding QPB 72: 'Service rifle logbook' is delivered to the Armoury for inspection:

(a) upon the expiration of 2000 rounds or 24 months duration, whichever is the sooner; or

(b) where inspection by a qualified user identifies the rifle is defective or damaged.

Rifle qualified DFTOs are to inspect Service rifles prior to the commencement of all training activities.

ORDER

Prior to a Service rifle being returned to the armoury for servicing OICs are to ensure:

(i) the rifle's corresponding QPB 72: 'Service rifle logbook' is accurately updated; and

(ii) the rifle is thoroughly cleaned,

in accordance with the provisions of the Service Rifle Learner Guide.

Where a Service rifle is received by the armoury without it having been cleaned or the QPB 72 updated, the firearm will be returned without repair.

14.6 Possession, maintenance, care and safety of weapons and officers' responsibilities

14.6.1 Possession of weapons and ammunition when travelling

Officers travelling as part of the performance of their duty, including on transfer, should, wherever practicable, store any Service:

(i) weapon in their possession:

OPM Issue 113 Public Edition

(a) in the case of a firearm, in a gun safe at a police station or establishment at a place where they may be required to stay overnight or otherwise; or

(b) in the case of other weapons or where it is not practicable to store a firearm in a gun safe in compliance with subparagraph (a), by:

- locking the weapon in the boot compartment of their vehicle; or
- where their vehicle has no boot compartment, elsewhere in the vehicle so the weapon, including any firearm(s) and any holster/case, is placed out of view ensuring the vehicle is locked;
- in a lockable receptacle which only the officer has access to and which is in a reasonably secure location; or
- taking other precautions that, so far as practicable, ensure the security of the weapon(s); and

(ii) magazines and ammunition for a firearm, elsewhere to the firearm, in a secure manner consistent with the Explosives Regulation, Service policies and preferably in a cool dry place.

Recruits traveling to commence or on completion of station duty

Recruits who have been issued and are authorised to wear an integrated load bearing vest (ILBV), prior to commencing station duty, are to store their issued ILBV:

(i) in a locker or similar provided at a police station or establishment where they are performing station duty; or

(ii) in the case it is not practicable to store the ILBV in a locker in compliance with (i) above, such as when initially travelling to commence or on completion of station duty and returning to the academy:

(a) in the boot compartment of their vehicle or where their vehicle has no boot compartment, elsewhere in the vehicle so the ILBV, is placed out of view ensuring the vehicle is locked; or

(b) in a lockable receptacle which only the officer has access to and which is in a reasonably secure location to so far as practicable, ensure the security of the ILBV.

14.6.2 Security of weapons and ammunition

Officers are to take all reasonable precautions to protect and safeguard Service weapons, magazines and ammunition on issue to them and will be held responsible for their strict security, proper use and maintenance.

Officers should immediately report to their officer in charge:

(i) the loss of;

(ii) any damage or defect to; or

(iii) any unsatisfactory condition relating to;

any Service weapon, magazine or ammunition.

14.6.3 Maintenance of firearms

Officers issued or delegated responsibility for a Service firearm are to:

(i) be responsible for the proper maintenance and care of the firearm in accordance with the provisions contained in the applicable Operational Skills and Tactics (OST) training manual;

(ii) ensure firearms are only to be stripped to a level to allow cleaning in compliance with the applicable Operational Skills and Tactics (OST) training manual. Further stripping, repairs or alterations are only to be performed by the Service Armourers, or another person authorised in writing by the Inspector, Operational Equipment and Armoury;

(iii) carry the firearm in the holster issued to them, or authorised for their use in accordance with s. 14.9: 'Carriage of firearms-generally' of this chapter, to prevent damage to the mechanism and/or finish of the firearm;

(iv) in the event of the firearm and/or holster becoming wet, comply with s. 2.9.7 of the Firearms Training Learner Guide available on Operational Training Services SharePoint page;

(v) in the event of the firearm being submerged in water, return the firearm to the armoury for a full service; and

(vi) produce their Service firearm to a firearms training officer for inspection at least every twelve months.

ORDER

Prior to a Service firearm being returned to the armoury for servicing, officers are to ensure:

(i) all Service firearms are unloaded and thoroughly cleaned; and

(ii) in the case of a Service rifle, the QPB 72: 'Service rifle logbook' is accurately updated in accordance with the provisions of the Service Rifle Learner Guide.

OPM Issue 113 Public Edition

Officers are to comply with QPS Armoury guidelines when delivering Service firearms (see QPS Armoury SharePoint page).

14.6.4 Safety of firearms

ORDER

Members are to:

(i) treat every firearm as if it is loaded until personally proven otherwise;

(ii) prove a firearm before handing same to someone else;

(iii) prove a firearm upon receiving same from someone else;

(iv) never throw a firearm to someone else or attempt to catch a firearm;

(v) never fire while running;

(vi) never point a firearm at any person, or in any direction where any person is likely to be, whether it is believed that the firearm is unloaded or not, unless it is actually intended to fire at a person where lawfully entitled to;

(vii) observe security precautions consistent with the *Weapons Act* and Service policies;

(viii) not handle a firearm unnecessarily;

(ix) be familiar with the mechanism, loading system and safety features of a firearm under their control; and

(x) use only Service-approved ammunition (ammunition is to be replaced every twelve months).

When removing a Service firearm from a gun safe or other approved safe provided by the Service at their respective station or establishment, members are to prove and load the weapon in compliance with the procedures outlined in the relevant Operational Skills and Tactics (OST) training manual.

Officers are to not leave their Service firearm unattended in a vehicle or other place without good and sufficient reason. This may include:

(i) officers having to attend a situation where the carriage of a firearm poses a risk to security or safety, e.g. riot, serious street disturbance or authorised assembly;

(ii) where the firearm restricts operational activity, e.g. officers being involved in a rescue operation; or

(iii) where it is necessary for special operational situations or circumstances, e.g. hostage or suicide negotiations.

Prior to ceasing duty or where a Service firearm is not required for duty, members are to:

(i) unload any Service firearm in their possession in compliance with the procedures outlined in the relevant OST training learner guide;

(ii) place it in a gun safe or other approved safe provided by the Service at their respective station or establishment;

(iii) where practicable, secure the firearm in the gun safe with a padlock supplied by the Service at their respective station or establishment for that purpose;

(iv) observe security precautions consistent with the *Weapons Act* and Service policies; and

(v) where practicable, store any magazines and ammunition for the firearm, at their respective station or establishment, in a location elsewhere to the firearm, in a secure manner consistent with the Explosives Regulation, Service policies and preferably in a cool dry place.

Each member accessing a gun safe or other approved safe provided by the Service is to ensure that the safe is securely locked immediately after use.

14.6.5 Responsibilities of officers in charge of stations and establishments

The OIC of a station or establishment is to:

(i) ensure a personal inspection of all Service weapons and handcuffs issued to officers under their control or to their station or establishment is made monthly. They are to ensure these weapons and handcuffs are well maintained. Particulars of these inspections are to be recorded in a register kept for this purpose (see s. 2.3.4: 'Registers' of the MSM). Inspections are to include all related equipment. District officers may authorise inspections of weapons and handcuffs to be undertaken at other specified time intervals;

(ii) immediately report to the district officer or supervising commissioned officer the loss of, any damage or defect to or any unsatisfactory condition relating to Service weapons, handcuffs or equipment, and comply with the provisions of the Financial Management Practice Manual in relation to any losses and, where appropriate, the recovery of debts resulting from the loss or destruction or damage to property while in the care of members;

(iii) ensure any:

OPM Issue 113 Public Edition

(a) firearm or magazine that is damaged, defective or otherwise requires servicing is forwarded to the Service Armourer, Brisbane; and

(b) ammunition that is damaged, defective or otherwise requires replacement is forwarded to a firearms training officer;

(iv) where a Service rifle has been issued to that station or establishment:

(a) maintain the corresponding QPB 72: 'Service rifle logbook' for every Service rifle, recording the serial number, a progressive total of the number of rounds fired and dates of inspections by the Service Armourer (see s. 14.5.1: 'Service rifles' of this chapter);

(b) upon the expiration of 2000 rounds or 24 months duration, whichever is the sooner, forward or deliver the rifle to the Service Armourer, Brisbane, for inspection and any necessary repair (see s. 14.5.1: 'Service rifles' of this Manual for the prerequisites of delivering Service rifles to the armoury);

(c) upon the rifle being returned to the station or establishment from the armoury the Service rifle is not to be operationally deployed until the rifle undergoes a live fire grouping and zeroing practice for both the rifle's optical and where applicable open sights; and

(d) the full details of the rifle zeroing practice, including the officer conducting the zeroing and number of rounds fired, are to be recorded in the rifle's QPB 72: 'Service rifle logbook' in accordance with the provisions of the Service Rifle Learner Guide;

(v) ensure officers under their control carry firearms in accordance with the provisions of this chapter;

(vi) in liaison with the firearms training officer concerned, ensure all officers under their control who have been issued with Service firearms, undertake firearms training in accordance with s. 14.3.10: 'Operational skills and tactics (OST) training' of this chapter;

(vii) where officers are not OST qualified or subject to an OST exemption, deploy officers to appropriate non-operational duties; and

(viii) designate a safe weapon clearing area in their station/establishment for the loading and unloading of all firearms. OICs are to consider the following:

(a) that it be positioned adjacent to or in close proximity to the station or establishment firearms safe;

(b) that a weapon clearing station should be installed at this location;

(c) weapon loading and unloading instructions are to be clearly displayed; and

(d) the area is to be clear of other office equipment or obstructions. Officers should be able to stand unhindered directly in front of any weapon clearing station (see Weapon clearing station guidelines contained within the Operational Equipment and Armoury (OEA) SharePoint page).

OPM Issue 113 Public Edition

ORDER

OICs are to ensure Service firearms or accoutrements sent to the armoury are not contaminated with noxious, harmful or injurious substances e.g. blood and bodily fluids, unless prior discussion and authorisation is obtained from the armoury manager. For stations and establishments not within the Brisbane metropolitan area, firearms and magazines are to be posted via Parcel Post to the Service armoury and are to include tracking and signature on delivery. Officers using Parcel Post are to ensure nothing identifies the parcel as a firearm.

Service pistols should be posted in their original Glock box. Service rifles should be posted in their pelican cases and suitably covered to prevent identification as a firearm (see Armoury FAQs on the QPS Armoury SharePoint page).

Weapons clearing station, ballistic blanket and panel guidelines

The OIC of a station or establishment is to comply with the Weapon clearing station guidelines contained within the Operational Equipment and Armoury (OEA) SharePoint page.

14.6.6 Firearms training officers (responsibilities)

ORDER

Firearms training officers are to:

(i) inspect all Service firearms within their area of responsibility, including station/establishment issue at least every six months and record the results of that inspection in a register kept for that purpose. Details of any defective firearm are to be given to the OIC of the station or establishment;

(ii) instruct officers in the use of, cleaning and maintenance of firearms and other related equipment;

(iii) in liaison with the respective OICs of stations and establishments, arrange for officers at their district or establishment to receive firearms training as part of Blocks 1 and 2 Operational Skills and Tactics training, or more frequently if required;

(iv) maintain a record of training conducted in relation to officers within their area of responsibility;

(v) recommend to the relevant OIC the relinquishment of firearms from those officers who fail to qualify after receiving further instruction; and

(vi) inspect the Service rifle and corresponding QPB 72: 'Service rifle logbook' to ensure records of rounds fired is being maintained and ensure regular live fire grouping and zeroing practices are conducted for the maintenance of the rifles accuracy.

14.6.7 Firearms and firearm holster modifications

Unless an authorised modification, contained in the relevant Operational Skills and Tactics (OST) training manual for a Service firearm or holster, officers are not to modify:

(i) a Service firearm in any way other than by installing a rubber sleeve or sandpaper decal (black only) to the grip of a Service-issued pistol; or

(ii) a Service-issued or authorised holster.

This section does not apply to authorised testing or research conducted by a Service armourer or approved by either the Inspector of Operational Equipment and Armoury or Operational Training Services.

Where a specialist unit may seek modifications to a firearm or holster, the OIC is to comply with s. 14.6.9: 'Operational equipment development and approval' of this chapter.

14.6.8 Return of accoutrements while on extended absence

Officers who will be absent from their station or establishment on leave or for another reason that does not require them to retain possession of their firearm, handcuffs or extendible baton (accoutrements) for any continuous period in excess of four weeks should ensure the accoutrements on issue to them are delivered into the possession of the OIC of their station or establishment immediately prior to, or in the case of an unplanned absence, as soon as practicable after commencing the period of absence.

For Oleoresin Capsicum (OC) spray canisters, officers should comply with the policy contained in s. 14.21.5: 'Issue and return of Oleoresin Capsicum spray canisters' of this chapter.

See also s. 14.17: 'Officers affected by a relevant medical condition' of this chapter.

Responsibility of officer in charge

OICs who are aware that an officer under their control is to be, or is absent from their station or establishment on leave or for another reason that does not require them to retain possession of their firearm, handcuffs or extendible baton (accoutrements) for any continuous period in excess of four weeks should, wherever practicable, ensure the provisions of this section are complied with.

OICs should ensure that accoutrements delivered into their possession pursuant to this section are dealt with in accordance with ss. 14.6.2: 'Security of weapons and ammunition', 14.19.4: 'Storage of handcuffs' and 14.18.5: 'Storage (extendable batons)' of this chapter as if the accoutrements were on issue to them.

OPM Issue 113 Public Edition

14.6.9 Operational equipment development and approval

Definition

Operational equipment

means an item of Service approved equipment carried and/or used operationally by Service members and is associated with the use of force (see SMD).

The Executive Director, Assets Division is the Service capability owner and 'central' approval authority for operational equipment (i.e. excluding protected or specialist equipment). For any relevant statewide budget delegations see Delegation D 12.11.

ORDER

Service members are to only use operational equipment items listed within a QPS approved operational equipment list which is produced in accordance with this section.

See also section titled 'Specialist operations and protected/covert equipment' below.

Operational Equipment Committee

The Operational Equipment Committee (OEC) functions under the authority of the Executive Director, Assets Division and provides direction, governance and oversight of the development and approval of operational equipment items to best meet Service requirements and demands. Service members should refer a new or existing equipment item to the OEC where a need has been identified or where a risk has been determined in accordance with Chapter 3: 'Risk Management' of the MSM.

Note: For operational equipment that is categorised as weapons or restricted items (under the *Weapons Act* (WA)), refer to 'Weapons and restricted items' of this section.

In performance of governance and oversight, the OEC is to ensure that the central approved operational equipment list is maintained on the Operational Equipment and Armoury SharePoint page for the information of operational Service members.

Central approved operational equipment list

The central approved operational equipment list is available on the Operational Equipment and Armoury SharePoint page—this list excludes Service protected and specialist operations operational equipment. The items listed are either:

(i) Part A—'standard issue items': operational equipment items for use by all officers or authorised members in accordance with relevant policies. These items are generally 'centrally funded' unless otherwise specified; or

(ii) Part B—'non-standard issue items': specific items of operational equipment subject to further caveats of use as nominated within the approved operational equipment list. These items are generally either unit or command specific items and are not 'centrally funded' unless otherwise specified.

The Inspector, Operational Equipment and Armoury (OEA), Assets Division is responsible for maintaining the central approved operational equipment list. Operational equipment approved for use in accordance with the provisions of this section may be personal issue or station issue in compliance with the provisions of s. 14.22.1: 'Operational equipment' of this chapter.

Weapons and restricted items

All proposals seeking to develop or acquire new operational equipment items for addition on the central list and categorised as weapons or restricted items under the *Weapons Act*, are to involve initial consultations with the Inspector, OEA. The proposal, if further progressed, will be presented to the OEC for a decision. Where supported by the OEC, in consultation with the Director, Weapons Licensing Group, a recommendation will be progressed to the deputy commissioner or Commissioner for approval.

New initiative proposals—operational equipment development

Members who identify the potential or benefit of adding a new item of operational equipment to the central list, are to submit an email proposal to Operational.Equipment outlining:

(i) the item (e.g. description and photos);

(ii) the identified need and benefit to the Service, including specifying any relevant risks and the benefits to risk mitigation; and

(iii) other relevant details including OIC endorsement, indicative costings, training requirements, officer safety considerations etc.

Where the proposal is supported for further review, the submitting member is to confirm to OEA their district office/group supports the progression of the proposal and their ongoing involvement. Where confirmed, OEA personnel will liaise with the submitting member to review the process and potential for the item to be presented to OEC (seeking inclusion on the central operational equipment list).

This will include:

(i) identifying whether the item has previously been assessed;

(ii) assessment whether the item is a 'standard issue item' or a 'non-standard issue item' in accordance with the provisions of this section; and

(iii) further consultations with relevant internal and external stakeholders, in liaison with the submitting member.

Members are not to undertake supplier engagement that may breach the protocols contained within the 'Queensland Police Service—Engaging with suppliers Guide' on the Service Intranet.

On conclusion of the review, advice will be provided to the submitting member as to whether the proposal is supported for progression to the OEC. If the proposal is not further supported, the reasons for the decision will be given to the member. Where the proposal is not supported, the submitting member may make a written request for review of the decision through the Superintendent, Operational Equipment & Capability Management (OECM), Assets Division via their own district office/group.

Submitting members should note proposals for progression of new items of operational equipment to the OEC, may at first involve lengthy trialling. Examination of funding and funding submissions is necessary before progression or procurement processes can occur.

Specialist operations and protected/covert equipment

All specialist, covert groups, or units are to create and maintain their own compliance records for Part B—'non-standard issue items' for all approved operational equipment.

OPM Issue 113 Public Edition

ORDER

An approved operational equipment list is to be maintained by all specialist, covert groups and units. Operational equipment used within specialist operations (including covert groups) are to be developed and approved for use, in accordance with the following requirements:

(i) research and development of new items is to be conducted by approved officers of the relevant group or unit, the OEA, Assets Division and ensure OEC has been consulted;

(ii) development records track the consultation, training, testing and safety considerations; and

(iii) approval to use any new item, obtains the approval from relevant assistant commissioner or equivalent; or

(iv) in the case of approving a new weapon or restricted item, approval to use the new weapon or new restricted item is obtained from a deputy commissioner or Commissioner.

Where specialist operations equipment, for example entry tools or safety equipment, may be suitable for the use of other Service members and does not fall under a protected or covert methodology, the Inspector OEA is to be advised by emailing Operational.Equipment.

14.6.10 Load bearing vests

A load bearing vest (LBV) is not ballistic or stab resistant (see s. 14.20: 'Protective body armour' of this chapter).

LBVs were previously issued to officers to better distribute the weight of operational equipment and reduce the risk of injury but has been replaced by integrated loading bearing vests (ILBV). An officer previously issued a LBV is no longer to use it unless they have a previously approved medical requirement because of a pre-existing injury or condition as a result of consultation with their regional health and safety coordinator (HSCO) or injury management consultant (IMC) and where necessary, having undergone assessment by a qualified occupational therapist or other health care professional.

ORDER

Officers are not to carry a Service firearm, extra magazines or Taser mounted on an LBV, unless they are:

(i) qualified in the use of that specialist equipment; or

(ii) a member of a specialist unit and have formal approval from their respective superintendent e.g. officers of SERT or PSRT.

Privately owned LBV are not to be worn by officers.

14.6.11 Deleted

14.6.12 Carriage and use of knives, multifunction and rescue tools

For the purposes of this section:

Fixed blade knife

means a knife with the blade permanently affixed to the handle and hilt. The blade is not moveable;

Folding knife

means a knife or an implement whose primary function is that of a cutting tool with one or more blades which can be folded inside the handle. A knife in the pattern of a 'folding hunting knife', 'jack-knife', or 'tactical folder' is regarded as a folding knife;

Ligature knife (or Rescue 911 knife)

means a folding knife with a 'c' shaped blade specifically designed for cutting rope, car seat belts or clothing etc. without injuring the restrained person. The ligature knife is regularly used in watch-houses and correctional facilities;

Multifunction tool (or multi-tool)

means any one of a range of portable hand tools which combine several individual functions in a single unit. Multi-tools generally have a knife blade and include various tools, such as screwdrivers, pliers, saw blades, and other attachments. These attachments are stowed inside the handle of the knife through a pivot point mechanism. A pocketknife in the pattern of a 'Swiss Army Knife' is regarded as a multi-tool; and

Rescue tool

means a portable hand tool specifically designed for emergency services personnel and is intended for use in rescue or emergency type operations. Rescue tools may include various tools such as window breakers and seatbelt cutters. They are similar in operation and appearance to a multi-tool.

Officers are permitted to carry and use a privately obtained multifunction tool, rescue tool or ligature knife to assist in the performance of their duties.

OPM Issue 113 Public Edition

ORDER

Multifunction tools, rescue tools and ligature knives are only to be used in accordance with their intended design, manufacturer's instructions and in a utility type role.

Multifunction tools, rescue tools and ligature knives are not to be used as a use of force option or as a weapon.

Unless otherwise exempted by the district officer, officers are not to carry:

(i) a fixed blade knife on their person whilst performing duties;

(ii) any type of folding knife (excluding ligature knives) on their person whilst performing duties; or

(iii) any knife defined in s. 7A(a)–(i): 'Category M weapons' of the Weapons Categories Regulation.

This order does not apply to:

(i) officers who are members of specialist units (e.g. the Special Emergency Response Team, Water Police, Diving Squad, Major and Organised Crime Squad (Rural)) or who may be required to carry a fixed blade knife or a folding blade knife on their person to assist in the performance of their duties;

(ii) members who perform duties that may require the carriage of a ceremonial knife as part of their uniform or ceremonial dress (e.g. Queensland Police Pipes and Drums members may carry a ceremonial knife known as a skean-dhu or sgian-dubh as part of their ceremonial dress uniform); or

(iii) members who are required to carry a knife as a religious symbol (e.g. a follower of the Sikh religion may carry a ceremonial knife known as a kirpan for religious reasons, see also s. 6.4: 'Cross cultural issues' of this Manual).

Carriage of multi-tools and rescue tools

Officers who elect to carry a multi-tool or rescue tool are to carry the item in an enclosed pouch that:

(i) is capable of being firmly affixed to a utility belt;

(ii) is black in colour and either of leather or synthetic material construction (nylon/cordura); and

(iii) has a closing flap that is able to be secured.

Officers who elect to carry a multi-tool or rescue tool should mark or engrave their registered number on the item.

Where there is any doubt whether a knife, multi-tool or rescue tool is appropriate to be carried by an officer, the knife, multi-tool or rescue tool is to be assessed and approved by the officer's OIC or a qualified Operational Skills and Tactics Instructor. Further information on appropriate knives, multi-tools and rescues tools may be viewed at the Operational Skills and Tactics Program webpage on the Service Intranet.

The district officer may authorise carriage and use of a folding knife or fixed blade knife under certain circumstances to assist officers in the performance of their duties (see s. 14.6.9: 'Operational equipment development and approval' of this chapter).

ORDER

Multi-tool and rescue tools are limited to a knife blade length of ten centimetres.

Carriage of ligature knives

Officers who elect to carry a ligature knife are to carry the item in an enclosed pouch that:

(i) is capable of being firmly affixed to a utility belt;

(ii) is black in colour and either of leather or synthetic material construction (nylon/cordura); and

(iii) has a closing flap that is able to be secured.

Staff members performing duty in a watch-house may carry a ligature knife in an enclosed pouch that is capable of being firmly affixed to a belt.

14.7 Use of firearms

For the purposes of this section:

Supervisor

means OIC, shift supervisor, patrol group inspector, RDO or DDO as applicable.

Use of a Service firearm

means:

(i) drawing the firearm out of the holster; or

(ii) pointing the firearm in the direction of a person without discharging; or

OPM Issue 113 Public Edition

(iii) discharging the firearm,

in the performance of the officer's duties.

Does not include firearms training, station loading and unloading procedures, or other activity authorised pursuant to s. 2(1)(m) of the *Weapons Act* (WA).

Use of a Service rifle

where a Service rifle is utilised in routine high-risk activities authorised by an assistant commissioner, use does not include removal from a container or case when the Service rifle was not used in anyway other than being carried by a qualified user, for example:

Special Emergency Response Team when conducting designated duties.

State Drug Investigations Unit, Crime Command whilst conducting patrols for unlawful drug cultivations.

Use of firearms

Officers should refrain from using firearms in the performance of their duties unless there exists an apparently unavoidable necessity to use the firearm, which would be justified at law. Section 14.3.5: 'Use of lethal force' of this chapter provides the legislated authority for officers to use lethal force in certain situations.

Officers should read and follow the principles contained in the 'Australia New Zealand Guidelines for deployment of police to high risk situations' with respect to the police use of lethal force (see Australia New Zealand Framework: Policing High Risk Situations (2023) guideline available via the 'Counter-Terrorism Strategies, Plans and Handbooks' link on the Prepare Prevent Protect Group SharePoint page).

When an officer is dealing with any 'use of force' incident they are to comply with s. 14.3.2: 'Situational Use of Force Model (2016)' of this chapter.

Justification for use of a firearm

In all instances where an officer uses a firearm in the execution of their duty (see also s. 14.3.5: 'Use of lethal force' of this chapter), they are required to be able to articulate their decision making and fully justify the use of the firearm in any subsequent investigations, inquiries and court proceedings.

ORDER

Officers are not to use a firearm:

(i) as a threat unless there are reasonable grounds to believe that use of the firearm is necessary to protect a person from death or grievous bodily harm;

(ii) in crowded thoroughfares or where lives of innocent people might be endangered, in order to prevent the escape of an offender; or

(iii) to fire warning shots.

Discharging Service firearms at vehicles

Discharging a Service firearm at a vehicle involves a risk to officers, members of the public and vehicle occupants and includes projectile ricochets or in the case of a moving vehicle a loss of vehicle control. Even if the driver or vehicle's engine is immediately incapacitated a vehicle will continue to travel until stopped by external means, usually a collision.

ORDER

Officers are not to discharge a Service firearm at a vehicle unless:

(i) someone in the vehicle is using or threatening deadly force other than by the vehicle itself (e.g. shooting at people from the vehicle); or

(ii) the driver is using the vehicle itself as a weapon (e.g. running people over with the vehicle),

and there are no other options available (e.g. move from the vehicles path or obtain cover behind an appropriate object) to prevent death or grievous bodily harm to an officer or any other person (see s. 14.3.5 of this chapter).

Where an officer discharges a Service firearm at a moving vehicle in situations where they fear death or grievous bodily harm to any person, the placement of shots should be directed at the centre of the seen body mass of the person in control of the vehicle.

Use of force reporting

ORDER

Officers who use a Service firearm in the performance of their duties, other than during firearms training, station loading and unloading procedures or other activity authorised pursuant to s. 2(1)(m) of the WA are to:

(i) immediately advise their supervisor of the use of the firearm, including:

OPM Issue 113 Public Edition

(a) the location and details of the incident;

(b) whether the firearm was discharged;

(c) whether any person has been killed or injured, including the identity of the person and whether they are a member of the Service, offender or member of the community; and

(d) the condition of any injured person; and

(ii) ensure a 'Use of Force Report' is completed in the relevant QPRIME occurrence. If the officer is incapacitated, the officer's supervisor is to ensure the report is completed (see s. 14.3.9: 'Use of force reporting' of this chapter).

Where a firearm is used for the lawful destruction of an injured or sick animal, a QPRIME 'Use of force report' is to be submitted.

In cases of ammunition misfire or other incidents involving a firearm or ammunition resulting in significant safety issues:

(i) the senior officer present at the incident; or

(ii) if during firearms training, the responsible firearms training officer,

is to immediately advise their supervisor.

Significant event message

Subject to the provisions of ss. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (police related incidents)' and 16.23: 'Deaths in police custody' of this Manual, supervisors who are advised of the use of a firearm by an officer or other incident as above are to:

(i) ensure a significant event message is completed, including:

(a) a summary of the incident;

(b) action taken or pending; and

(c) details of any complainants, suspects or offenders,

(see s. 1.18.1: 'Significant Event Messaging System (SEMS)' of this Manual). A significant event message is not required for the lawful destruction of an injured or sick animal;

(ii) ensure particulars are entered on their activity log or occurrence;

(iii) ensure the circumstances under which the firearm was used or discharged (other than for the lawful destruction of an injured or sick animal) are fully investigated to determine whether the use of the firearm was justified. Where grounds for disciplinary action are identified in relation to the incident, the supervisor is to, as soon as reasonably practicable, report the incident in accordance with their reporting obligations under s. 6A.1: 'Duty concerning misconduct and other grounds for disciplinary action' of the PSAA and the Complaint Resolution Guidelines available on the ESC Service SharePoint page;

(iv) where an equipment or procedure deficiency is identified, take immediate action to:

(a) prevent a similar incident from recurring; and

(b) preserve evidence including seizing the subject firearm for forensic examination or preventing further use of a weapon clearing station; and

(v) subject to any disciplinary process being undertaken, prepare a report on the incident and make recommendations as to what corrective or remedial action should be taken e.g. officer not permitted to use a firearm until further training undertaken, workplace design improvements, etc.

See s. 2.4: 'Incident management' of this Manual for requirements of a first response officer or officer in control of an incident scene.

See Chapter 16: 'Custody' of this Manual in relation to deaths in police custody.

Review of firearm incidents

All incidents involving the discharge of a Service firearm will be reviewed by the OIC of the relevant station or establishment within 72 hours of the event. SERPs will also review the use of a firearm.

14.8 Psychological first aid

14.8.1 Deployment of a dedicated psychological first aid (PFA) resource

A police forward commander (PFC), RDO, DDO or senior officer is responsible for the deployment of a dedicated PFA resource (see ss. 1.12.3: 'Police forward commander' and 1.16.2: 'Regional duty officer or district duty officer responsibilities' of this Manual).

OPM Issue 113 Public Edition

In the first instance, the immediate provision of PFA needs to be undertaken or cause to be undertaken until such time that a dedicated PFA resource assumes responsibility.

Where possible, the deployment of dedicated PFA resources to provide PFA should be activated:

(i) following a critical incident'; as defined under s. 5A.2: 'Definitions for pt 5A' of the PSAA*;* or

(ii) where deemed necessary following a potentially traumatic event (PTE) (see Appendix 1: 'Deployment of a dedicated PFA resource at an incident / event by RDO / DDO / PFC of the Guidelines for Psychological First Aid available on the Safety and Wellbeing Policies SharePoint page).

When activating dedicated PFA resources, consideration should be given to:

(i) availability of peer support officers (PSO) on rostered shift;

(ii) availability of PFA trained Service chaplains;

(iii) PSOs available to be recalled to duty.

PSOs, when on duty and not deployed to a specific operational task, are available for deployment as the dedicated PFA resource where accessibility to members requiring PFA is possible. Where possible, dedicated PFA resources should be excluded from operational taskings until such time PFA is no longer required.

In circumstances where a Service member is not readily available to provide PFA as a dedicated PFA resource (i.e. rural/remote communities), consideration should be given the utilisation of a PFA trained external resource.

Consideration should be given to the welfare of the member to be assigned the role of the dedicated PFA resource and include:

(i) recent exposure to PTEs;

(ii) fatigue management;

(iii) operational factors (how deployment of dedicated PFA resource effects business as usual); and

(iv) the decision of the potential dedicated PFA resource choosing not to be deployed into the role.

A PFC, RDO, DDO or senior officer should ensure the request to deploy a dedicated PFA resource is transmitted to the:

(i) Duty Officer, Brisbane Police Communications Centre (BPCC) (in areas covered by BPCC);

(ii) OIC of the relevant Police Communications Centre (PCC) (outside of BPCC area); or

(iii) OIC of the station or district inspector where the incident occurred in areas where a PCC does not exist,

who is to ensure a dedicated PFA resource is notified of the request to attend and the incident particulars.

It is acknowledged that districts and regions operate differently throughout the State. It is also acknowledged that specialists and support personnel (for example Specialist Services Group, Communications Group or Road Policing Group) are often involved in critical incidents or PTEs. The assessment and determination for the provision of PFA and the delivery of PFA by a dedicated PFA resource should be managed through locally developed instructions that align to the 'Guidelines for Psychological First Aid'.

OPM Issue 113 Public Edition

District dedicated PFA resource instructions

District officers (see SMD) are to ensure that district instructions for the provision of PFA for personnel involved in critical incidents or PTEs are developed and maintained in their districts. The instruction is to include the process for deployment and potential call out of a dedicated PFA resource where required and/or the general provision of PFA following the involvement in critical incidents and PTEs as per the 'Guidelines for Psychological First Aid' available on the Safety and Wellbeing Policies SharePoint page. Further consideration should be given to the procedures for remote and rural areas.

Cost recovery

The region in which the incident has occurred will be responsible for all costs associated with the deployment of a dedicated PFA resource unless other funding arrangements are negotiated with supporting regions and commands. In the case of a major event alternate funding may be available and attributed to an allocated cost centre for that event.

Expenses incurred by external agencies and individuals deployed as a dedicated PFA resource will not be met by the Service unless prior arrangements have been made.

14.8.2 Notification for Workforce Management and Wellbeing Division

Workforce Management and Wellbeing Division (WMWD) should be contacted to ensure immediate and long-term wellbeing support is managed for members involved in:

(i) critical incidents as defined under s. 5A.2: 'Definitions for pt 5A' of the PSAA; or

(ii) a police related incident involving a fatality.

This notification process is intended to engage WMWD for the provision of clinical advice for the management of wellbeing and does not remove the necessity for the immediate localised provision of Psychological First Aid (PFA). The process does not necessitate the physical attendance of senior psychologists and/or senior social workers and does not remove the requirement to undertake standard welfare notification and response processes.

The police forward commander, RDO, DDO or senior officer should:

(i) ensure where necessary, the provisions of PFA are applied as per the 'Guidelines for Psychological First Aid' available on the Safety and Wellbeing Policies SharePoint page;

(ii) where possible deploy a dedicated PFA resource to provide PFA;

(iii) contact the appointed senior psychologist or senior social worker providing the following information:

(a) details of the incident, including all members involved, their station and the role in the incident;

(b) what wellbeing support has been deployed;

(c) what is the emotional response or reaction of the members involved and identification of any members in need of immediate psychological support; and

(d) contact details of any dedicated PFA resource.

14.8.3 Responsibilities of a dedicated psychological first aid (PFA) resource

On arrival at a critical incident or on first contact with a relevant person exposed to a potential traumatic experience (PTE), the dedicated PFA resource must:

(i) liaise with the police forward commander, RDO, DDO, senior officer;

(ii) provide PFA to a relevant person;

(iii) consider if appropriate, contact with affected member's next of kin; and

(iv) contact Psychological Services Unit (PSU), where delivery of PFA appears inadequate to manage the situation or it is believed that the support required may be clinical in nature and therefore outside the scope of the dedicated PFA resource expertise.

After the provision of initial PFA response, the dedicated PFA resource is to provide:

(i) the facilitation of a PFA wellbeing plan with the member;

(ii) notification of the provision of PFA to the relevant person's OIC; and

(iii) within two weeks of the incident/event, contact the relevant person and provide advice on available support options, should they be required.

OPM Issue 113 Public Edition

14.9 Carriage of firearms—generally

POLICY

All officers qualified in Blocks 1 and 2 OST training are to wear their Service-issued firearm in accordance with s. 14.4: 'Service-issued weapons' of this chapter.

Officers carrying concealable firearms should carry sufficient ammunition to allow at least one, but no more than two reloads of the firearm. Such ammunition should be carried in Service-issued ammunition pouches where possible.

14.9.1 Plain clothes officers

POLICY

Officers performing plain clothes duty should carry their concealable firearm in such a position that it cannot be seen by members of the public. Shoulder holsters are only to be worn when they are able to be concealed by a coat or other similar clothing.

ORDER

If a concealable firearm is worn so it is exposed to view, the officer is to:

(i) carry a Service identification badge in such a position that it is clearly visible to members of the public;

(ii) wear a Service-issued holster (minimum level III security rating) which is securely attached to their belt, which is;

(a) the Service-issued plain clothes utility belt; or

(b) of an appropriate design and construction with a suitable buckle which is able to carry the accoutrements in a safe and effective manner; and

(iii) carry at least one spare magazine in a separate pouch on the belt at the same time.

14.9.2 Officers in uniform

Unless authorised by the District officer, officers in uniform are to carry and secure a Service concealable firearm in a Service-issued holster which is to be worn on a Service-issued utility belt. In determining whether to grant approval in such instances, district officers should comply with s. 14.6.9: 'Operational equipment development and approval' of this chapter.

14.9.3 Use of appropriate holsters

POLICY

Officers should only use a Service-issued holster that is appropriate for their particular firearm and type of duties (e.g. uniform or plain clothes).

14.10 Surrendering firearms, handcuffs, batons and ammunition

Officer separating from the Service

Officers separating from the Service are to surrender all Service-issued firearms, handcuffs, batons, ammunition and ancillary items to the OIC of their station or establishment prior to ceasing duty (see 'Separations' of the Workforce Management & Wellbeing Division SharePoint page). This includes any privately-acquired protective body armour the officer may possess (see s. 14.20.2: 'Protective body armour (privately-owned)' of this chapter).

Within seven days of a firearm, handcuffs, batons and any personally issued protective body armour being surrendered, the OIC is to forward:

(i) the firearm, handcuffs, batons and any personally issued protective body armour to the Armoury; and

(ii) the ammunition to a firearms training officer for redistribution.

See 'Separations' of the Workforce Management & Wellbeing Division SharePoint page and 'Return of separated members accoutrements' section of the QPS Armoury SharePoint page.

Suspension of officer

Where an officer is suspended or stood down under s. 6.1: 'Power to stand down and suspend' of the PSAA, or is on an extended sick leave program, the OIC is to take possession of the officer's firearm, handcuffs, baton, ammunition and any personally issued protective body armour and store them appropriately until such time as the officer is fit to resume their duties.

Death of officer

Following the death of a serving officer, the OIC where the deceased officer was stationed is to take possession of any firearm, handcuffs, batons, ammunition and ancillary items that were on issue to the deceased officer. The firearm, handcuffs and batons are to be forwarded to the Armoury.

Ammunition is to be delivered to a firearms training officer for redistribution (see 'Separations' of the Workforce Management & Wellbeing Division SharePoint page).

OPM Issue 113 Public Edition

14.11 Carriage of firearms, ammunition, handcuffs, batons, conducted energy weapons and Oleoresin Capsicum (OC) spray etc. on aircraft at airports

Members of the Service may be required to carry or possess weapons and accoutrements when travelling on aircraft during transfer, deployment to police a specific incident or event, or otherwise in the course of duty. The carriage of these items is impacted by various Commonwealth legislation relating to aviation safety and security. This section sets out the applicable provisions for members to comply with in these instances.

Aviation security measures

For information on aviation security see s. 11.23: 'Aviation and Maritime Transport Security' of this Manual.

14.11.1 Definitions

For the purpose of this section:

Aircraft operator

includes owner and/or the pilot in command of an aircraft.

Airside areas

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

Dangerous goods

(i) includes firearms; and

(ii) items specified within:

(a) s. 3: 'Definitions' of the *Crimes (Aviation) Act* (Cwlth);

(b) s. 23: 'Dangerous goods' of the *Civil Aviation Act* (Cwlth); and

(c) the Dangerous Goods List contained in the Technical Instructions and explosives (see r. 92.015: 'What are dangerous goods?' of the Civil Aviation Safety Regulations (Cwlth)).

Landside areas

see s. 9: 'Definitions' of the ATSA(C).

Law enforcement officer

see s. 82: 'Law enforcement officers' of the ATSA(C).

Prescribed aircraft

for the ATSA(C), includes an aircraft that is being used for a regular public transport operation (see s. 9: 'Definitions' of the ATSA(C) and r. 1.06: 'Prescribed air services' of the Aviation Transport Security Regulations (Cwlth) (ATSR(C))).

Prohibited item

includes handcuffs, but does not include handcuffs carried by a person who is escorting a person in custody or if carried in an aircraft with the authority of its operator for the purpose of restraining a violent person (see r. 1.07: 'Prohibited items' of the ATSR(C)).

Security controlled airport

see s. 28: 'Airports and security controlled airports' of the ATSA(C).

For a list of security controlled airports in Australia provided by the Department of Infrastructure and Regional Development, see Appendix 14.3: 'Airport security "areas" and "zones"' and Appendix 14.7: 'Security controlled airports' of this chapter.

Weapon

for the ATSA(C), includes firearms, firearm parts, ammunition, batons, conducted energy weapons, air cartridges and OC spray (see r. 1.09: 'Weapons' of the ATSR(C)).

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14.11.2 Carriage of weapons and prohibited items on prescribed aircraft and at security controlled airports (Aviation Transport Security Act)

The *Aviation Transport Security Act* (Cwlth) (ATSA(C)) establishes minimum security requirements for civil aviation in Australia with the objective of preventing unlawful interference with aviation. The ATSA(C) is administered by the federal Office of Transport Security, the Department of Infrastructure and Regional Development.

The ATSA(C) provides an exemption to law enforcement officers to the offence provisions provided they are on duty or performing duty at a security controlled airport.

ORDER

Officers are not to possess or carry weapons or prohibited items on prescribed aircraft, in airside or landside areas or through screening points unless performing duty or attending to policing incidents at security controlled airports.

When travelling on a prescribed aircraft, members are to transport weapons and prohibited items in checked passenger baggage stowed in the hold of the aircraft and are to comply with any restrictions imposed by the particular aircraft operator, see s. 14.11.3: 'Additional storage and packaging requirements for transport of dangerous goods' of this chapter.

14.11.3 Additional storage and packaging requirements for transport of dangerous goods

Legislation governing the carriage of dangerous goods on aircraft includes the *Crimes (Aviation) Act* (Cwlth), *Civil Aviation Act* (Cwlth), Part 92: 'Consignment and carriage of dangerous goods by air' of the Civil Aviation Safety Regulations (Cwlth) and the International Civil Aviation Organisation (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air. The Civil Aviation Safety Authority (CASA) is the responsible entity for regulatory oversight and compliance.

Officers intending to transport dangerous goods on an aircraft are to make all necessary arrangements for their conveyance in a safe and secure manner in accordance with the requirements of the aircraft operator. Members should contact the aircraft operator prior to the flight to advise of the intended carriage of the goods on their aircraft and to seek advice regarding same.

ORDER

Officers are to:

(i) ensure any firearm is:

(a) unloaded; and

(b) stored in:

- a securely closed container with the bolt removed or with a trigger lock fitted; or
- a locked container of rigid construction;

(ii) ensure any ammunition:

(a) is not over 5kg in gross weight for each officer travelling on the aircraft;

(b) has inert projectiles;

(c) is separated from the firearm; and

(d) carried in boxes or magazines with the primer protected. The ammunition is to be securely packaged. Most manufacturers' packaging is satisfactory although part-used boxes containing loosely held ammunition will not be adequate;

(iii) ensure any OC spray:

(a) is secured in a locked airtight container of rigid construction; and

(b) is limited to one OC spray canister of 100 grams net weight for each officer travelling on the aircraft;

(iv) ensure any conducted energy weapon is:

(a) unloaded;

(b) in safe mode with the safety switch engaged; and

(c) secured in a locked container of rigid construction;

(v) ensure any air cartridges are:

(a) stored in original manufacturer's packaging or equivalent packaging that would prevent probe deployment in the unlikely event of static electricity generated discharge; and

(b) carried separately to the conducted energy weapon; or

(c) carried separately and securely within the same container as the conducted energy weapon;

(vi) comply with the individual requirements contained in 'Airline specific requirements', below;

(vii) declare the carriage of the dangerous goods to check-in staff of the relevant aircraft operator at the time of checking in, and allow inspection of the items if requested;

(viii) comply with any decision and instructions from staff of the relevant aircraft operator regarding the carriage and packaging of the dangerous goods; and

(ix) immediately report to the aircraft operator of any dangerous goods accident or dangerous goods incident involving the carriage of permitted dangerous goods.

For the carriage of handcuffs when escorting a person in custody, see s. 10.4.18: 'Escort of persons in custody by commercial transport' of this Manual.

Airline specific requirements

ORDER

Each airline has specific approval documentation issued by CASA, authorising the carriage of dangerous goods on their aircraft. Documentation relating to aircraft operated by:

(i) Alliance Airlines and subsidiary providers;

(ii) Regional Express Airlines (REX) and subsidiary providers;

(iii) Qantas and Jetstar;

(iv) Virgin Airlines,

are available from the QPS Travel Forms webpage on the Service Intranet. Officers travelling with an airline listed above are to print off the relevant approval document and present it to the check-in staff.

Officers travelling on other private or charter aircraft are to:

(i) obtain the consent of the pilot in command and, where applicable, the operator of the aircraft; and

OPM Issue 113 Public Edition

(ii) comply with the decision of the pilot in command or operator of the aircraft regarding the carriage, transport and storage requirements.

Officers travelling on QGAir aircraft are to:

(i) read the content of the QGAir approval document (see QGAir Fixed Wing intranet site for booking process) and ensure the instructions are complied with;

(ii) declare the carriage of the dangerous goods to the QGAir staff at the time of check in and allow inspection of the items if requested; and

(iii) comply with any decision of the QGAir staff regarding the carriage, transport or storage requirements.

14.11.4 Deleted

14.11.5 Carriage of weapons and prohibited items at airports and through screening points

POLICY

Generally officers are free to move about in the public areas of airports in possession of weapons and prohibited items whilst on duty.

ORDER

Officers carrying a weapon or prohibited item who wish to enter the sterile or secure areas of an airport in the performance of duty are to seek approval from the relevant airport manager unless emergent or exceptional circumstances exist. Officers should approach the screening team and

(i) identify themselves. If in plain clothes, officers are to produce their Service identification card as confirmation that they are a police officer;

(ii) notify them of the reasons for entering the sterile or secure areas of the airport and the details of approval, if applicable; and

(iii) advise them that they are in possession of a weapon or prohibited item and will not be travelling on an aircraft.

Under no circumstances are officers to drive a vehicle onto a taxi way or runway during normal airport operations without an escort provided by airport security.

14.12 Carriage of firearms in court, the Family Court and in Crime and Corruption Commission premises

14.12.1 Carriage of firearms and controlled items in Queensland courts

POLICY

Officers are not to possess, a firearm or controlled item within a court, unless:

(i) authorised under Supreme Court Practice Direction 9/2014: 'Management of controlled items in court precincts';

(ii) authorised under Magistrates Courts Practice Direction 3/2014: 'Management of controlled items in court precincts'; or

(iii) in emergent circumstances.

14.12.2 Carriage of firearms in Family Court premises

POLICY

Officers should not wear or carry a Service firearm in any Family Court premises unless they are responding to an incident within those premises. Officers entering any Family Court premises carrying or wearing a firearm should comply with any reasonable request made of them with respect to their firearm by any security officer or member of the Australian Federal Police on duty within those premises.

14.12.3 Carriage of firearms by officers attending Crime and Corruption Commission premises

POLICY

Officers attending:

(i) Crime and Corruption Commission premises when called upon to present themselves for an interview or hearing;

(ii) premises where:

(a) Misconduct Tribunal hearings; or

OPM Issue 113 Public Edition

(b) Police Service Review hearings;

are conducted; or

(iii) interviews or hearings conducted anywhere by Crime and Corruption Commission officers;

should not wear or carry a Service firearm.

In circumstances where officers do not have the opportunity to secure firearms prior to attendance at the premises of the Crime and Corruption Commission, officers should surrender firearms for storage in the Crime and Corruption Commission armoury.

14.13 Carriage of firearms in mental health units or hospitals

Officers should not carry firearms within the confines of an authorised mental health high security unit or secure mental health rehabilitation unit (SMHRU). Before entering the confines of an authorised mental health high security unit or SMHRU, officers should store their firearms in the Service-approved safe provided by the mental health facility for that purpose.

Within Queensland there are mental health high security units and SMHRUs (authorised by the Chief Psychiatrist, Queensland Health) at:

(i) The Park Centre for Mental Health Authorised Mental Health Service, Wacol;

(ii) The Park High Security Program Authorised Mental Health Service, Wacol;

(iii) Redcliffe Caboolture Authorised Mental Health Service, Redcliffe;

(iv) The Prince Charles Hospital Authorised Mental Health Service, Chermside;

(v) Townsville Network Authorised Mental Health Service, Douglas Townsville;

(vi) Darling Downs Network Authorised Mental Health Service, Toowoomba; and

(vii) Gold Coast Authorised Mental Health Service.

The OIC of the division in which an authorised mental health high security unit or SMHRU is located is responsible for liaising with the hospital to establish suitable storage arrangements for Service firearms.

In determining suitable storage arrangements, the OIC may:

(i) contact the Service Armourer; or

(ii) liaise with a firearms training officer.

ORDER

OICs are to ensure that, before approving the use of a firearm safe at an authorised mental health high security unit or SMHRU, the safe meets the following specifications and conditions:

(i) be a rigid structure made of solid steel and be bolted to the frame or floor of a permanent building;

(ii) comprises a minimum of two compartments which are secured by compartment locks. (Compartment locks are locks where the key may only be removed when the mechanism is in the locked position);

(iii) have a foam lined base to prevent damage to the firearm;

(iv) the minimum internal dimensions of each compartment should be 20cm high x 20cm wide x 40cm deep; and

(v) each compartment in the gun safe is to have one key for use in the locking mechanism. Any spare keys are to be held by the OIC of the division in which the hospital is located. When a key is lost the lock on that particular compartment is to be replaced before officers may again use that compartment.

Officers who visit areas of hospitals which are not authorised mental health high security units or SMHRU, should exercise their discretion in regard to the carriage of firearms. Officers should also consider the policy outlined in s. 14.6.2: ‘Security of weapons and ammunition’ of this chapter.

Generally, the Service will not contribute to the cost for the installation of firearm safes at hospitals. District officers in charge of a region or command may, however, exercise discretion and authorise a contribution to the cost of installation of a storage receptacle for firearms at a hospital if the individual circumstances warrant such a contribution.

OPM Issue 113 Public Edition

14.14 Carriage of firearms and ammunition in correctional centres, detention centres and watch-houses

14.14.1 Carriage of firearms and ammunition in correctional centres and detention centres

ORDER

Unless authorised or approved by the Chief Executive, Queensland Corrective Services, to take weapons or ammunition into a correctional centre or detention centre, officers are to hand all firearms and ammunition to the correctional officer on duty at the entrance to a correctional centre or detention centre for safe keeping (see s 128: 'Taking prohibited thing into corrective services facility or giving prohibited thing to prisoner' of the *Corrective Services Act*).

Officers are to inspect all firearms returned prior to leaving a correctional centre or detention centre to ensure they are undamaged.

14.14.2 Carriage of firearms and ammunition in watch-houses

POLICY

Officers should not carry firearms or ammunition in a watch-house and they should comply with station/establishment instructions.

14.15 Weapon mounted light source

The Service has approved the use of a weapon mounted light source (WMLS) for the Service-issued concealable firearm for use by suitably trained officers.

Use of weapon mounted light source

ORDER

Officers are not to use or attach a WMLS on their Service-issued weapon unless they have successfully completed the relevant training.

POLICY

Upon commencement of shift and prior to loading their Service-issued firearm, officers are to:

(i) inspect the WMLS for visible signs of damage;

(ii) check the function of the WMLS;

(iii) attach the WMLS to their Service-issued firearm; and

(iv) check the function of the WMLS again after attaching the WMLS to their Service-issued firearm.

Officers are to immediately report to their officer in charge any loss, damage, defect or unsatisfactory condition relating to a WMLS.

A WMLS should not be exposed to significant moisture or water.

The WMLS forms part of the firearm and must only be used in situations where it would be appropriate to use the firearm (see s. 14.7: 'Use of firearms' of this chapter).

Carriage of weapon mounted light source

ORDER

Officers are not to carry a WMLS on their Service-issued weapon unless they have ready access to an operational handheld duty torch.

POLICY

Where available the WMLS should be attached to the officers' firearm at the commencement of each shift, ready for use, and carried on a utility belt in the firearm holster (see s. 14.9: 'Carriage of firearms—generally' of this chapter).

Upon commencement or completion of shift, officers are to check the function of the WMLS and ensure it is switched off prior to attaching or removing it from the firearm. Officers are to ensure the firearm is unloaded prior to attaching or removing the WMLS from the firearm.

Storage

POLICY

Officers are to complete the appropriate station register for the weapon mounted light source (WMLS) upon commencement and completion of duty. See s. 14.22: 'Responsibility for Service Equipment' of this chapter for requirements for storage operation equipment generally.

OPM Issue 113 Public Edition

PROCEDURE

Prior to ceasing duty, or where a WMLS is not being used for operational purposes, members are to:

(i) ensure the WMLS is switched off;

(ii) unload the firearm;

(iii) remove the WMLS from the firearm;

(iv) check the function of the WMLS; and

(v) place the WMLS in the storage facility as per station procedures.

Inspection and maintenance

POLICY

The officer in charge of the station or establishment is responsible for the distribution and maintenance of each WMLS under their control.

Officers in charge of stations and establishments are to:

(i) ensure inspections of each WMLS under their control is carried out on a regular basis;

(ii) maintain a register to record the use of each WMLS; and

(iii) immediately report to the district officer or other supervising commissioned officer the loss of, any damage or defect to, or any unsatisfactory condition relating to a WMLS.

14.16 Carriage of firearms—domestic violence

See Chapter 9: 'Domestic Violence' of this Manual in relation to members who have proceedings initiated against them under the DFVPA. See also Part 2 of the *Weapons Act*.

14.17 Officers affected by a relevant medical condition

Definition

For the purposes of this section, an officer is affected by a **'relevant medical condition'** if:

(i) the officer is diagnosed with a psychological or other medical condition by a medical practitioner and does not have a medical clearance to possess a Service firearm; or

(ii) a reasonable suspicion exists that an officer is suffering from a psychological or other medical condition which may render the officer unfit to have possession of a Service firearm.

Service firearms

Officers affected by a relevant medical condition are not to be in possession of, or have access to, a Service firearm.

ORDER

Officers who are affected by a relevant medical condition are to surrender or arrange to have delivered to their OIC, any Service firearm in their possession.

Officers in charge of a station or establishment are to take possession of any Service firearm on issue to an officer under their control who is affected by a relevant medical condition.

See also s. 14.10: 'Surrendering firearms, handcuffs, batons and ammunition' of this Manual in relation to officers on an extended sick leave program.

Privately owned firearms

In certain circumstances, officers affected by a relevant medical condition are not to be in possession of a privately owned firearm.

The OIC of a station or establishment is to notify an authorised officer with a view to having a suspension or revocation notice issued under s. 30: 'Suspension or revocation notice' of the *Weapons Act* when reasonable grounds exist for taking possession of a privately owned firearm in possession of an officer who is affected by a relevant medical condition.

Return of Service or privately owned firearms

The OIC of a station or establishment who receives advice from a medical practitioner that an officer from whom a firearm has been taken, is fit to possess a firearm, is to return possession of the firearm, unless there are compelling grounds for retaining possession of the firearm.

OPM Issue 113 Public Edition

Where grounds exist for retaining the firearm, the OIC is to refer the matter to their district officer for determination of any further action to be taken.

Officers who have been served a suspension or revocation notice under s. 30 of the *Weapons Act* are to make application through Weapons Licensing to facilitate the return of privately owned firearms.

Authority issued under the Explosives Act

Members who hold an authority to access, use and/or possess explosives in accordance with the *Explosives Act* and Explosives Regulation, and are affected by a relevant medical condition, are not to have access to explosives and/or dangerous substances.

Where an officer surrenders their authority to access, use and/or possess explosives, that officer is to also surrender any explosives in their possession. Service issued explosives are to be returned to the OIC, Explosive Ordnance Response Team. Personally obtained explosives are to be surrendered to the Chief Inspector of Explosives, Explosive Inspectorate, Resources Safety and Health Queensland (see SMCD).

Members who are affected by a relevant medical condition are to surrender, or arrange to have delivered, their authority to access, use and/or possess explosives, as soon as practicable, to the Chief Inspector, Explosives Inspectorate.

Upon receipt of the officer's authority, the Chief Inspector, Explosives Inspectorate, will determine the status of the officer's authority by endorsement, cancellation or suspension.

Section 25: 'Procedure for urgent suspension or cancellation of authorities and security clearances' of the *Explosives Act* provides the procedure for the Chief Inspector of Explosives determination on endorsing, cancelling or suspending the authority to access, use and/or possess explosives.

14.18 Batons

Batons are made available to officers for self-defence and to prevent unlawful acts such as the escape of a person in custody, or an unlawful assault on another person.

Extendable batons are made available to officers. These batons have two telescoping shafts which lock into place when extended. The extendable batons are designed to be inconspicuous but give officers quick access to the baton.

OPM Issue 113 Public Edition

14.18.1 Use of batons

POLICY

The degree of force in the use of batons will be determined by the circumstances existing at the time bearing in mind the 'Situational Use of Force Model' (see s. 14.3.2: 'Situational Use of Force Model (2016)' of this chapter).

Officers should not carry a privately owned baton or similar weapon while on duty.

Unless the use of a baton is justified, officers on duty at a demonstration or other assembly should not draw batons except:

(i) on the command of the senior officer present; or

(ii) in the case of a squad or group specifically tasked with containing the demonstration or assembly, on the command of the officer in charge of that squad or group.

Officers should not use a damaged or unserviceable baton in the performance of their duty.

Use of force reporting

Where the use of a baton by a member is a reportable use of force incident, the member using the baton, or if the member is incapacitated, their supervisor is to ensure a 'Use of Force Report' is completed in the relevant QPRIME occurrence. The report is to be completed within 24 hours of the creation of the relevant occurrence.

See s. 14.3.9: 'Use of force reporting' of this chapter.

14.18.2 Issue and surrender (extendable batons)

POLICY

A Service extendable baton should not be issued to an officer unless the officer has been trained and qualified in the use of the weapon by a qualified Police Operational Skills and Tactics (POST) instructor.

Extendable batons are issued to suitably qualified officers on a personal issue basis.

Procedures for the requisition of extendable baton are contained on the Armoury webpage, QPS Corporate Intranet.

An officer in possession of a personal issue extendable baton, is to surrender the extendable baton to the officer in charge of their station or establishment, when required as a result of failing to qualify in training in accordance with s. 14.18.3: 'Extendable baton training' of this Manual.

14.18.3 Extendable baton training

POLICY

The Chief OST Instructor is responsible for ensuring that the necessary systems are in place to enable OST training to take place with respect to extendable batons.

Officers who do not comply with the relevant requirements of s. 14.3.1: 'Operational Skills and Tactics (OST) training' of this chapter should not carry or use an extendable baton until deemed competent.

14.18.4 Carriage of extendable batons

ORDER

In accordance with s. 14.4: 'Service-issued weapons' of this chapter, all officers qualified in Blocks 1 and 2 of the Operational Skills and Tactics training are to:

(i) wear their Service-issued baton on their utility belt or integrated load bearing vest (ILBV); or

(ii) have it available for use during the shift, such as in the Service vehicle or in a personal kit bag ensuring compliance with s. 14.22.1: 'Operational equipment' of this chapter.

An officer who does not have access to a Taser or is not currently Taser qualified should wear their Service-issued extendable baton.

For officers performing beat duty, the physical carriage of the extendable baton is to be outlined in station instructions based on the OIC risk/threat assessment.

Whilst on rostered duty, extendable batons should be carried in the closed position when not in use in:

(i) the baton pouch provided on a utility belt;

(ii) the baton pouch provided on a ILBV; or

(iii) another Service-approved mode of carriage (e.g. bumbag).

Where an officer chooses to not wear their extendable baton but have it available for use during the shift, they are to ensure it is stored in the Service-issued pouch.

14.18.5 Storage (extendable batons)

See s. 14.22: 'Responsibility for Service equipment' of this chapter.

14.18.6 Maintenance and replacement (extendable batons)

ORDER

Officers issued with extendable batons on a personal issue basis and officers in charge of stations and establishments where extendable batons are kept are:

(i) responsible for the proper maintenance and care of the particular batons; and

(ii) to ensure that the batons are properly cleaned and oiled in accordance with instruction received during POST training.

When an extendable baton requires replacement, a form QP 0413: 'Requisition for weapons/restricted item' is to be completed and the reason for replacement is to be inserted in the comments box.

14.18.7 Long batons

POLICY

Long batons should only be carried and/or used in cases of extreme necessity and where sudden or extreme circumstances exist, and then only by officers who have been suitably trained in their use. Training in the use of long batons is the same as for extendable batons except for drawing of the baton. Officers who are qualified in the use of extendable batons are therefore also qualified in the use of long batons.

The carriage of long batons should be confined to the boot or storage compartment of motor vehicles, preferably held by appropriate baton clips installed by Fleet Asset Services, Business Services Division.

Individual officers may carry long batons in the following circumstances:

(i) officers of the Public Safety Response Team (PSRT), whilst performing PSRT duties; and

(ii) officers performing a particular duty where the carriage of a long baton is considered necessary and is authorised by an officer in charge of a region or command.

Long batons should be carried in a baton ring designed for that purpose, where possible.

OPM Issue 113 Public Edition

Officers in charge are to ensure that when long batons are not confined to the boot or storage compartment of motor vehicles, that they are securely stored within stations/establishments, and are accessible only to officers authorised to carry and use the long baton.

14.19 Handcuffs

Handcuffs are issued to police officers and protective services officers for use in the execution of their duty and as a safe and effective means of temporarily restraining and controlling a person in custody.

Handcuffs are not personally issued to watch-house officers. However, at times watch-house officers may be required to use handcuffs as part of the performance of their duties (e.g. during prisoner escort duties). See s. 14.4.2: 'Staff members (authorisation to possess or use weapons as part of the performance of their duty)' of this chapter.

Police officers, protective services officers and watch-house officers:

(i) should not use damaged or unserviceable handcuffs; and

(ii) who are qualified in Operational Skills and Tactics (OST) training in the use of hinged handcuffs are deemed to be qualified in the use of chain link handcuffs.

Police officers, protective services officers and watch-house officers are not to carry privately owned handcuffs on duty.

Handcuffs should be cleaned and lubricated frequently to prevent malfunction.

Where handcuffs are found to be damaged, defective or in an unsatisfactory condition, officers should complete a QP 0413: 'Requisition for weapons/restricted item' and arrange for the handcuffs to be returned to the QPS Armoury for replacement.

14.19.1 Use of handcuffs

For the purpose of this section:

Officer

in reference to:

(i) handcuffs, refers to:

(a) police officers;

(b) watch-house officers;

(c) protective services officers (PSOs); or

(d) PSOs acting in the aid of a police officer (see s. 14.3.2: 'Situational Use of Force Model (2016)' of this chapter); and

(ii) body belts and leg cuffs, refers to police officers and watch-house officers only.

OPM Issue 113 Public Edition

Authority to use handcuffs

Use of handcuffs is a 'use of force' option. This section is to be read in conjunction with s. 14.3.2: 'Situational Use of Force Model (2016)' of this chapter.

The general statutory authorities for the use of handcuffs by police officers are found in s. 615: 'Power to use force against individuals' of the PPRA. This gives police officers the power to use reasonably necessary force to exercise a power under any Act or to prevent a person escaping from lawful custody, however such force does not include force likely to cause grievous bodily harm or death against an individual.

The authority for PSOs to use handcuffs is in ss. 558 'Detention of entrants by protective services officers' and 615A 'Power to use force against individuals—protective services officers' of the PPRA.

The authority for watch-house officers to use handcuffs is in ss. 652: 'Power to use force against an individual at watch-house' and 653: 'Power to use force—transfer etc. of person in custody to or from holding place' of the PPRA.

Using handcuffs

Officers are only to use handcuffs on a person when it is lawful. This is dependent upon the circumstances.

A person exhibiting or threatening violence or demonstrating intent to escape lawful custody (high risk), is to be handcuffed. In all other situations, officers are presented with an unknown risk and are to be aware that a person who is initially complaint can quickly escalate to high risk, once they assess their situation and formulate a plan.

In deciding to use handcuffs, officers are to undertake a continuous risk assessment (assessed risk) based on 'person, object, place' and consider:

(i) the nature of the offence or breach of law;

(ii) the current and previous demeanour/behaviour of the person by words or actions;

(iii) whether the person has previously attempted to escape or is likely to attempt escape;

(iv) whether the person has history of violent behaviour or their demeanour is violent or aggressive;

(v) the number of other persons in custody at the time;

(vi) the parity/disparity in physical attributes of the officer and person in custody;

(vii) the likelihood of injury to the officer, other persons or the person in custody;

(viii) the person's mental health history including self-harm;

(ix) the need to prevent escalation of an incident;

(x) the circumstances and location of the incident; and

(xi) observed indicators and applying previous operational experience.

The above considerations are not exhaustive, however in all situations, officers must be able to justify and articulate their assessment of why they considered the use of handcuffs as being reasonably necessary.

Considerations when handcuffing

Unless exceptional circumstances exist, officers applying handcuffs are to:

(i) handcuff the person with their hands behind their back unless:

(a) injury or deformity prevents the person from placing their hands behind the back; or

(b) the person is being escorted on a journey of considerable time or length where handcuffing behind the back may result in health and safety issues;

(ii) not handcuff themselves to a person in custody;

(iii) not handcuff a person in custody to a fixed object. Exceptions apply, see 'Handcuffed prisoners or persons under arrest in medical facilities' of this section. A fixed object is defined for this section as an object that is immobile, securely placed or fastened and unable to be moved e.g. street sign or building handrail;

(iv) not force handcuffs closed if the person's wrists are larger than the handcuffs;

(v) ensure the handcuffs are double locked and checked after application;

(vi) ensure any handcuffs placed on a person can be unlocked, in the event of a medical or other emergency; and

(vii) remove handcuffs when satisfied they are no longer required.

Leg cuffs and body belts

Handcuffs may be used in conjunction with leg cuffs and body belts, see s. 14.19.6: 'Body belts and leg cuffs' and s. 10.4.17: 'Queensland Government Air (QGAir)' of this Manual. Leg cuffs are not to be the sole means of prisoner restraint unless an injury, deformity or medical treatment prevents the application of handcuffs.

Handcuffed prisoners or persons under arrest in medical facilities

Officers guarding prisoners or persons under arrest in medical facilities are to ensure the prisoner or person under arrest is handcuffed, including when leg cuffs are being used. Officers are to be aware that the person may be using medical treatment as a ploy to escape.

Officers guarding a handcuffed prisoner or person under arrest are to:

(i) conduct a continuous risk assessment based on 'person, object, place';

(ii) ensure they can release the handcuffs;

(iii) maintain continuous, direct and constant supervision to prevent:

(a) escape attempts;

(b) access to medical equipment and supplies; and

(c) violence against officers, hospital staff or members of the public.

(iv) at all times when the handcuffed person is transferred to a hospital bed or gurney, ensure they are handcuffed to the bed frame or rail; and

(v) if the handcuffed person is utilising bathroom facilities, ensure an officer of the same sex accompanies the prisoner and maintains discreet observation. Where a same sex officer is unavailable, arrange the assistance of a same sex medical staff member and provide security to that staff member.

OPM Issue 113 Public Edition

Removal of handcuffs and leg cuffs from prisoners in hospitals or under medical treatment

Officers are to only remove handcuffs when required by medical staff to enable the treatment of the prisoner. If leg cuffs are being used, they are to remain secured unless medical requirements also require their removal.

Where the prisoner is handcuffed to a hospital bed or gurney, officers are to discuss with medical staff if it may be suitable to handcuff the opposing hand to the bed.

In all situations when medical staff request the removal of handcuffs, officers should seek the assistance of another officer or hospital security and maintain increased vigilance.

Use of force reporting

All operational use of handcuffs is to be recorded on the QPRIME Custody report 'Use of Force' tab. Additionally, where the use of handcuffs by an officer is a reportable use of force incident, the officer using the handcuffs, or if that officer is incapacitated, their supervisor is to ensure a 'Use of Force Report' is completed in the relevant QPRIME occurrence. The report is to be completed within 24 hours of the creation of the occurrence.

See s. 14.3.9: 'Use of force reporting' of this chapter.

14.19.2 Handcuffing of children

See Chapter 5: 'Children' of this Manual.

14.19.3 Carriage of handcuffs

ORDER

All officers qualified in Blocks 1 and 2 Operational Skills and Tactics (OST) training are to carry their Service-issued handcuffs in accordance with s. 14.4: 'Service-issued weapons' of this chapter.

Whilst on rostered duty, handcuffs should be carried in:

(i) an approved handcuff pouch on a utility belt;

(ii) an approved handcuff pouch on a load bearing vest, or

(iii) another Service-approved mode of carriage (e.g. bumbag).

14.19.4 Storage of handcuffs

See s. 14.22: 'Responsibility for Service equipment' of this chapter.

14.19.5 Flexible handcuffs

Unless otherwise authorised, officers are to use Service issued handcuffs (i.e. SAF-LOK) as the first option, unless they are involved in a situation with multiple offenders or other justifiable circumstances e.g. an offender with very small or large wrists (see s. 14.19: 'Handcuffs' of this chapter).

Only Service approved flexible handcuffs are to be used by officers.

Flexible handcuffs may be used as the primary restraining accoutrement at the direction of a sergeant supervisor or above, at planned deployments where multiple offenders are expected (e.g. search warrants, watch-house evacuations etc.) or for safety considerations by the master operating a Service vessel in accordance with State Water Police instructions. The supervisor's or vessel master's authorisation, along with any additional directions, must be recorded in their log.

Full-time members of the Special Emergency Response Team or the Public Safety Response Team are authorised to possess, carry and use flexible handcuffs or similar devices as per their unit's station or establishment instructions.

Officers:

(i) are not to use damaged or unserviceable flexible handcuffs;

(ii) are to be operational skills and tactics (OST) qualified in the use of flexible handcuffs prior to their use;

(iii) are to conduct continuous risk assessments after applying flexible handcuffs;

(iv) should only apply flexible handcuffs to the rear of a compliant offender; and

(v) should ensure that the flexible handcuffs are not over-tightened.

Officers are to ensure that a body worn camera (BWC) records all instances of flexible handcuff use, including:

(i) application of the flexible handcuffs;

(ii) removal of the flexible handcuffs; and

(iii) recording of any injuries resulting from the flexible handcuff use.

See s. 4.4: 'Body worn cameras' of the DERIE Manual.

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Flexible handcuffs are to be carried in:

(i) the officer's trouser pocket;

(ii) a pocket of an ILBV; or

(iii) a vehicle storage compartment.

Flexible handcuffs are not to be carried openly on a belt or ILBV due to the risk of being caught on objects.

Children

Officers are to comply with s. 5.12.1: 'Handcuffing children' of this Manual when considering using flexible handcuffs on children.

Removing flexible handcuffs

Officers are to use the specific Scarab restraint-cutter tool to remove flexible handcuffs. In emergent situations, another device, such as the cutting hook on a multitool, may be used. Officers are responsible for ensuring an approved restraint cutter tool is available in the unit's vehicles or vessels at the beginning of the shift, or in the physical possession of an officer during foot patrol duties.

Use of force reporting

All operational use of flexible handcuffs is to be recorded in the QPRIME Custody report 'Use of Force' tab. When entering BWC naming conventions, select 'Flexible handcuff' in the Tag Field.

If the use of handcuffs is a reportable use of force incident, the officer who used the handcuffs, or their supervisor if the officer is incapacitated, is to complete a 'Use of force report' in the relevant QPRIME occurrence within 24 hours of the incident (see s. 14.3.9: 'Use of force reporting' of this chapter).

Disposal

All used flexible handcuffs are to be disposed of at stations or establishments and are not to be left at incident scenes.

14.19.6 Body belts and leg cuffs

Leg cuffs and body belts are to be used in conjunction with handcuffs by officers and watch-house officers in the transport and/or security of high-risk prisoners to restrict or prevent:

(i) escape;

(ii) injury to any person; and

(iii) damage to property.

When escorting prisoners on an aircraft, and there is potential for a prisoner to interfere with the flight controls in an open cabin, escorting officers are to make an assessment and consider, in addition to handcuffs, the use of body belts and leg cuffs (see s. 10.4.17: 'Queensland Government Air (QGAir)' of this Manual).

Leg cuffs are not to be the sole means of prisoner restraint unless due to:

(i) injury,

(ii) physical deformity; or

(iii) medical treatment prevents the application of handcuffs.

14.20 Protective body armour

14.20.1 Protective body armour (Service-issued)

Protective body armour is a 'Category E' weapon (see s. 6: 'Category E weapons' of the Weapons Categories Regulation (WCR)) issued to police stations and establishments for use by officers in the performance of their duty. Protective body armour is not bullet proof but does have bullet resistant qualities.

Distribution of protective body armour within each region or command is at the discretion of the OIC of that region or command.

OICs of stations and establishments are to ensure the sizes of protective body armour on issue to their area of responsibility are appropriate and fit officers who may be required to wear them. The number of hard armour plates available at each station or establishment should match the number of vests available.

Covert protective body armour

Upon application, Service-issued covert protective body armour is provided to some specialist units whose usual, but unique, operational duties make access to, or wearing of the standard issue (overt) protective body armour impractical. The carriage and storage of covert protective body armour is the same as overt body armour.

OPM Issue 113 Public Edition

Where an officer wishes to purchase covert protective body armour, see s. 14.20.2: 'Protective body armour (privately owned)' of this chapter.

Where an officer or OIC of a station or establishment believes the nature of an officer's operational duties necessitates the supply and use of Service-approved covert protective body armour, submission is to be made via the chain of command to the Operational Assets and Equipment Subcommittee (see s. 14.6.9: 'Operational equipment approval' of this chapter).

The application should contain all relevant information to support the issue of covert protective body armour, including:

(i) the usual range of duties performed by the officer(s);

(ii) current threats or risks impacting on the officer(s), see:

(a) s. 2.34: 'Threat to Service members' of this Manual; and

(b) Threats to police employees portal on the Prepare Prevent Protect Group, Security, Counter-Terrorism and Forensic Services Command SharePoint page; and

(iii) situational factors preventing officer(s) from accessing standard issue (overt) protective body armour when deemed necessary.

Where approval for the supply and use of Service-issued covert protective body armour has been granted, officers are to wear the covert protective body armour whilst on duty unless prior approval has been granted otherwise.

When responding to incidents that would require the wearing of protective body armour (e.g. responding to incidents which may involve the use of firearms or dangerous weapons), covert protective body armour may be used in conjunction with, but not as a replacement for standard issue (overt) protective body armour.

Carriage of protective body armour

At the commencement of duty, officers performing operational duties should, where appropriate, obtain correctly fitting protective body armour unless issued an integrated load bearing vest. Protective body armour vests and hard armour plates are to be carried in the storage facilities provided in Service vehicles. Officers should wear protective body armour when they are responding to incidents which may involve the use of firearms or dangerous weapons or at their discretion.

Information concerning the fitting and wearing of protective body armour is available from district firearms training officers or Operational Equipment and Armoury.

Storage of protective body armour

Prior to ceasing duty, officers should ensure any protective body armour in their possession is appropriately stored.

Protective body armour:

(i) vests:

(a) are not to be left in vehicles when not in use if suitable storage facilities are provided in the station or establishment;

(b) should be stored in a cool, dry area, not exposed to direct sunlight;

(c) are to be stored lying flat with the hard armour plates removed; and

(d) may be stacked one on top of another, but no more than 5 vests high. Where this is impractical, vests may be suspended vertically from hangers providing the hangers have a diameter of at least 25 mm and sufficient padding to avoid damage or abrasion to the exterior nylon fabric of the vest; and

(ii) hard armour plates:

(a) may be stacked flat with the strike face downwards, but no more than 12 plates high; and

(b) should be stored in a cool, dry area, not exposed to direct sunlight.

The hard armour plates are manufactured from dyneema (a high-density plastic). When not in use it is not recommended that hard armour plates be stored in Service vehicles which are not parked undercover.

OICs of stations or establishments are to ensure protective body armour is stored in compliance with s. 60: 'Secure storage of weapons' of the WA (see s. 14.22: 'Responsibility for Service equipment' of this chapter).

Inspection and maintenance of protective body armour

Prior to use, officers should visually inspect protective body armour to ensure:

(i) there are no holes or tears in the exterior fabric of the vest;

(ii) all visible threads on the exterior have no breaks, unravelling or 'furring' and that there are no loose threads in the joins;

(iii) each webbing strap is secure and does not sag or drape when pulled;

OPM Issue 113 Public Edition

(iv) all velcro panels close completely and securely; and

(v) there are no visible signs of damage to the hard armour plate.

Officers becoming aware of any loss, damage or defect of protective body armour under their control are to comply with s. 14.22.4: 'Reporting loss or damage or defect' of this chapter.

In other cases, officers are to immediately report to their OIC:

(i) any damage, defect or unsatisfactory condition relating to a protective body armour vest or hard armour plate;

(ii) incidents where hard armour plate has been shot, sustained a significant impact or displays visible damage; and

(iii) the loss of any protective body armour.

OICs of stations and establishments are:

(i) responsible for the proper maintenance and care of protective body armour on issue to their station or establishment;

(ii) to ensure a monthly inspection of all protective body armour under their control is made to identify any signs of damage or unusual wear. Inspections are to be recorded in a register kept for this purpose; and

(iii) to comply with the relevant provisions of s. 14.22.4 of this chapter.

The cleaning of protective body armour if required, is to be carried out in accordance with the care labels on each component. If soiled, the outer carrier or surface of the vest should be hand washed using mild detergent only. Protective body armour should:

(i) not be completely immersed in water during cleaning;

(ii) never be stored wet or damp as this promotes mould growth that can harm the ballistic fibres; and

(iii) if wet or damp, be allowed to drip dry in a shaded area or inside away from the sun. UV light can destroy the ballistic properties of the fibres.

Repairs and replacement of protective body armour

If a protective body armour vest requires repair, the vest is to be forwarded to the QPS Armoury, Assets Division who will arrange for any necessary repairs.

If a hard armour plate sustains a significant impact, although it may appear to be undamaged, it should be forwarded to the QPS Armoury for inspection.

When a protective body armour vest or hard armour plate is forwarded to the QPS Armoury, any costs involved in the inspection, testing and/or repair of the item are the responsibility of the requesting region or command.

Procedures for the requisition of Service protective body armour are contained on the QPS Armoury SharePoint page.

Disposal of protective body armour

Where a protective body armour vest or hard armour plate is damaged and cannot be repaired, it should be forwarded to the QPS Armoury for disposal.

After disposal, the QPS Armoury is to send a report outlining the description and serial number of the item and advising of its destruction to the Director, Weapons Licensing Group, who is responsible for maintaining the Commissioner's Weapons Register.

Periodic testing of protective body armour

Over time, the integrity of the hard armour panels in protective body armour vests may deteriorate.

To ensure protective body armour vests maintain their ongoing integrity, the Inspector, Operational Equipment and Armoury is responsible for maintaining periodic testing of vests within the Service.

Subject to proper care and handling, hard armour plates have a normal working life of 8 years from the date of manufacture and there is no requirement for periodic testing.

Recording of protective body armour

The Manager, Operational Equipment and Armoury is responsible for recording information on the Weapons Asset Control System (WACS) concerning protective body armour supplied or issued from the QPS Armoury. The information to be recorded on this system includes:

(i) the district, or other organisational unit within the Service, each protective body armour vest and hard armour plate is issued to;

(ii) the serial number of each protective body armour vest and hard armour plate; and

(iii) the make, model and size (vest only) of each protective body armour vest and hard armour plate.

OPM Issue 113 Public Edition

In addition to ensuring the details on the WACS are correct, OICs of stations or establishments are to maintain a local register of protective body armour and hard armour plates issued to their station or establishment. Particulars to be recorded include details listed above in (i) to (iii) and the date the protective body armour vest and hard armour plate was last inspected.

All registers are to be accurately maintained and updated to reflect the acquisition, transfer or disposal of protective body armour vests and hard armour plates within the Service.

14.20.2 Protective body armour (privately-owned)

Assistant commissioners or other delegated persons have been delegated the power to issue additional exemptions to officers pursuant to s. 2(1)(m): 'Application of Act' of the *Weapons Act* (WA) (see Delegation D 8.1).

Protective body armour is a Category E weapon under the provisions of the WA and Weapons Categories Regulation.

The Service is supportive of officers who wish to purchase items of personal protection, however has a duty of care towards its members in ensuring any equipment is safe and operationally effective, and that it complies with relevant Australian and International Standards.

Section 2(1)(e) of the WA exempts officers from the provisions of the Act in respect of their possession and use of a weapon as part of the performance of their duties and while off-duty in accordance with any relevant directions of the Commissioner. The section does not authorise an officer to acquire privately owned protective body armour for use as part of the performance of their functions as a police officer, unless authorised in accordance with this section.

Officers who have been approved to wear privately owned protective body armour are:

(i) if storing the body armour at their station or establishment, to comply with s. 60: 'Secure storage of weapons' of the WA. As a minimum, protective body armour is to be stored in the officer's station or establishment in a lockable steel cabinet which is secured to the structure by an approved method; or

(ii) when in possession of protective body armour while travelling to and from duty and storing protective body armour at their residence or elsewhere, to comply with the relevant provisions of s. 60 of the WA.

Officers seeking approval to acquire privately-owned protective body armour are to submit a QP 1004: 'Application for authorisation to acquire and possess protective body armour and Service indemnification'.

In the section 'Grounds to support application' of the QP 1004, officers are to make reference to:

(i) the reasons for applying for protective body armour (see s. 14.4.2: 'Authorisation to possess weapons off duty where a possible threat exists' of this chapter);

(ii) nature and type of duties for which the protective body armour will be worn;

(iii) whether it is intended that the protective body armour will be worn travelling to and from work; and

(iv) whether the protective body armour will be stored at the officer's residence, station or establishment, and what security arrangements will be put in place consistent with s. 60 of the WA;

Officers are to submit the completed QP 1004 attached to:

(i) regions, their district officer, including officers hosted in districts (e.g. Highway Patrol);

(ii) commands, excluding hosted officers, a superintendent within their chain of command; or

(iii) external organisations, the Superintendent, Specialist Operations Group,

(see Delegation D 8.1).

In considering the application, the delegated officer is to consider any relevant information contained in the non-standard equipment database in accordance with s. 14.6.9: 'Operational equipment development and approval' of this chapter.

Where satisfied the application is sound, the delegated officer is to:

(i) complete the QP 1004, granting approval for the officer to wear privately-owned protective body armour as part of the performance of duty;

(ii) provide the 'Authorisation to acquire and possess protective body armour' to the applicant officer;

(iii) forward the first page of the completed QP 1004 to the Manager, QPS Armoury; and

(iv) file a copy of the completed QP 1004 on the officer's personnel file.

Where an officer is authorised to acquire and possess privately-owned protective body armour, the officer is to take the completed 'Authorisation to acquire and possess protective body armour' to the nominated supplier.

Personal protective body armour is to comply with the minimum standard of NIJ Level IIIA, or as otherwise determined by the Inspector, Operational Equipment and Armoury, Assets Division.

OPM Issue 113 Public Edition

Officers, on taking possession of their protective body armour, are to scan and email a copy of the completed 'Authorisation to acquire and possess protective body armour' to the Manager, QPS Armoury prior to terminating duty on their next rostered shift.

The Manager, QPS Armoury is to enter the relevant details of the protective body armour into the Weapons Asset Control System.

Officers granted approval to use privately-owned protective body armour as part of the performance of their duties are to comply with any manufacturers' recommendations with respect to the maintenance, storage, regular inspections and testing of the protective body armour.

When responding to incidents that would require the wearing of protective body armour (e.g. responding to incidents which may involve the use of firearms or dangerous weapons), privately-owned protective body armour may be used in conjunction with, but not as a replacement for Service-issued protective body armour.

Replacement of protective body armour

Officers should be aware all protective body armour has an operational life, which is determined by the manufacturer after which the ballistic qualities are not guaranteed.

Officers should be aware of the expiry date of the protective body armour, after which it should be replaced. Officers who purchase protective body armour are responsible for identifying and ensuring they comply with the expiry date of the article.

Where protective body armour has reached its expiry date or has been damaged, the officer is to:

(i) complete a QP 0368A: 'Relinquishing order (weapon(s))'; and

(ii) deliver the completed QP 0368A and protective body armour to the Manager, QPS Armoury for destruction.

Once protective body armour is date expired or damaged, a new application for replacement protective body armour is to be made on a QP 1004 in accordance with this section.

Action on separation from the Service

Unless otherwise currently authorised by the WA, officers are to relinquish privately-owned protective body armour when separating from the Service (see s. 14.10: 'Surrendering firearms, handcuffs, batons and ammunition' of this chapter).

Where an officer, who is authorised to possess privately-owned protective body armour, is separating from the Service, the officer is to:

(i) complete a QP 0368A; and

(ii) deliver the completed QP 0368A and protective body armour to their OIC,

unless the officer holds approval under the WA to maintain possession of the protective body armour.

The OIC of the station or establishment receiving the protective body armour is to ensure the article and supporting documentation is delivered to the Manager, QPS Armoury in accordance with s. 14.10 of this chapter.

OPM Issue 113 Public Edition

14.20.3 Integrated load bearing vests

An integrated load bearing vest (ILBV) is designed to provide officers and recruits with protection from ballistic, edged weapon, and blunt force trauma threats and manage the safe distribution and carriage of service approved operational equipment to reduce the risk of injury. The soft armour panels (SAP) and hard amour plate (HAP) are designed to be inserted into the carrier and are 'Category E' weapons pursuant to the provisions of s. 6: 'Category E weapons' of the Weapons Categories Regulation.

For the purpose of this policy the term 'operational duties' means where officers are performing operational duties which are likely to involve physical interaction with members of the public, including counter duties. This includes recruits performing station duty.

Integrated load bearing vest training and use

Officers issued with and authorised to wear an ILBV, are to wear the ILBV when performing operational duties, unless a medical review has been submitted pursuant to the provisions of this policy.

All officers and recruits will be issued with an ILBV and are:

(i) to wear, maintain and store their ILBV in accordance with this policy and the guidelines and instructions located on the ILBV SharePoint page. Only items and accessories issued as part of the ILBV or approved for use with the ILBV by this policy or the aforementioned ILBV guidelines and instructions are to be attached to the ILBV;

(ii) authorised to wear an ILBV once they successfully complete the mandatory online learning product and training as outlined on the ILBV SharePoint page. Officers are not to wear their ILBV prior to completing this training;

(iii) to wear the ILBV while undertaking mandatory OST training;

(iv) to ensure the SAPs are always correctly inserted in the ILBV. SAPs are only to be removed to meet a risk arising due to environmental circumstances (e.g. a temporary heat related risk due to directing traffic). SAPs are to be reinserted immediately once the temporary risk has sufficiently reduced;

(v) to wear the HAP when information suggests the existence or threat of any weapon and can choose to always wear the HAP or in other circumstances where their risk assessment identifies a need (e.g. demonstrations or riots, executing a search warrant etc);

(vi) to attach the removable blue and grey police signage panels issued with the ILBV to the front and back of the ILBV and clearly visible except in situations where it is tactically unsound to do so. The blue and grey police signage is to be reattached to the ILBV as soon as practicable once the tactically unsound situation is resolved;

(vii) to attach body worn cameras (BWC) (see SMD) to the ILBV using the tilt mount and screwed in base plate issued with the ILBV. The screwed in base plate is not to be relocated from its original position on the ILBV as issued. The BWC may be worn in either the default or alternate drop mount position. Officers operating a Flex2 BWC, are to wear the controller on their utility belt or the supplied screwed in base plate in the default position. Officers or recruits with pacemakers are to contact the ILBV Project Team to identify alternative locations; and

(viii) to only attach torches or lights to the ILBV that comply with the ILBV Body Worn Light Guidelines, located on the ILBV Resources SharePoint page.

ILBV high visibility vest

The ILBV is issued with a high visibility vest (HVV) attachment consisting of 6 high visibility components: a torso panel; 2 chest pieces; a rear/back piece; and two waistbands. Officers are to wear the ILBV (HVV) in the ¾ or full configuration in low light visibility situations, unless tactically unsound to do so, and when performing high visibility foot patrols within a safe night precinct. The ¾ HVV configuration is achieved by attaching both chest pieces and the rear/back piece to the ILBV. The full HVV configuration is achieved by all 6 high visibility components being attached in place to establish full frontal, rear and side high visibility coverage. High visibility epaulettes are not to be attached to the ILBV.

Service issued reflectorised safety vest

As the ILBV HVV does **not** currently meet all Australian Standards requirements for high visibility safety garments, officers wearing an ILBV **are to** wear a Service issued reflectorised safety vest over the ILBV when performing planned duties, which includes routine traffic intercepts at any time of day, at an event in or adjacent to traffic, including work sites, in quarries or on construction haul roads. Refer to s. 12.10: 'High visibility and reflectorised safety vests' of the MSM and s. 3.2.5: 'Officer safety at static interception sites of the TM'.

For clarity, entering a roadway to set up, or remove a tyre deflation device, or when stopping traffic for that purpose, although often urgent, is a planned duty as detailed herein, and a reflectorised vest is to be worn. Noting, the reflectorised vest is to be removed when officers are safely off the roadway to increase their concealment (see s. 14.30.7: 'Officer responsibilities' of this chapter).

Officers wearing an ILBV and performing duties without prior planning in or adjacent to traffic, including work sites, in quarries or on construction haul roads **should** also wear a Service issued reflectorised safety vest over the ILBV.

When wearing a Service issued reflectorised safety vest over an ILBV, officers are to take all reasonable action to ensure the capability of their BWC is enabled, and their operational equipment (see SMD) can be very quickly accessed.

Plain clothes officers

Plain clothes officers issued with and authorised to wear an ILBV, are to wear the ILBV when responding to incidents or conducting activities where information suggests the existence or threat of any weapon threat. Plain clothes officers may wear the ILBV at other times when performing operational duties. When performing operational duties and not wearing the ILBV, plain clothes officers are to ensure their ILBVs are contained in the supplied storage bag and secured in the locked boot of their operational vehicle.

ORDER

Plain clothes officers issued with and authorised to wear an ILBV, are to wear the ILBV when:

(i) executing warrants;

(ii) responding to incidents when information suggests the existence or threat of any weapon; or

(iii) serving documents where there is an expectation of a heightened threat, i.e. Firearms Prohibition Orders.

Specialist unit and duties exemptions

Officers performing duties:

(i) within specialist areas (e.g. SERT, PSRT and Dog Squad) where the functions of the ILBV are fulfilled by service issued specialist equipment are exempt from wearing an ILBV;

(ii) in specialist positions where the wearing of an ILBV is not permitted (e.g. police prosecution court duties, close personal protection duties etc.) are exempt from wearing their ILBV while performing those specialist duties; and

OPM Issue 113 Public Edition

(iii) where the wearing of an ILBV may create a workplace health and safety risk in the execution of specialist duties (e.g. Polair Tactical Flight Officer, disaster victim identification, forensic crime scene examination, forensic crash scene examination, motorcycle duties, on water operations etc.) are exempt from being required to wear their ILBV while performing those specific specialist duties but may wear the ILBV if they assess it is safe to do so.

Frontline support roles or public functions

Officers are not required to wear an ILBV when performing non-operational frontline support roles or attending a non-operational function (e.g. business meetings, ceremonial functions, funerals, presentations, lectures etc.) in a non-operational capacity.

Medical review

Where a medical condition impacts on an officer's ability to wear an ILBV, the lodgement of a new incident in the Incident/Injury Notification System (I/INRS) is to be submitted. Injury Management will engage with the officer and will seek to obtain medical opinion from the officer's treating doctor/s to support identification of any adjustments or recommendations that may enable the officer to continue to perform operational duty.

Before an incident notification is lodged, officers are encouraged to access the ILBV SharePoint page for advice on how to self-adjust. Where self-adjustments have not resolved the issue, officers should seek the assistance of an ILBV KPOC to optimise vest fit and accoutrement configuration.

Storage, inspection and maintenance of integrated load bearing vests

The ILBV when fitted with the SAPs or HAP is a Category E weapon, therefore components constituting body armour need to be stored in accordance with the Weapons Regulation (the regulation) whenever they are not in a member's physical possession (see ILBV Storage Guidelines on the ILBV SharePoint page).

ORDER

Both the SAPs and HAP, when not in use, are to be securely stored in accordance with the provisions of Part 21 of the Regulation and the ILBV Storage Guidelines.

Prior to use, officers and recruits should visually inspect the ILBV to ensure:

(i) there are no holes or tears in the exterior fabric of the ILBV;

(ii) all visible threads on the exterior have no breaks, unravelling or 'fraying' and that there are no loose threads in the joins;

(iii) all zip and velcro panels close completely and securely; and

(iv) there are no visible signs of damage to the HAP or SAPs.

Officers or recruits becoming aware of any damage or defect of their ILBV under their control are to advise their OIC and ILBV Project Team and arrange to have the ILBV inspected as soon as reasonably practicable and replaced if necessary.

The ILBVs need to be laundered in accordance with the laundering instructions from the manufacturer. Once the SAPs and HAP are removed and stored in accordance with the Regulation, the vest is no longer a Category E weapon and is considered a piece of uniform. The vest should be laundered as required, by the officer or recruit, at home.

OPM Issue 113 Public Edition

14.21 Oleoresin Capsicum (OC) spray

Oleoresin Capsicum (OC) spray is a 'Category R' weapon as defined in s. 8(d) of the Weapons Categories Regulation.

OC spray is a less than lethal use of force option, that may assist police officers and watch-house officers resolve incidents involving violent person(s). In most instances the use of OC spray will assist police officers and watch-house officers to control a person with minimal physical contact.

The contents of this section are to be read in conjunction with Chapter 14: 'OC Spray' of the 'Police Operational Skills and Tactics Learner Guide' (the POST Learner Guide) which is located on the QPS Corporate Intranet.

14.21.1 Use of Oleoresin Capsicum spray

POLICY

The use of OC spray will be determined by the circumstances existing at the time, bearing in mind the 'Situational Use of Force Model' (see s. 14.3.2: 'Situational Use of Force Model (2016)' of this Manual).

Before using OC spray, the police officer or watch-house officer should verbally warn the subject person(s) where practicable. OC spray should only be used in the manner prescribed in the POST Learner Guide.

OC spray should not be used:

(i) against persons offering passive resistance (e.g. sitting down and refusing to comply with instructions);

(ii) as a crowd control measure (e.g. for crowd dispersal at a demonstration or industrial dispute);

(iii) against the occupants of a vehicle where there is a danger of the vehicle going out of control and injuring the occupants or other people; or

(iv) against youths, except in extreme circumstances where there is no other reasonable option to avoid the imminent risk of injury.

14.21.2 Decontamination and aftercare

Officers and watch-house officers have a duty of care regarding all persons who have been contaminated by OC spray and are to assist in their recovery.

Where a person is affected by the application of OC spray, the responsible officer (as defined in the SMD) is to provide aftercare to that person in accordance with the procedures contained in the POST Learner Guide as soon as practicable. If the responsible officer is incapacitated by any means another officer is to ensure the affected person is provided aftercare as necessary.

The responsible officer is to ensure that:

(i) a person affected by OC spray is not left in a position which may lead to 'positional asphyxia' (see s. 14.3.8: 'Monitoring restrained prisoners (positional asphyxia)' of this Manual); and

(ii) medical attention is provided to any person affected by OC spray in their custody, if that person:

(a) does not begin to recover within a reasonable time (approximately 20 minutes—see the POST Learner Guide);

(b) complains of a medical condition (e.g. asthma);

(c) asks for medical attention;

(d) appears to be suffering from any of the 'extraordinary effects' listed in the POST Learner Guide; or

(e) is displaying any other persistent or unusual symptoms.

The OIC of a station or establishment should:

(i) ensure that operational vehicles under their control, excluding motorcycles, are equipped with adequate OC spray decontamination equipment to provide aftercare for affected persons; and

(ii) consult the 'Aftercare Kit' section of the POST Learner Guide for details on suitable decontamination equipment.

When medical treatment is required for any person who has been contaminated by OC spray, the responsible officer should request the attendance of Queensland Ambulance Service (QAS). Where it is impractical to obtain the attendance of the QAS, the responsible officer should take the affected person to the nearest facility providing medical aid.

OPM Issue 113 Public Edition

14.21.3 Interviewing a person affected by Oleoresin Capsicum spray

Evidence obtained while interviewing a person who is suffering the effects of OC spray may be ruled inadmissible in a court.

POLICY

Unless emergent circumstances exist, police officers should not interview a person in relation to an offence whilst that person is suffering the effects of OC spray.

The term 'time out' as it appears in Schedule 6: 'Dictionary' of the PPRA, may include treating a person for the effects of OC spray.

If a police officer wants to question, or continue to question, a person in custody who is apparently affected by OC spray, the officer should delay questioning until reasonably satisfied that the person is no longer affected.

14.21.4 Reporting the use of Oleoresin Capsicum spray

Use of force reporting

The use of OC spray by a member is a reportable use of force incident. In such instances the member using the OC spray, or if the member is incapacitated, their supervisor is to ensure a 'Use of Force Report' is completed in the relevant QPRIME occurrence. The report is to be completed within 24 hours of the creation of the relevant occurrence.

For the purpose of recording the use of OC Spray in QPRIME, the term 'use' includes:

(i) spraying a person, or in the direction of a person with OC spray;

(ii) pointing the OC spray canister in the direction of a person without discharging the spray; and

(iii) spraying an animal, or in the direction of an animal with OC spray.

The term 'use' does not include the removal alone of the OC spray canister from the protective pouch or the use of OC spray for routine training purposes.

See s. 14.3.9: 'Use of force reporting' of this chapter and the QPRIME User Guide.

14.21.5 Issue and return of Oleoresin Capsicum spray canisters

POLICY

OC spray should only be issued to police officers and watch-house officers who have been trained and qualified in its use by a qualified POST Instructor.

OC spray is issued on a station/establishment basis but may be issued on a 'personal issue basis' where appropriate to suit operational requirements.

Police officers and watch-house officers issued with OC spray are to return the canister to their officer in charge in the following instances:

(i) after the first activation of the canister, irrespective of whether the contents are completely or partially expended (see s. 14.21.7: 'Disposal of used, damaged or expired Oleoresin Capsicum spray canisters' of this chapter);

(ii) if the canister is damaged or has passed its expiry date (see s. 14.21.7: 'Disposal of used, damaged or expired Oleoresin Capsicum spray canisters' of this chapter);

(iii) while on leave for any period longer than fourteen days;

(iv) when required to perform duty away from their home station or establishment for any period longer than fourteen days;

(v) upon departing on transfer to another location; or

(vi) if required to surrender the canister as a result of failing to qualify in training as set out in s. 14.21.10: 'Training of Oleoresin Capsicum Spray' of this Manual.

14.21.6 Recording of Oleoresin Capsicum spray canisters

The Executive Manager, Supply Services is responsible for recording:

(i) all serial numbers of active OC spray canisters on the Weapons Asset Control System;

(ii) the district, or other organisational unit within the Service, OC spray canisters are issued to;

(iii) the date of issue; and

(iv) the date of expiry of each OC spray canister.

OICs of stations or establishments where OC spray canisters are received are to maintain a local register of OC spray canisters. Particulars to be recorded include the:

(i) serial number and expiry date of the OC spray canister;

(ii) name, rank, registered number and signature of the officer who was issued with the OC spray canister;

(iii) date and time of issue and return;

(iv) reason for return/surrender of the OC spray canister; and

(v) date, time and method of disposal (see s. 14.21.7: 'Disposal of used, damaged or expired Oleoresin Capsicum spray canisters' of this Manual).

14.21.7 Disposal of used, damaged or expired Oleoresin Capsicum spray canisters

Canisters that are completely or partially expended, damaged, or have passed their expiry dates, are to be:

(i) returned to the OIC where issued as soon as practicable; and

(ii) accompanied by an email or report outlining the OC spray canister serial number and the circumstance of its return. Where the use of OC spray has been recorded in QPRIME as a 'Police Use of Force' occurrence (see s. 14.21.4: 'Reporting the use of OC spray' of this chapter), no additional email or report is required.

Partially used OC spray canisters may be used for training purposes prior to disposal. OICs should ensure partially expended, damaged or expired OC spray canisters are disposed of in accordance with the following procedures. OC spray is biodegradable and should not harm the environment.

Members required to dispose of OC spray canisters should:

(i) use disposable gloves, safety glasses, and a suitable face mask during the disposal process;

(ii) discharge the entire contents of the canister in an area to which the public does not have access or is not likely to be affected by the contents;

OPM Issue 113 Public Edition

(iii) discharge the entire contents by spraying it downwind into or towards the ground in an open area;

(iv) break the actuator off the canister and crush the actuator;

(v) permanently remove any references to the Service where they appear on the canister;

(vi) carefully crush the canister; and

(vii) place the crushed actuator, canister and gloves in a sealed garbage bag, and dispose of the items in general waste.

After disposal, OICs are to advise the Supervisor, QPS Armoury, Assets Division via email to ARMOURY.ADMIN@police.qld.gov.au, so the Weapons Asset Control System can be updated with the date of expiry.

14.21.8 Carriage of Oleoresin Capsicum spray canisters

ORDER

All officers qualified in Blocks 1 and 2 Operational Skills and Tactics (OST) training are to carry an Oleoresin Capsicum (OC) spray canister in accordance with s. 14.4: 'Service-issued weapons' of this chapter.

POLICY

OC spray canisters should be carried in:

(i) the pouch provided on a utility belt; or

(ii) the pouch provided on a load bearing vest, or

(iii) another Service-approved mode of carriage (e.g. bumbag).

14.21.9 Transport of Oleoresin Capsicum spray canisters

OC spray canisters are classified as a 'Dangerous Good' under the Australian Code for the Transport of Dangerous Goods by Road and Rail (see Schedule 1, Part 1 of the *Work Health and Safety Act*); the International Civil Aviation Organisation Technical Instructions for the Safe Transport of Dangerous Goods by Air and the International Air Transport Association Dangerous Goods Regulations (s. 23 of the *Civil Aviation Act* (Cwlth) and r. 92.015 of the Civil Aviation Safety Regulations (Cwlth)).

For carriage of OC spray canisters on aircraft and at airports see 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 chapter.

POLICY

Where practicable, OC spray canisters should be transported in Service vehicles or by road freight. OC spray canisters transported by freight are to be properly packed, marked, labelled and declared as dangerous goods. The requirements of the particular freight company are to be observed.

ORDER

OC spray canisters are not to be transported by the Service internal or public mail systems (e.g. Australia POST).

PROCEDURE

Care should be exercised when opening a container following transport. The container should be opened in an open area in the unlikely event of an OC spray canister having ruptured during the flight.

14.21.10 Training of Oleoresin Capsicum spray

POLICY

The Chief OST Instructor is responsible for ensuring that the necessary systems are in place to enable OST training to take place with respect to OC spray.

Officers who do not comply with the relevant requirements of s. 14.3.10: 'Operational Skills and Tactics (OST) training' of this chapter are not to be issued with, carry or use OC spray until deemed competent.

14.22 Responsibility for Service equipment

Definitions

For the purposes of this section:

Damage

with regard to damage to Service equipment, means destruction or damage to the extent that it is inoperable or unsafe to use.

OPM Issue 113 Public Edition

In use

includes tasks undertaken to ensure the reasonable condition and serviceability of Service equipment.

Loss

with regard to loss of Service equipment, means loss regardless of the means by which it is lost i.e. theft, accident, or negligence.

Operational equipment

see definition contained in SMD.

Secure area

means:

(i) a locked drawer, cabinet, cupboard, safe or other similar receptacle; or

(ii) a room, enclosure, or building which has locks and if available, security systems engaged; with a view to prevent, to the greatest extent possible, unauthorised access to equipment stored therein.

Service equipment

see definition contained in SMD.

Weapon

see definition contained in SMD.

14.22.1 Operational equipment

Operational equipment may be issued on a personal (personal issue operational equipment) or station (station issue operational equipment) basis.

Members are responsible for the security, care and condition of Service equipment on issue to them or issued for the time being under their control. Members are to take all reasonable precautions to ensure Service equipment is not carelessly or negligently exposed to loss or damage.

When used in the performance of duty, members are to keep operational equipment in their physical possession or under their control at all times. When not in use, operational equipment is to be stored in a locked receptacle at the member's station or establishment, and in the case of firearms and conducted energy weapons, in an approved Service weapon storage facility (see Minimum Storage Standards for Weapons and ss. 14.6.4: 'Safety of firearms' and 14.23.10: 'Storage' of this chapter).

OICs of stations or establishments are to ensure that:

(i) members under their control are provided with separate lockable receptacles at the station or establishment of sufficient size and capacity to enable the safekeeping of Service equipment issued to them and personal property;

(ii) station issue operational equipment is stored at the station or establishment in a secure area when not in use or signed out by a member;

(iii) personal issue operational equipment (not including privately owned equipment) issued to members under their control are inspected on a monthly basis or at other specified time intervals authorised by their assistant commissioner or equivalent (see also ss. 14.6.5: 'Responsibilities of officers in charge of stations and establishments' of this chapter and s. 2.3.6: 'Official police notebooks and diaries' of the Management Support Manual); and

(iv) firearms and conducted energy weapons kept at their station or establishment are stored in accordance with the Minimum Weapons Storage Standards for Weapons available on the Capital Planning Team SharePoint page.

Storage at a member's residential premises or elsewhere

Except for weapons and ammunition, the shift supervisor or OIC of the station or establishment may, for operational or safety reasons, approve the carriage of operational equipment while in transit to and from duty, or storage elsewhere than at a station or establishment by members under their control, provided the shift supervisor or OIC is satisfied that the equipment can be stored safely in an appropriate secure area.

The keeping and storage of Service issue weapons at a member's residential premises, or elsewhere than at a station or establishment, is only to be approved by a district officer or equivalent in accordance with s. 14.4.1: 'Authorisation to possess weapons off duty as part of an officer's performance of duty' or the OIC of a region or command or equivalent in accordance with s. 14.4.2: 'Authorisation to possess weapons off duty where a possible threat exists' of this chapter.

Handcuffs and extendable batons issued on a personal issue basis are approved for carriage while in transit to and from duty (see ss. 14.19.3: 'Carriage of handcuffs' and 14.18.4: 'Carriage of extendable batons' of this chapter).

OPM Issue 113 Public Edition

ORDER

Where approved to carry operational equipment while in transit to or from duty or store it elsewhere than at a station or establishment, members are to store the equipment in a secure area at their residence, or other place approved by their OIC.

14.22.2 General equipment

ORDER

OICs should ensure local instructions are developed to minimise the risk of loss or damage of general equipment (see SMD) under their control.

All Service assets (see SMD) including general equipment is to be used in accordance with s. 2.3.7: 'Use of Service assets for private purposes' of the MSM. OICs must not approve the use of Service assets for private purposes except as permitted under s. 2.3.7 of the MSM.

Requirements in relation to gifts or benefits are outlined in s. 11.4: 'Gifts or benefits offered to members of the Service' of the MSM.

Guidance regarding the personal use of Service mobile phones is provided in s. 4.11.5.1: 'Personal use' of the Information Management Manual.

Obligations relating to the use of Service vehicles are set out in s. 4.2.1: 'Responsibilities and duties of officers' of the MSM.

This section does not apply to QPS Housing, for matters relating to the 'use' of QPS Housing, see s. 15.13: 'Use' of the MSM.

14.22.3 Uniform Items

ORDER

Members are to take reasonable precautions to safeguard items of uniform issued to them.

14.22.4 Reporting loss or damage or defect

Members are to report any loss or damage (other than fair wear and tear) of Service equipment on issue to them or under their control to the shift supervisor, OIC of the station or establishment, or their supervising commissioned officer, as soon as practicable.

Upon discovering that Service equipment issued to them or under their control is missing, members are to make immediate inquiries to locate the equipment.

Supervisors informed of the loss or damage of Service equipment, or otherwise discovering the loss or damage of Service equipment, are to:

(i) conduct inquiries into the circumstances of the loss or damage and ensure appropriate action is taken to recover any lost item, reduce any potential for further damage or loss, or ensure the safety of any person. For example, this may include initiating a police radio broadcast or statewide email, and in the case of missing equipment, ensuring reasonable efforts are made to locate or recover; and

(ii) ensure a QPRIME occurrence report is completed in appropriate cases, and in all cases of lost equipment (Lost Property [1619]).

Except for the loss of Service identification, OICs of stations or establishments, or if applicable, commissioned officers are to ensure inquiries are conducted into the circumstances surrounding the loss or damage of Service equipment by members under their control, and ensure a report is completed and forwarded through the chain of command to the district officer/manager for information and overview. The report is to include:

(i) a description of the equipment including any serial numbers and/or asset numbers;

(ii) its value or approximate value;

(iii) whether any money has been or is able to be recovered for the loss or damage from the member concerned;

(iv) whether the item can be repaired or recovered;

(v) the reason(s) for the loss or damage; and

(vi) any recommendations that may address the causes of the loss or damage and/or prevent future loss or damage.

If the Service equipment cannot be repaired or recovered and is:

(i) recorded on SAP;

(ii) a 'material loss' as defined in the Financial and Performance Management Standard (i.e. equipment valued over $5000.00); or

OPM Issue 113 Public Edition

(iii) operational equipment of any value,

the district officer or manager is to forward a copy of the report to their relevant finance and business support officer for recording of the lost or damaged property on the Regional Register of Losses.

Members should report to their respective OIC, any difficulties experienced with the quality, design or defects of operational equipment used by the Service. Reports concerning quality, design or defects of operational equipment are to be forwarded through the usual channels to the Director, Procurement Services Group, Finance and Procurement Division.

Members may be required to pay for the cost of any Service equipment lost or damaged as a result of their negligence (refer to the Financial Management Practice Manual for the relevant debt recovery procedures).

Members requesting a replacement following the loss of their Service identification are to comply with s. 4.4.2: 'Service-issued identification' of the MSM.

14.22.5 Equipment management strategies

District officers/managers are to ensure appropriate equipment management strategies are in place to give effect to Service policy and provide a minimum standard for the effective and efficient management of Service equipment at regional, district and station level.

Regional level strategies should include:

(i) finance and business support officer to record losses of Service equipment recorded on SAP, equipment of a value over $5000.00 and operational equipment of any value on the Regional Register of Losses;

(ii) information resource manager to be responsible for the identifying the location of computers within the command/region; and

(iii) an officer is nominated to inspect 'personal issue' operational equipment of all regional office staff as required by this policy.

District level strategies should include:

(i) district officers/managers to:

(a) monitor losses and damage of equipment reported within their district in QPRIME, to ensure the quality of inquiries being made into the losses or damage;

(b) ensure the finance and business support officer is advised of any loss, damage or destruction of Service equipment that is recorded on SAP, valued over $5000.00 or operational equipment of any value;

(c) review loss of equipment reports to ensure adequate investigation has been completed, prior to submission of the report to the finance and business support officer for finalisation; and

(d) ensure all stations and establishments within the district are inspected at least once per calendar year by an appropriate delegate and Service equipment management and security is checked;

(e) supervise notification and reporting of Service equipment losses within equipment management and divisional performance appraisals; and

(f) ensure an officer is nominated to inspect 'personal issue' operational equipment of all district office staff as required by this policy; and

(ii) crime manager to assist in monitoring losses of equipment reported within their district in QPRIME, and to ensure the quality of inquiries and investigations being made into the losses.

Station/establishment level strategies should include the development of station instructions with provision for:

(i) station security—including the recording and/or monitoring of visitors to the station including suspects, witnesses, contractors and tradespersons. The level of monitoring will be determined by the access required of the visitor (e.g. if the visitor requires access to the property office, they are to be accompanied by a police officer or suitable staff member);

(ii) storage of personal issue operational equipment—to be stored in a secure area accessible only by the member concerned and the OIC, when not in use or physical possession of members;

(iii) the issuing and returning of (signing out and in) operational equipment. Where operational equipment is to be returned at the end of the shift, equipment registers should, where practicable, be counter-signed by the shift supervisor to verify its return and condition;

(iv) shift supervisors as a minimum reconcile the following equipment either at the commencement or completion of their shift: hand held radios, alcolmeters, speed detection equipment, tasers and vehicles;

(v) the process to be followed if Service equipment is found to be missing or damaged including a report to be sent to the finance and business support officer to be recorded in the Regional Register of Losses;

OPM Issue 113 Public Edition

(vi) all operational and general equipment held by their station or establishment to be audited at least twice yearly, or at other times nominated by the district officer, by a nominated compliance officer or equipment officer; and

(vii) all operational and general equipment of a non-covert nature is inscribed or labelled to clearly show the equipment belongs to the Service and to which station or establishment it is issued to.

14.23 Conducted energy weapons (Tasers)

Taser is a brand name weapon in the general category of 'Conducted Energy Weapons' (CEW) with the Service utilising the Taser X26P.

14.23.1 Definitions

For the purpose of s. 14.23: 'Conducted energy weapons (Tasers)':

Deployment of a Taser

means when the safety lever is in the armed position and the trigger is pressed in either probe or drive stun mode.

Deployment includes firing the Taser:

(i) in probe mode against a person or animal, or in the direction of a person or animal; or

(ii) in drive stun mode against a person or animal; or

(iii) unintentionally discharging the probes in any circumstance (other than during Taser training).

Drive stun mode

uses direct contact of the Taser, with or without an air cartridge fitted, to the body or clothing of a person and causes significant discomfort in the area where the Taser is applied.

The drive stun mode can also be used in combination with the probe mode to complete an incapacitation circuit.

For the restrictions on the use of a Taser in drive stun mode see s. 14.23.3: 'Use of Tasers' of this chapter.

Multiple cycles

occur in relation to a subject person when the trigger is pressed again following the completion of a single cycle during the same incident or deployment.

Presentation of a Taser

includes:

(i) pointing a Taser in the direction of a person without deploying or firing the probes; or

(ii) holding/pressing a Taser against a person without deploying or firing the probes.

Probe mode

in probe mode a Taser, fitted with an air cartridge, uses propelled probes (darts) and wires to deliver short duration high voltage electrical pulses into the body which affect the sensory and motor functions of the nervous system (Neuro Muscular Incapacitation (NMI)).

Single cycle

means the electrical charge emitted by the Taser is programmed to a run for a single (continuous) five second cycle when the trigger is pressed. A single cycle may be shortened by the operator moving the safety lever to the down (safe) position. One full (five second) single cycle is the operational standard for Taser deployment.

Taser

is a brand name of a weapon in the general category of 'Conducted Energy Weapons' (CEW). A Taser is a hand-held neuro-muscular disruption device capable of temporarily incapacitating a person and causing pain through the application of an electrical current.

Tasers are 'Category R' weapons, as defined in s. 8(f): 'Category R weapons' of the Weapons Categories Regulation.

Unintentional discharge (UD) of a Taser

means an unintentional deployment of a Taser air cartridge in any circumstance other than during Taser training e.g. during station loading and unloading procedures.

OPM Issue 113 Public Edition

Use of a Taser

means:

(i) drawing the Taser out of the holster; or

(ii) presentation of the Taser; or

(iii) deployment of the Taser,

in the performance of the officer's duties.

Use of a Taser for reporting purposes does not include:

(i) use during Taser training;

(ii) station loading and unloading procedures (including spark testing);

(iii) administrative tasks (e.g. downloading and storage); and

(iv) drawing or presentation only against an animal (i.e. not deploying).

The term 'use' includes any and all subsequent actions carried out with the Taser.

14.23.2 Taser training

Officers are not to use or carry a Taser in the performance of their duties unless they:

(i) have successfully completed the relevant Taser training course; and

(ii) are OST qualified (see s. 14.3.10: 'Operational Skills and Tactics (OST) training' of this chapter).

Officers who successfully complete the Taser training course will need to requalify in the use of a Taser on an annual basis. This annual re-qualification will be undertaken as part of OST (see s. 14.3.10 of this chapter).

The Chief OST Instructor is responsible for ensuring the necessary systems are in place to provide Taser training to nominated officers.

14.23.3 Use of Tasers

The X26P Taser has two main capabilities, probe and drive stun mode.

The deployment of a Taser, in either probe or drive stun mode, should be determined by the circumstances existing at the time, bearing in mind the 'Situational Use of Force Model' (see s. 14.3.2: 'Situational Use of Force Model (2016)' of this chapter). Officers are reminded the Service's philosophy of 'Consider all Options and Practise Safety' (COPS) should be embraced when dealing with use of force incidents.

Probe mode is the preferred operational standard for Queensland Police Service Taser operation. In probe mode the electrical charge transmitted by a Taser causes the subject person to experience involuntary muscular contractions (NMI), rendering the person temporarily incapacitated or unable to perform coordinated action until the device is deactivated.

The drive stun mode used in isolation does not cause NMI, operating solely on pain compliance and may not be effective on people who are highly motivated, mentally disordered or drug/alcohol affected.

The drive stun mode may be used in combination with probe mode to complete an incapacitation circuit which may cause NMI.

Officers should only use the minimum amount of force necessary to resolve an incident.

There must be a risk of serious injury to a person before an officer can use a Taser. The decision to apply force or use a Taser is an individual one for which every officer will be held accountable.

Every decision to use force should be the subject of a continuous assessment prior to the application of another use of force.

Officers should consider all the 'use of force' options available to them and all the circumstances of an incident when determining the most appropriate 'use of force' option(s) to be used.

Prior to deploying a Taser in either probe or drive stun mode, officers should:

(i) where practicable, verbally warn the subject person(s); and

(ii) be mindful of the area in which the subject may fall, for example on a hard surface. In probe mode the Taser causes temporary incapacitation which may cause the subject to fall down. Injuries may be sustained by the subject where this occurs.

A Taser should not be used in either probe or drive stun mode:

OPM Issue 113 Public Edition

(i) against persons offering passive resistance (e.g. refusing to move or offering little or no physical resistance and refusing to comply with police instructions. A person acting as a dead weight or requiring an officer to lift, pull, drag or push them to maintain control);

(ii) against persons handcuffed unless exceptional circumstances exist;

(iii) as a crowd control measure (e.g. for crowd dispersal at a demonstration or industrial dispute);

(iv) against the occupants of a vehicle or the operator of machinery where there is a danger of the vehicle or machinery going out of control and injuring the occupants or other people;

(v) against children or persons of particularly small body mass, except in extreme circumstances where there is no other reasonable option to avoid the imminent risk of serious injury;

(vi) against females suspected on reasonable grounds of being pregnant, except in extreme circumstances where there is no other reasonable option to avoid the imminent risk of serious injury;

(vii) near explosive materials, flammable liquids or gases due to the possibility of ignition;

(viii) punitively for purposes of coercion or as a prod to make a person move;

(ix) to rouse unconscious, impaired or intoxicated persons;

(x) on persons where there is a likelihood of significant secondary injuries (particularly concussive brain injury) from a fall (e.g. standing on a ladder or other elevated position); or

(xi) on elderly persons, except in extreme circumstances where there is no other reasonable option to avoid the imminent risk of serious injury.

A Taser should not be used in drive stun mode except:

(i) in extreme circumstances where there is no other reasonable option to avoid the risk of serious injury; or

(ii) when it is used in combination with the probe mode to complete an incapacitation circuit.

LED lights and laser

The LED lights and laser are only to be used to aid in aiming and are not to be used for any other purpose. The laser sight should not intentionally be aimed at the eyes of the subject.

Deployment of a Taser

A Taser deployment is characterised by a single five second cycle in either probe or drive stun mode. Officers are to use the Taser on persons by application of a single five second cycle. Any deployment of a Taser on an individual beyond this single five second cycle is considered a 'multiple deployment.

Additional cycles may be applied in justifiable circumstances after the officer has reassessed the situation prior to each additional cycle.

Officers should be aware there may be technical or physiological reasons why the device is not working as expected on a particular individual. Therefore, if the initial application of the Taser in either probe or drive stun mode is not effective, officers should reassess the situation and consider other available use of force options.

Officers should be aware multiple deployments of a Taser have been linked to deaths, particularly where:

(i) use of a Taser was accompanied by the use of restraints or chemical incapacitant sprays (e.g. OC spray);

(ii) subjects had underlying health problems such as heart conditions or mental illness;

(iii) subjects were under the influence of drugs and/or alcohol;

(iv) subjects were struggling violently for a sustained period; or

(v) a combination of these factors existed.

There are cases where persons exposed to the effects of Taser have died sometime after being exposed. It is recognised there are circumstances where the only alternative may be the use of a potentially lethal use of force e.g. firearm or where the deployment of the Taser irrespective of the additional risk is absolutely necessary to protect life.

Officers should be aware Indigenous people are more likely to suffer from underlying health problems such as heart disease, lung disease and other illnesses increasing their risk of experiencing adverse health effects when a Taser is deployed against them.

ORDER

Where practicable, officers are not to deploy a Taser in either drive stun or probe mode on a person who has just been subjected to deployment of OC spray.

14.23.4 Use of more than one Taser

Officers should not deploy two or more Tasers on the one person at the same time.

OPM Issue 113 Public Edition

14.23.5 Using the Taser on people who are suspected of mental ill-health

Occasions will arise where it is necessary to use the Taser on a person who is exhibiting violent behaviour and who is also suspected of suffering from a mental disorder or mental ill-health. When responding to a mental ill-health incident, officers are to ensure QAS assistance is requested and where possible, discuss options with mental health professionals.

See also the following sections of this Manual:

(i) s. 6.6.1: 'Mental distress or crisis';

(ii) s. 6.6.13: 'Mental health intervention coordination and training';

(iii) s. 14.3.6: 'Responding to a person in crisis';

(iv) s. 14.3.7: 'Post arrest collapse (medical risk factors)'; and

(v) s. 14.3.8: 'Monitoring restrained prisoners (positional asphyxia)'.

14.23.6 Special precautions to avoid eye and head injuries

There is a specific risk of injury to the eye through penetration of a probe. Probe penetration in the neck or head may also increase the level of injury.

Tasers should not be aimed so as to strike the head or neck of a subject unless this is unavoidable.

14.23.7 Probe removal and disposal

Where probes are imbedded in sensitive tissue areas (e.g. neck/throat, face, breast or groin) medical aid should be sought to remove the probes.

If required, the officer who deployed the Taser is to ensure first aid and/or medical attention is provided to the subject person, as necessary.

An OIC of a station or establishment should ensure suitable probe removal and disposal equipment (i.e. protective gloves, sharps container, alcohol wipes/swabs and band aids) are available in all operational vehicles under their control.

When medical attention or treatment is required, the deploying officer should notify the Duty Officer, Police Communications Centre (PCC) Brisbane, or in areas outside of those covered by PCC Brisbane, the communications coordinator of the relevant PCC, and request the attendance of the Queensland Ambulance Service (QAS). Where it is impractical to obtain the attendance of the QAS, the officer should arrange to have the subject person taken to the nearest facility providing medical attention.

See s. 16.13.1: 'Assessment of prisoners' and Appendix 16.1: 'The assessment of prisoners and persons in custody' of this Manual.

OPM Issue 113 Public Edition

14.23.8 Reporting the use of a Taser

For the definition of use of a Taser see s. 14.23: 'Conducted Energy Weapon (Taser)' of this chapter.

Advising Police Communications

After an incident involving the use of a Taser, the officer who used the Taser is to notify as soon as practicable:

(i) the Duty Officer, Police Communications Centre (PCC) Brisbane to ensure the incident is recorded on the CAD system; or

(ii) in areas outside those covered by PCC Brisbane, the communications coordinator of the relevant PCC to note on the CAD system or their running log as the case may be; or

(iii) in areas where no police communications centre exists, the supervising commissioned officer or OIC for the time being of the station responsible for policing the area where the incident has occurred.

The Duty Officer, communications coordinator, supervising commissioned officer or OIC notified of an incident involving a Taser is to advise the appropriate regional duty officer (RDO), patrol group inspector (PGI) or district duty officer (DDO).

QPRIME use of force report

After an incident involving the use of a Taser (drawing out of the holster, presentation or deployment), the officer who used the Taser is to, within 24 hours of the creation of the relevant QPRIME occurrence, ensure a 'Use of Force Report' is furnished. If the officer is incapacitated, their supervisor is to ensure a 'Use of Force Report' is completed in the relevant QPRIME occurrence (see s. 14.3.9: 'Use of force reporting' of this chapter).

Significant event message by exception

The RDO, PGI, DDO or supervisor may, by exception, require a significant event message be submitted for incidents involving the use of a Taser against a person (see also s. 1.18: 'Significant events' of this Manual).

Unintentional discharge of a Taser

An officer unintentionally discharging a Taser is to:

(i) submit a QPRIME 'Use of Force Report' outlining the circumstances of the incident;

(ii) notify their shift supervisor and OIC of the incident (and/or DDO/RDO per local SOPs);

(iii) in the case where any person was the subject of an unintentional discharge in either probe or drive stun mode, or significant damage to property was caused by the deployment, a significant event message is to be generated. Data from this device is to be uploaded into Evidence.com using Evidence.sync within 72 hours in accordance with s. 14.23.12: 'Downloading data from a Taser' of this chapter;

(iv) the Shift Supervisor (or OIC, DDO or RDO) will then make inquiries to establishing the cause of the incident (e.g. memory lapse, lack of proficiency of Taser user, mechanical failure, operational issues, deliberate disregard of established policies or protocols, deliberate misuse of Taser); and

(v) the Shift Supervisor (or OIC, DDO or RDO) will make a recommendation on how the matter will be dealt with (e.g. officer not permitted to use a Taser until further training undertaken, managerial guidance, sent for formal investigation re: misuse).

Taser overview/review

Where an officer has deployed a Taser, the deploying officer's OIC is to:

(i) ensure a QPRIME 'Use of Force Report' and, where applicable, significant event message has been submitted in relation to the incident; and

(ii) overview the incident to determine whether the use of the Taser was in accordance with Service policy and procedures.

Where practicable, the overview should include a face-to-face meeting between the OIC (or supervisor) and the officer who deployed the Taser.

All incidents involving the deployment of a Service Taser will be reviewed by the relevant district officer who will consider any deployment of a Taser within 72 hours of the event (for the definition of district officer see SMD). See also s. 14.23.14: 'Review of Taser incidents' of this chapter.

If the deployment of the Taser was inappropriate or not in accordance with Service policy, members are reminded of their obligations under s. 6A.1: 'Duty concerning misconduct or breaches of discipline' of the PSAA and the Complaints Resolution Guidelines on the ESC SharePoint page.

OPM Issue 113 Public Edition

14.23.9 Carriage of a Taser

Qualified officers (see s. 14.23.2: 'Taser training' of this chapter) performing operational duties are to, where appropriate and if available, carry a Taser.

Members are not to leave a Service Taser unattended in a vehicle or other place without good and sufficient reason.

This may include:

(i) members having to attend a situation where the carriage of a Taser poses a risk to security or safety (e.g. riot, serious street disturbance or authorised assembly);

(ii) where the Taser restricts operational activity, e.g. members being involved in a rescue operation; or

(iii) where it is necessary for special operational situations or circumstances (e.g. hostage or suicide negotiations).

Carriage of Taser by plain clothes officers

Qualified officers performing plain clothes duties may carry a Taser, if it is appropriate to the duties they are performing.

If a Service Taser can be viewed by the public, plain clothes officers should carry their identification badge in a position clearly visible to members of the public.

Carriage of conducted energy weapon on aircraft and at airports

Officers who intend to carry conducted energy weapons on commercial passenger airlines/prescribed aircraft, at airports, and on Queensland Government Air (QGAir) aircraft, are 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 chapter.

Carriage of Tasers in court

Officers should not wear or carry a Taser, other than as an exhibit, in court unless:

(i) authorised by the presiding magistrate or judge. This includes an officer performing duty as a court orderly; or

(ii) they are responding to an incident within those premises.

Carriage of Tasers in watch-houses

Officers may carry:

(i) tasers;

(ii) batons;

(iii) oleoresin capsicum (OC) spray; and

(iv) handcuffs,

in watch-houses as there is no requirement for an officer to remove and store these items prior to entering a watch-house.

Carriage of Tasers in correctional centres and detention centres

Officers are to hand all Tasers to the correctional officer on duty at the entrance to a correctional centre or detention centre for safe keeping (see s. 128: 'Taking prohibited thing into corrective services facility or giving prohibited thing to prisoner' of the *Corrective Services Act*), unless prior authorisation or approval has been obtained by the Chief Executive, Queensland Corrective Services, to take weapons into a correctional centre or detention centre.

Officers are to inspect all Tasers returned prior to leaving a correctional centre or detention centre to ensure they are undamaged.

See also s. 14.14.1: 'Carriage of firearms and ammunition in correctional centres and detention centres' of this chapter.

Carriage of Tasers in hospitals

Officers should exercise their discretion with regard to the carriage of a Taser within the confines of an authorised secure mental health rehabilitation unit, or medium security unit (see s. 14.13: 'Carriage of firearms in mental health units or hospitals' of this chapter).

14.23.10 Storage

Each member accessing a safe provided by the Service for the storage of Tasers is to ensure the safe is securely locked immediately after use.

Officers taking out or returning Taser equipment to its storage facilities are to complete the registers provided by the station or establishment.

See s. 14.22: 'Responsibility for Service Equipment' of this chapter for requirements for storage of operation equipment generally.

14.23.11 Taser repairs and replacement

Tasers which are damaged, defective or otherwise require servicing are to be forwarded to the QPS Armoury.

14.23.12 Downloading data from a Taser

For X26P Taser see Chapter 17: 'Downloading' of the Conducted Energy Weapon Learner Guide.

14.23.13 Officer in charge and district officer responsibilities

The OIC of a station or establishment are to:

(i) ensure an inspection of Tasers, air cartridges and other ancillary equipment under their control, is carried out on a monthly basis. Particulars of these inspections are to be recorded in a register kept for this purpose. (see Taser Risk and Compliance Guidelines). The OIC of a region and command may authorise inspections of Tasers and ancillary equipment to be undertaken at other specified time intervals in conjunction with local risk management practices;

(ii) implement compliance/management practices at a local level ensuring data is downloaded from all station Tasers at least every 3 months. A sample of the data is to be cross-checked against the Taser register to identify any discrepancies. Where an OIC identifies a discrepancy are to as soon as practicable:

(a) advise their supervisor; and

(b) commence an investigation; and

(iii) immediately report to the district officer or other supervising commissioned officer the loss of, any damage or defect to, or any unsatisfactory condition relating to Service Taser equipment and comply with the provisions of the Financial Management Practice Manual in relation to any losses and, where appropriate, the recovery of debts resulting from the loss or destruction or damage to property while in the care of members; and

(iv) when aware of the necessity for the repair or replacement of a damaged or defective Taser, follow the procedure contained in s. 14.23.11: 'Taser repairs and replacement' of this chapter.

Where a damaged Taser requires repair or replacement, the OIC of a station/establishment is to:

OPM Issue 113 Public Edition

(i) make arrangements with the QPS Armoury, Wacol for the Taser's return; and

(ii) where the Taser requires replacement, complete a QP 0413: 'Requisition for weapons/restricted item'.

The OIC of the respective district or command training office is to determine whether to keep the Taser at their office for training purposes or to return the Taser to the QPS Armoury. The Armoury is to be notified of any permanent or long-term change of the Taser location so the Weapons Asset Control System (WACS) can be updated.

Where possible, the information recorded on a Taser is to be downloaded prior to forwarding the device to the QPS Armoury, Wacol (see s. 14.23.12: 'Downloading data from a Taser' of this chapter).

When a Taser is forwarded to the QPS Armoury, any costs involved in the inspection, testing, repair or replacement of the equipment are to be met by the requesting region or command.

Providing information from Taser downloads

Where a Taser is deployed in either mode, the relevant district officer or manager is to ensure as soon as practicable but within 72 hours, the Taser's data is uploaded into Evidence.com using Evidence.Sync.

Where Ethical Standards Command (ESC) or the Crime and Corruption Commission assumes responsibility for investigation of a matter involving a Taser, the data upload is not to be conducted without the approval of the Superintendent, Internal Investigations Group, ESC.

Taser information required for other purposes (investigation and court)

Where a Taser has been damaged or is defective and the information recorded in the Taser needs to be extracted for investigation, the officer requiring the information is to contact the Armoury Supervisor.

Where download information is required for court purposes, the officer should contact the Inspector, Operational Training Services for advice.

Recording of Taser equipment

The Inspector in charge of the QPS Armoury is responsible for ensuring the following information is recorded on WACS:

(i) the district, or other organisational unit within the Service, each Taser and air cartridge is issued to;

(ii) the serial number of each Taser and air cartridge; and

(iii) the date of issue.

District officers or other organisational units are to maintain a local register of Taser equipment within their area of responsibility. Particulars to be recorded include:

(i) the date of receipt of each item;

(ii) the station or establishment each Taser and air cartridge are issued to;

(iii) the serial number of each Taser and air cartridge; and

(iv) the date, reason and method of disposal for each item.

The OIC of a station or establishment is to maintain a local register of all Taser equipment issued to their station or establishment. Particulars to be recorded include:

(i) the date of receipt of each item;

(ii) the serial number of each Taser and air cartridge;

(iii) the expiry date of each air cartridge;

(iv) the date each Taser and air cartridge was last inspected; and

(v) the date, reason and method of disposal for each item.

Issue and return register

The OIC of a station or establishment is to maintain a local register to record the issuing and return of Taser equipment after each shift. The QPB 70: 'Taser Issue and Return Register' should record:

(i) the time and date of signing the equipment in and out;

(ii) the serial number of each Taser and air cartridge taken/returned;

(iii) officer details including signature; and

(iv) a comment section to record the condition of the Taser and air cartridges when returned and any damage, defect or unsatisfactory condition identified.

All registers are to be accurately maintained and updated to reflect the acquisition, transfer or disposal of Tasers and air cartridges within the Service.

OPM Issue 113 Public Edition

14.23.14 Review of Taser incidents

All incidents involving the deployment of a Service Taser will be reviewed by the relevant district officer (see SMD), who will consider any deployment of a Taser within 72 hours of the event.

Debriefing

Where a Taser has been deployed during a shift, supervisors or DDO's are to include the use of the Taser as part of the shift debriefing (see s. 1.4.6: 'Responsibilities of regional duty officer, district duty officer and shift supervisor' of this Manual).

14.24 Priority codes

The priority code policing process establishes a method for determining whether to initiate an immediate response to a call for service or to implement an alternative expectation strategy based on the nature of the call for service and the availability of operational resources. This may include the allocation of tasks to officers who do not usually operate in a first response capacity.

Receiving calls for service

Members receiving calls for policing services are to ensure that:

(i) relevant information is recorded in accordance with s. 1.6.1: 'Recording initial demand' of this Manual; and

(ii) particulars of the call are referred to an officer for verification and tasking (a **'tasking officer'**).

Tasking officers

Assistant commissioners (AC) of regions and commands are to ensure:

(i) suitable tasking officers are identified for all areas under their control. Regional Instructions are to nominate specific officers or holders of particular positions to fill the role of tasking officer. Tasking officers may be nominated to have responsibility for tasking within a geographical area or within an organisational unit depending on the requirements of the relevant region or command;

(ii) generally, a tasking officer will be an officer with responsibility for assigning priority codes in accordance with s. 14.24.1: 'Priority codes' of this chapter. The responsibility for tasking, and the authority to issue associated directions, in any particular case should be clearly defined to avoid the potential for confusion as to an officer's responsibility and authority as a tasking officer;

(iii) appropriate arrangements are made with the OIC of neighbouring regions to establish processes by which operational resources may be assigned to calls for service in neighbouring regions; and

(iv) procedures are established within their area of responsibility to resolve issues arising as a result of tasking decisions (e.g. the tasking of units previously allocated to a particular activity to other calls for service). In all circumstances, priority is to be given to responses to calls for service involving a threat to personal safety.

OPM Issue 113 Public Edition

The role of a tasking officer is to:

(i) allocate priority codes to calls for service in accordance with s. 14.24.1: 'Priority codes' of this chapter; and

(ii) direct officers to attend calls for service in accordance with the priority policing process.

A tasking officer need not be the most senior officer and for the purposes of directing officers to attend to calls for service has the authority to direct all officers subject to any limitations established in Service or regional policy.

Tasking decisions of a tasking officer are not to be disputed by members receiving the tasking. Members who wish to query a tasking decision are to attend the tasking as directed and may raise the issue in accordance with regional arrangements.

In cases where an officer or officers are tasked to attend a call for service in circumstances that would place the officer at unreasonable risk (e.g. officers who are not OST qualified being directed to attend a violent incident), the officer should immediately advise the tasking officer. Tasking officers should act upon such advice to ensure, as far as practicable, that additional or alternative resources are tasked to mitigate such risk.

For the purpose and application of this section, a tasking officer may be:

(i) a communications room supervisor where a Police Communication Centre (PCC) is operational including the Duty Officer at Brisbane PCC;

(ii) an authorised officer of a District Tasking and Coordination Centre (DTACC);

(iii) a police operational advisor at Policelink; or

(iv) an OIC or an officer nominated by the AC of the region/district/division where a PCC or DTACC does not exist.

Priority policing process

Tasking officers receiving details of calls for policing services are to:

(i) determine whether the call relates to a threat to personal safety or property security;

(ii) in the case of threats to personal safety or property security, establish whether the call indicates a known threat, a potential threat or a perceived threat;

(iii) direct officers to attend to the call for service or initiate an alternative expectation strategy based on the application of the priority policing process. See the priority policing process flowcharts contained in Appendixes 14.4: 'Threats to Personal Safety', 14.5: 'Threats to Property Security' and 14.6: 'Other Calls for Service' of this chapter; and

(iv) ensure that organisational boundaries do not impede an appropriate and timely response to calls for service. Where no officers are available within a tasking officer's area of responsibility and an immediate response is required, the tasking officer should request a tasking officer in a neighbouring area, in accordance with relevant regional arrangements, to direct officers from that area to attend the call for service. Tasking officers receiving requests for assistance from tasking officers in other areas are to ensure that officers are directed to attend the call for service in accordance with the priority policing process and regional arrangements.

14.24.1 Priority codes

Job tasking is assigned one of five priority codes by members under the supervision of:

(i) a supervisor, namely:

(a) a supervisor of a Police Communications Centre (PCC);

(b) a commissioned officer; or

(c) a DDO;

(ii) a member of a District Tasking and Coordination Centre (DTACC);

(iii) a member of the Policelink Group (police operational advisor or team leader);

(iv) in places where no PCC or DTACC exists, the OIC of the station where the information requiring the attendance of police is received; or

(v) the Inspector, SERT, where due to the type or methodologies of the duties being performed, it is not practical to obtain a priority code as outlined in subsections (i) to (iv).

To ensure that officers are aware of the degree of urgency required in attending an incident, complaint, request for assistance, or other matter, the following priority codes are allocated:

(i) Code 1—for very urgent matters when danger to human life is imminent;

(ii) Code 2—for urgent matters involving injury or present threat of injury to person or property;

(iii) Code 3—for direct response;

(iv) Code 4—for alternate resolution; or

(v) Code 5—for no police tasking.

Commissioned officers and DDO's should consult with a PCC supervisor who have full overview and visibility of the district or area when they become aware of priority travel requests and no priority code has been broadcast by a PCC (e.g. traffic congestion or priority travel to a TDD site), see also s. 15.3.2: 'Urgent duty driving not permitted for priority code 3 and 4 tasks' of this Manual).

14.24.2 Criteria for assigning a priority code

A member assigning a priority code to a task should use the following guidelines:

Code 1—'Very Urgent'—may be assigned in the following circumstances where:

(i) danger to human life is imminent; or

(ii) an officer/s or member/s of the public is in need of immediate help in circumstances where life is actually and directly threatened and there is an imminent danger to human life.

(See also s. 15.3.3: 'Use of flashing warning lights and siren' of this Manual)

Code 2—'Urgent'—may be assigned in the following circumstances:

(i) incidents similar to those above and any other urgent situations (e.g. escaping prisoners) without the element of imminent danger to human life being apparent;

(ii) in any other urgent situation when it is known that danger to human life is not imminent; or

OPM Issue 113 Public Edition

(iii) incidents involving injury to a person or present threat of injury to a person or property.

(See also s. 15.3.3: 'Use of flashing warning lights and siren' of this Manual)

Code 3—'Direct Response'—may be assigned to all other matters which are considered as not requiring classification of Code 1 or 2, however a direct police response is required. This may include the following circumstances:

(i) the incident is happening now, and persons involved in the incident are still present; and

(ii) the incident may escalate if police do not attend the incident location now; or

(iii) evidence of a crime is present at the incident location which is likely to be lost if police do not provide a timely response.

(See also s. 15.3.2: 'Urgent duty driving not permitted for priority code 3 and 4' of this Manual)

Code 4—'Alternate Resolution'—assigned to calls for service in accordance with District Tasking and Co-ordination Centre response capabilities, to establish the most efficient method available to resolve an incident, when police attendance is not time critical.

(i) parameters for options for alternate resolution include:

(a) incidents which do not require an immediate response; and

(b) incidents which are not currently occurring; and

(c) no person is in danger

(ii) resolution options may consist of:

(a) incoming Appointment

(b) outgoing Appointment

(c) telephone Resolution

Code 5—'No Police Tasking'—incidents where upon application of the Demand Management Framework—SOLVE, it is established that police attendance would not impact, prevent, resolve, influence or is a requirement for the incident.

ORDER

The member responsible for assigning a priority code to a task is to:

(i) assign a code to the task ensuring the information is recorded in a way that meets the minimum requirements of NOTICES and SOLVE in accordance with service policy;

(ii) change the code as circumstances and information warrant; and

(iii) advise the member responsible for transmitting the task of the assigned code for that task and any change to that code.

The member responsible for transmitting the task and code is to notify the member assigned the task of the priority code for the task and any change to that code.

Officers are not to alter or upgrade allocated priority codes unless directed by a member responsible for assigning priority codes.

14.24.3 Negotiated response

A 'negotiated response' is a method by which calls for service from a client may be prioritised through negotiation.

A negotiated response agreement exists when a member of the Service and a client have agreed to respond to an incident in a specified manner.

The aim of negotiated response agreements is to promote better management of police resources.

In this section the term:

(i) **'relevant member'** means a member of the Service authorised under the provisions of a Regional/Command/District negotiated response policy to enter into negotiated response agreements; and

(ii) **'client'** means a person who reports an incident to police or requests police assistance. The term includes a person representing any organisation, company or body.

14.24.4 Outcomes of negotiated response agreements

POLICY

Negotiated response agreements are to result in a definite course of action being agreed between the relevant member and the client.

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Examples of appropriate outcomes of a negotiated response agreement include:

(i) the client reporting the incident at a nominated police station when it is open or on the next working day;

(ii) the client attending at and reporting the incident immediately at the nearest 24 hour police station; or

(iii) if the nature of the incident is such that the attendance of an officer at a time acceptable to the Service and the client is suitable, the recording of particulars and giving an undertaking to the client that an officer will attend as agreed. Where Regional/Command/District negotiated response policies allow a single officer patrol to attend, that option should be considered.

14.24.5 Approval of Regional/Command/District negotiated response policies

Proposed Regional/Command/District negotiated response policies are to be submitted by the relevant assistant commissioner to the relevant regional deputy commissioner, for approval prior to implementation.

Upon receiving approval to implement a negotiated response policy, OICs of Regions/Commands/Districts are to ensure:

(i) members of the affected community are advised of the nature of the negotiated response policy and the police response alternatives;

(ii) members are provided with suitable training in the use of the applicable negotiated response policy; and

(iii) Regional/District instructions are developed to ensure that the negotiated response policy is applied with consistency.

14.24.6 When negotiated response agreements may be entered into

POLICY

Subject to the requirements of a Regional/Command/District negotiated response policy, incidents which would not otherwise be assigned a priority classification of 'Code 1—Very Urgent' or 'Code 2—Urgent' may be considered for a negotiated response.

Negotiated response agreements may be entered into with a client who;

(i) personally attends a police station or establishment;

(ii) telephones a police station, establishment or police communications centre; or

(iii) by prior arrangement, as part of an approved Regional/Command/District negotiated response policy, sends an approved form to a police station or establishment.

Negotiated response agreements may be entered into when:

(i) the relevant member is satisfied that:

(a) a negotiated response is an appropriate method of responding to the call for service;

(b) the wishes of the client are considered and met; and

(c) the client understands the negotiated response agreement; and

(ii) the client and the relevant member have agreed that immediate police attendance is not required, and an alternative method of reporting the incident has been agreed to.

PROCEDURE

In considering whether a negotiated response is an appropriate method to respond to a call for service, members receiving such calls should ascertain the following information relating to the incident and, unless they are relevant members, convey that information to a relevant member:

(i) informant/complainant/witness details, including name, address, current location and telephone number;

(ii) the nature of the incident;

(iii) the time the incident occurred or whether it is still occurring;

(iv) details of any threat or injury to any persons and any medical assistance required;

(v) type and value of any property involved in the incident;

(vi) identification or location of any suspects/offenders;

(vii) whether any weapons are involved;

(viii) whether any person involved in the incident is affected by drugs or liquor;

(ix) the nature of any nuisance or risk to the public caused by the incident; and

(x) regularity or frequency of the incident.

OPM Issue 113 Public Edition

14.24.7 When negotiated response agreements may not be entered into

POLICY

A negotiated response agreement is not to be entered into when:

(i) all relevant information cannot be obtained or clarified;

(ii) the relevant member believes that a negotiated response is not appropriate, regardless of the wishes of the client; or

(iii) the client does not wish to enter into a negotiated response agreement.

In such cases the call for service is to be allocated an appropriate priority code.

A relevant member who enters into a negotiated response agreement, which requires that an officer attend a location at a specified time, is to ensure that details of the negotiated response agreement are recorded in accordance with s. 1.6.1: 'Recording initial demand' of this Manual.

14.24.8 Procedures to be adopted when negotiated response agreements cannot be fulfilled

POLICY

If, as part of a negotiated response agreement, a relevant member and a client agree that an officer or the client would attend a location at a specified time, the client is to be notified of any likely delay or proposed change to the time or location agreed upon. Regional/Command/District negotiated response policies are to assign the responsibility for providing such notification to a suitable member of the Service.

If the conditions of a negotiated response agreement are not met, the original negotiated response agreement ceases to exist. A new agreed response may be negotiated; otherwise an appropriate response code is to be assigned to the call for service.

14.24.9 Single officer patrols

POLICY

Where practicable, single officer patrols should not be tasked to attend incidents involving weapons or disturbances involving a number of offenders, unless they are assisting officers who are already in attendance at such incidents.

District officers are to ensure that where single officer patrols are performed, for example:

(i) one and two officer stations;

(ii) traffic enforcement;

(iii) crime reporting;

(iv) inquiries; or

(v) any other operational duty,

that district instructions are implemented within their respective district to minimise identified operational risks, for example:

(i) single officer patrols;

(ii) vehicle interceptions; and

(iii) communication black spots.

See also s. 1.5.3: 'Regional, District and Station/Establishment Instructions' of this Manual.

Officers performing single officer patrols are to familiarise themselves with the relevant district instructions in relation to single officer patrols within their respective district.

14.25 Radio communications

Police two-way communications are approved and licensed by the Australian Federal Government. The issue of the licence is subject to special conditions enabling radio operations to be established statewide for the distribution and exchange of urgent, important or special information.

A network of police communication centres are established throughout the state to enable constant radio communications with radio equipped motor vehicles, vessels, aircraft and portable (hand-held) transceivers.

14.25.1 GWN talkgroups, radio channels, identification and call signs

Communications across the State are supported by the Government Wireless Network (GWN) and analogue radio (legacy) networks. All communications made on the radio networks are electronically logged. These details include

OPM Issue 113 Public Edition

voice, talkgroup or channel details, time and date of call, and for GWN transmissions the identity and location of the calling unit.

The police communications centres situated throughout the state are authorised to use the call sign 'VKR'. To conduct operations in the various areas across the state, talkgroups (GWN), radio channels (analogue network) and call signs are allocated by the Commander, Communications Group, Emergency Response and Coordination Command. Call signs are allocated to police vehicles, vessels or to individual officers, depending on the policing function being performed.

Officers should ensure that they are conversant with the call signs and radio talkgroups or channels used at their location or area of operations.

ORDER

Officers are to ensure they operate on the correct talkgroup (GWN) or channel (analogue network) for the location they are working in.

14.25.2 Correct radio procedure

PROCEDURE

Officers should ensure that correct radio procedures for all radio transmissions are observed on the radio talkgroups and channels allocated to the Service. Officers should not use superfluous conversation, improper or offensive language when transmitting messages on the Service radio communication network.

The correct format of making a radio transmission is as follows:

(i) a radio transmission from VKR to a police vehicle/officer should contain the call sign of police vehicle or officer, and the purpose of the transmission. For example, 'VKR to Bravo Echo 400 (purpose of transmission)'; and

(ii) a radio transmission from a police vehicle/officer to VKR should contain the call sign of the police vehicle or officer and the purpose of the transmission. For example, 'VKR this is Bravo Echo 400 (purpose of transmission)'. See s. 14.25.4: 'Requests for urgent assistance' of this chapter.

In all radio transmissions officers should use where appropriate the International Phonetic Alphabet and use the twenty-four hour time system when referring to time.

14.25.3 Radio and communication procedures generally

POLICY

Where police radio is available, officers should convey critical information to other police officers by radio.

PROCEDURE

Police Communication Centres (PCC) are responsible for the tasking of police resources and priority dispatching. Officers should ensure the PCC in their area of operations is advised when:

(i) commencing duty, leaving or returning to a station/establishment, changing tasking availability status and terminating duty;

(ii) attending an incident (officers should ensure the PCC knows their location and the incident number);

(iii) finalising an incident. Officers should provide the verified activity code and where necessary, additional information required for reporting purposes;

(iv) they will be out of radio contact. Officers should provide:

(a) an approximate length of time before radio contact will resume;

(b) their location; and

(c) a contact telephone number;

(v) intercepting a vehicle, vessel or person. Officers should provide:

(a) the registration number or other identifying features of the subject vehicle/vessel; or

(b) identifying features of the subject person; and

(c) the exact location of the interception; and

(vi) a person is to be transported in a police vehicle, to record the vehicle odometer reading at the commencement and at the conclusion of the journey.

Police communications co-ordination and control

ORDER

Officers performing duty in an area where a PCC operates are under the control of the relevant PCC for all operational dispatching and tasking.

OPM Issue 113 Public Edition

Officers are to follow all reasonable directions transmitted from a PCC.

Officers are to acknowledge all radio transmissions and broadcasts directed to their allocated call sign.

14.25.4 Requests for urgent assistance and remote monitoring

Verbal requests

Officers at times may find themselves in situations where they are in immediate or imminent danger and request urgent assistance. The use of a verbal request for urgent assistance provides the police communication centre (PCC) and responding officers with situational awareness. Some circumstances may include:

(i) where an officer has been injured or where danger to an officer's life is imminent;

(ii) an officer who is in fear of his or her safety; or

(iii) requires assistance at an incident which is of an urgent nature.

Officers should use correct radio procedures when making a request for urgent assistance. A radio transmission should contain the call sign of the police vehicle or officer, the word 'URGENT', the location of the incident and the type of assistance required. For example, 'VKR this is Bravo Echo 400, urgent, at Queen Street, Brisbane, Male armed with a knife, I require units to assist'. See s. 14.25.2: 'Correct radio procedure' of this chapter.

Members receiving 'urgent assistance' calls at a PCC or at a police station where there is no police communications centre, are to allocate an appropriate priority code to the response in accordance with the provisions of s. 14.24: 'Priority Codes' of this chapter.

Duress button

The Government Wireless Network (GWN) radio equipment is fitted with a 'duress button', which is able to be activated within the GWN radio coverage area when:

(i) an officer has been injured and where danger to an officer's life is imminent;

(ii) an officer is in fear for his or her safety; or

(iii) assistance is required at in incident which is of an urgent nature; and

(a) the officer is unable to verbally call for assistance; or

(b) due to situational or operational reasons they are unable to make a verbal call for assistance.

Officers should be aware that the activation of the duress button does not provide situational awareness, confirmation of the incident location and there may be limitations with the accuracy of GPS data provided by GWN radios.

The duress button is to be depressed until two short audible tones are heard. The activation of the duress button will cause audible alarms on radios active on the same talkgroup and on the console in the police communication centre (PCC) controlling the talkgroup.

The PCC operator will manage the duress activation and co-ordinate the response in accordance with Communications Group policy. Radio transmissions should be limited to the PCC and resource in duress to allow the location information data to be received and allowing for the co-ordination of an effective response.

The responsibility for monitoring and responding to duress activations within a specialist, operational or interoperability talkgroup not monitored by a PCC rests with the tactical commander or on scene incident controller.

Remote monitor—duress activation

The GWN radio equipment is enabled with the ability to allow a PCC operator operating within the GWN network, to activate the remote monitor, allowing all members using the talkgroup to listen to what is occurring at the location of the individual radio in duress (portable or mobile) for a period of 20 seconds.

ORDER

Activation of the remote monitor is to be approved by the senior supervisor within a PCC managing the talkgroup or the senior officer managing an operations or specialist talkgroup.

Approval is only to be given in circumstances where an officer has:

(i) called for assistance over the air; or

(ii) activated their duress button; and

(iii) all other means to communicate with the officer or provide assistance have met with negative results.

Prior to activating the remote monitor, the PCC operator is to verbally advise:

(i) of the intention to activate the remote monitoring function; and

(ii) the details of the authorising officer,

across the talkgroup.

OPM Issue 113 Public Edition

When a PCC senior supervisor or senior officer managing an operations or specialist talkgroup authorises the use of the remote monitoring functionality, the officer is to ensure a written record of the authorisation is made in the relevant job card, other Service database or in their official police notebook.

All activations of the remote monitor will be subject to audit by the Superintendent, Communications Group to ensure compliance with legislation and policy.

Remote monitor—emergency authorisation

Circumstances may arise which, depending on the nature of the incident that an officer is attending to, may cause concerns for the welfare of the officer if they are not responding to normal radio communications. Section 43: 'Prohibition on use of listening devices' of the *Invasion of Privacy Act* (IPA) allows a communications centre officer to remotely monitor conversations of an officer if the communications centre officer believes on reasonable grounds there may be a risk to the life, health or safety of that officer not responding to a call.

ORDER

Where no verbal request for assistance or duress activation has been received, but it is reasonably believed:

(i) an imminent threat of serious violence to a person or substantial damage to property exists;

(ii) the use of the remote monitor is immediately necessary for the purpose of dealing with the threat; and

(iii) all other means of communication with the officer or assistance have met with negative results, a district duty officer or where none exist the communications room supervisor (COMCO) may authorise the use of powers under s. 43(2) of the IPA.

Where a COMCO has authorised the use of the remote monitoring under s. 43(2) of the IPA, the communication centre officer is to:

(i) ensure a written record is made in the relevant job card or Service database of the authorisation; and

(ii) as soon as reasonable practicable, advise the regional duty inspector or district duty inspector the reasons and outcome of the activation.

All activations of the remote monitor will be subject to audit by the Superintendent, Communications Group to ensure compliance with legislation and policy.

14.25.5 Use of activity codes during radio transmissions

PROCEDURE

For the purpose of job identification and the reduction of air time during radio transmissions, the appropriate codes listed on the QP 0103H: 'Activity codes (job and description codes)' should be used by officers when making radio transmissions and providing finalisation details.

14.25.6 Use of operations talkgroups, interoperable talkgroup and analogue operational talk channels

POLICY

Operations talkgroups, interoperable talkgroups and analogue operational talk channels are reserved to enable police to converse directly with each other on work related matters. These radio talkgroups allow a means of communication of official information without interfering with normal radio traffic on the operational channels.

ORDER

Officers are to ensure that when using a operations talkgroup, interoperable talkgroup and analogue operational talk channel, only information of an official nature is transmitted.

Officers are to notify the police communications centre dispatcher when leaving the main talkgroup to change onto an operations or interoperable talkgroup; inquiry or legacy operational talk channel.

Operations talkgroups and legacy channels

PROCEDURE

Requests for operations talkgroups (GWN) and legacy channels (analogue) for planned operations should be made direct to the police communications centre (PCC) for the relevant area. The PCC will allocate a talkgroup or channel as required.

Multi-agency interoperability

Multi-agency interoperability is the ability for police, fire and ambulance services to communicate directly with each other on the same radio communications platform and frequency group when attending and manage incidents or events, e.g. managing the response at the scene of a large chemical spill.

OPM Issue 113 Public Edition

PROCEDURE

The lead agency on-scene incident controller may request an interoperable talkgroup through their communications/operations centre. All agencies must be alerted to the assigned interoperable talkgroup and acknowledge their presence on the talkgroup by identifying their name and agency.

The incident controller requesting the talkgroup is responsible for:

(i) the on-scene monitoring of the talkgroup;

(ii) management of duress calls on the talkgroup; and

(iii) maintaining communications with their communications/operations centre,

for the duration of the event (i.e. until the entire response is completed, which may be several days).

To stand down the talkgroup, the lead agency must advise all agencies on the talkgroup and their communications/operations centre of the closure of the talkgroup.

Patching/multi-select

ORDER

Analogue radio channels are not to be patched or multi-selected to a GWN talkgroup as this removes the end-to-end encryption of the GWN network.

The patching of GWN consoles is not to be done without the prior authorisation of the communications supervisor.

14.25.7 Repairs to radio equipment

ORDER

All portable, mobile, console and associated accessories provided under the GWN contract belong to Telstra/Motorola and are provided to the Service under a managed service contract. Any faults, damage or other issues with GWN equipment are to be reported and managed through the GWN Service Desk (see the 'Government Wireless Network (GWN) Project' webpage on the Service Intranet).

Officers are not to perform any repairs or adjustments to any Service radio or electronic equipment unless they are qualified and authorised by the officer in charge of the region or command which has responsibility of the particular equipment.

14.25.8 Recording radio transmissions

PROCEDURE

Members performing duty at a police communications centre are to ensure that full particulars, including times, location of officers making the radio transmission, call sign, incident number if relevant to the radio transmission, job and description codes, of incoming and outgoing radio transmissions are accurately recorded in a QPB 19: 'Radio log book', QP 0103A: 'Job card' or in an appropriate Service computer system. Transmissions from officers and members that are received at communications centres are to be acknowledged by members at the relevant centre.

OPM Issue 113 Public Edition

14.26 Use of force options for intercepting offenders in vehicles

Definitions

For the purpose of this section:

Pre-emptive use of force action

means the use of a tyre deflation device (TDD) against an offender in a vehicle of interest (VOI) without an overt attempt to intercept the vehicle.

Supervisor

means:

(i) a commissioned officer;

(ii) a DDO;

(iii) a supervisor of a police communication centre (PCC); or

(iv) a shift supervisor of the rank of sergeant who has been delegated by either (i), (ii) or (iii).

ORDER

Supervisors are not to authorise or use a pre-emptive UOF against an offender in a VOI unless they are currently Operational Skills and Tactics (OST) training qualified in this UOF option (see s. 14.30.7: 'Officer responsibilities—Pursuit controllers and Supervisors' of this chapter).

Considerations and responsibilities of authorising officers

A supervisor considering approving a pre-emptive UOF action against an offender in a VOI is to:

(i) conduct a continual risk assessment (see s. 15.5.4: 'Risk assessment for Service response to VOI' of this Manual);

(ii) develop and communicate a clear and verbalised tactical plan via the Service radio outlining the aim and appropriate allocation and direction of policing resources to resolve the incident; and

(iii) upon identifying an unjustifiable risk is developing, or has developed, amend their tactical plan to mitigate the risk or direct the discontinuance of their pre-emptive UOF action.

Delegation of coordination or control

A supervisor is to consider if the delegation of the coordination or control of a pre-emptive UOF action is best conducted by an officer with greater situational awareness (e.g. a shift supervisor of the rank of sergeant who is observing live video downlink from a Polair helicopter or other Service tasked air asset).

Delegation of coordination or control does not extend to the mission commander, or an observer within an air asset (in the absence of a mission commander) of a Polair helicopter or other Service tasked air asset.

If a supervisor delegates coordination or control, they are to stipulate any specific control measures (e.g. discontinuing actions if approaching school zone hours).

For situational awareness of all officers, all delegations and directions are to be conducted over the Service radio.

Pre-emptive UOF options

ORDER

Any pre-emptive UOF action is to be:

(i) compliant with any relevant Service policy and training including ss. 14.3: 'Use of force' and 14.30: 'Use of tyre deflation devices' of this Manual;

(ii) authorised;

(iii) justified;

(iv) reasonable/proportionate/appropriate;

(v) legally defensible; and

(vi) tactically sound and effective.

Pre-emptive UOF actions are detailed in s. 14.26.1: 'Pre-emptive force against an offender in a vehicle' of this chapter.

OPM Issue 113 Public Edition

QPRIME Use of Force Report

The officer responsible for a pre-emptive UOF action (see 'Definitions' of this section) is to create a standalone TDD UOF QPRIME occurrence. If the officer is incapacitated, their supervisor is to ensure a 'Use of Force Report' is completed on the relevant QPRIME occurrence (see s. 14.3.9: 'Use of force reporting' of this chapter).

Significant Event Message System reporting by exception

A record is to be entered onto the Significant Event Message System (SEMS) by a supervisor for all incidents where a pre-emptive UOF action is used against an offender in a VOI, which results in:

(i) an injury to any person; or

(ii) substantial damage to property.

In those instances, the following categories are to be used:

(i) TDD Authorisation—not deployed (by exception);

(ii) TDD Authorisation—successful deployment (by exception); and

(iii) TDD Authorisation—unsuccessful deployment (by exception).

The record on SEM is to include:

(i) the name of the officer who authorised the use of the TDD;

(ii) the factors the officer considered to make the authorisation;

(iii) if a TDD is deployed, the result of the deployment;

(iv) the name of the deploying officer and any assisting officer; and

(v) the nature of any injuries or damage to vehicles or property,

(see s. 1.18.1: 'Significant event messaging system (SEMS)' of this Manual).

Review of pre-emptive force against an offender in a vehicle

A pre-emptive UOF action is to be reviewed by the supervisor, the involved officers' OIC, or experienced portfolio manager nominated by a district officer (or equivalent) to consider and evaluate significant events in that area within 72 hours of the event and a report is to be submitted to the significant event review panel overseeing that district/group (see s. 1.17.1: 'District/group significant event review matter' of this Manual).

14.26.1 Pre-emptive force against an offender in a vehicle

Tactical assessment

Officers are to consider if an overt attempt to intercept a VOI may be tactically unsound (e.g. confirmed stolen vehicle or a VOI which has recently evaded police). In such instances, any overt attempt to intercept the VOI is likely to lead to an escalation in driving behaviour and overt acts to avoid detection.

Supervisors

A supervisor should consider approving a pre-emptive UOF action to assist in the interception of a VOI.

A pre-emptive UOF action should be approved where the supervisor reasonably believes in the circumstances that greater community safety will be achieved, for example:

(i) a confirmed stolen vehicle currently under surveillance;

(ii) a VOI that has recently evaded police and is currently under surveillance;

(iii) a VOI that is driving in a continuous dangerous manner without any police involvement; or

(iv) where the driver is likely to evade police if an interception is attempted causing a risk to the community (i.e. high-risk offender).

Intent of pre-emptive force using tyre deflation devices

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement

Post TDD deployment orders

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement

Overt interception orders post TDD deployment

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement

OPM Issue 113 Public Edition

14.27 Jack's Law—Use of hand held scanners without warrant

The primary objective of Jack's Law is to enhance community safety and security through proactively preventing knife related crime by authorising officers to use a hand held scanner to detect knives or other weapons in the community.

Officers of the Service using and authorising the use of hand held scanners and exercising a power under Jack's Law are required to act or make decisions in a way that is compatible with human rights; and in making a decision, properly consider any human rights relevant to the decision (see s. 1.2: 'Human Rights and Policing' of this Manual). Officers are also required to comply with the safeguards under s. 39H: 'Safeguards for exercise of powers' of the PPRA.

Hand held scanners

The Service issued Garrett THD hand held scanner is to be used. OICs are to ensure that hand held scanners issued to their station or establishment are recorded in a local asset or equipment register. OICs of stations or establishments where hand held scanners are issued are to comply with s. 14.22: 'Responsibility for Service equipment' of this chapter and s. 2.3.3: 'Station equipment' of the Management Support Manual.

District or local instructions

District officers or OICs of stations or establishments are to ensure instructions are developed for operationalising Jack's Law within their area of responsibility (see s. 1.5.3: 'Regional, district and station/establishment instructions' of this Manual). OICs are to ensure the briefing of district officers in scanning situations that may attract media attention.

Training requirement

ORDER

A senior police officer for Jack's Law is not to issue a hand held scanner authority unless they have successfully completed the current 'QC2186_01 Jack's Law—Hand Held Scanner' online learning product (OLP).

Definitions

For the purposes of this section:

Designated business and community precinct

means an area prescribed to be a designated business and community precinct under s. 808D: 'Designated business and community precincts' of the PPRA.

Hand held scanner

means a device that may be passed over or around a person or the person's belongings to detect metal or other substances as defined in Schedule 6: 'Dictionary' of the PPRA.

Hand held scanner authority

means an authority issued under s. 39C: 'Authorised by senior police officer' of the PPRA.

Public place

means:

(i) a place to which members of the public have access as of right, whether or not on payment of a fee and whether or not access to the place may be restricted at particular times or for particular purposes;

(ii) a place declared under another Act to be a public place for any law conferring powers or imposing functions on police officers;

(iii) a part of a place that the occupier of the place allows members of the public to enter, but only while the place is ordinarily open to members of the public; or

(iv) a place that is a public place under another Act.

Examples for paragraph (i):

(i) a road;

(ii) a park;

(iii) a beach;

(iv) a road that is closed to general use by vehicles for a public procession or a parade.

Examples for paragraph (iii):

(i) a cinema complex;

(ii) a shop;

(iii) a restaurant;

(iv) a racecourse.

An example for paragraph (iv) is under s. 54A of the *Sanctuary Cove Resort Act*, primary and secondary thoroughfares are public places for the purposes of any law conferring powers or imposing functions on a police officer.

See Schedule 6: 'Dictionary' of the PPRA.

Public transport station

means:

(i) is a station, platform or other structure for the taking on and letting off of passengers of public transport vehicle; and

Examples include the following stations, platforms or other structures within the meaning of the *Transport Operations (Passenger Transport) Act 1994*:

(a) a railway station or platform;

(b) a light rail station or platform;

(c) facilities for passengers to interchange between the same or different modes of transport, for example, the Cannon Hill bus interchange and the Roma Street busway/railway interchange;

(d) a bus station;

(e) a bus stop, including the area in the immediate vicinity of the bus stop;

OPM Issue 113 Public Edition

(f) a jetty or other structure at which a ferry makes a scheduled stop for a ferry service, and any associated structure;

(ii) includes:

(a) car parks and set-down facilities for passengers of a public transport vehicle that makes scheduled stops at the station, platform or structure; and

(b) another structure or facility for the use or convenience of passengers of a public transport vehicle that makes scheduled stops at the station, platform or structure; and

Examples of other structures or facilities are overhead or underground walkways between platforms, footpaths, seating;

(c) landscaping associated with the station, platform or structure,

as defined in s. 39B: 'Meaning of *public transport station*' of the PPRA.

Public transport vehicle

means the following vehicles as defined within:

(i) a train or other public passenger vehicle being operated by a railway manager or railway operator;

(ii) a light rail vehicle or other public passenger vehicle being operated by a light rail manager, or light rail operator, for a light rail;

(iii) a bus or other motor vehicle being used for a general route service; and

(iv) a ferry being used for a general route service.

Relevant place

means:

(i) a licensed premises;

(ii) a public transport station;

(iii) a public transport vehicle;

(iv) retail premises;

(v) a safe night precinct;

(vi) a shopping centre;

(vii) a sporting or entertainment venue; or

(viii) a designated business and community precinct,

see s. 39BA: 'Use of hand held scanner without warrant in relevant places' of the PPRA.

OPM Issue 113 Public Edition

Safe night precincts

are prescribed in s. 3B: 'Safe night precincts' of the Liquor Regulation, see s. 13.7.3: 'Safe Nights Precincts' of this Manual.

Senior police officer

means:

(i) a police officer of at least the rank of inspector; or

(ii) a police officer of at least the rank of senior sergeant authorised by the commissioner to issue an authority under this part,

see s. 39A: 'Definitions for part' of the PPRA.

Sporting or entertainment venue

means:

(i) a major sporting facility under the *Major Sports Facilities Act*; or

(ii) another place while it is being used for a sporting, recreation, conference or entertainment event; and

(iii) includes an adjacent public area to a facility or place mentioned in subsection (i).

Use

means to pass the hand held scanner in close proximity to the person or the person's belongings, see s. 39A of the PPRA.

14.27.1 Senior police officers for Jack's Law

For the purposes of s. 39A: 'Definitions for part' of the PPRA, the following inspectors are senior police officers permitted to authorise the use of hand held scanners:

(i) patrol inspector, patrol group; and

(ii) RDO.

For the purposes of s. 39A of the PPRA, the following senior sergeants are authorised by the Commissioner as senior police officers permitted to authorise the use of hand held scanners:

(i) DDO;

(ii) OIC of a station with direct responsibilities for the location where an authorisation is sought; and

(iii) district tactician.

14.27.2 Issuing a hand held scanner authority for a public place

A senior police officer may authorise and issue a handheld scanner authority for a public place other than a relevant place under s. 39C: 'Authorisation by senior police officer' of the PPRA. Allowing for an officer to stop a person and submit to the use of the hand held scanner in the stated public place as outlined in s. 39E: 'Authorised use of hand held scanner without warrant in stated public places' of the PPRA. For use of a hand held scanner at a relevant place, see s. 14.27.4: 'Exercising Jack's Law powers at a relevant place' of this chapter.

A senior police officer may only issue an authority if the senior police officer considers the use of a hand held scanner at, in or on the public place is likely to be effective to detect or deter the commission of an offence involving the possession or use of a knife or other weapon, see s. 39C: 'Authorisation by senior police officer' of the PPRA.

When considering whether to issue an authority in a public place, the factors that may be considered by the senior police officer include, for example:

(i) criminal intelligence that may have been received in relation to a public place;

(ii) the concentration of licensed premises in the area;

(iii) whether there is an elevated concentration of people in the area due to an event; and

(iv) if the use of hand held scanners have been previously authorised and whether the use of hand held scanners identified persons carrying knives or other weapons.

(v) other relevant operational factors.

When contemplating issuing of a hand held scanner authority in a public place, a senior police officer is to consider operational factors in addition to the legislative requirements in s. 39C of the PPRA.

Operational factors

Prior to issuing a hand held scanner authority, a senior police officer should assess whether the existing operational factors within their area of responsibility are suitable for conducting a hand held scanning activity at a public place including available resources, planned events, unplanned events, and time of day (see ss. 1.5.2: 'Operational planning action plans, operational orders, briefings and debriefings' and 1.5.4: 'Shift taskings and statement of objectives and outcomes' of this Manual).

A senior police officer should not issue an authority if the existing operational factors within their area of responsibility are not suitable for conducting a hand held scanning activity.

Public places

The term 'public place' (other than a relevant place) is defined in Schedule 6 of the PPRA and applies for the purposes of Jack's Law. Specifically, subsection (c) of the definition provides a part of a place that the occupier of the place allows members of the public to enter. The examples in the definition are non-exhaustive and may also include other public places where the occupier allows members of the public to enter.

A senior police officer contemplating issuing a hand held scanner authority at a public place (other than a relevant place) is to carefully consider the definition in its entirety to determine whether the public place applies for the purpose of Jack's Law. Prior to issuing an authority the senior police officer should, where practicable, notify the occupier either orally or in writing that a hand held scanning operation will be conducted and the timings of such operations.

Additional considerations

In relation to the issuing of a hand held scanner authority for a public place, the reasons for the authority being issued are to be noted on the hand held scanner authority form.

OPM Issue 113 Public Edition

14.27.3 Procedure for issuing a hand held scanner authority

The authorisation of a hand held scanner authority for a public place (other than a relevant place) (see s. 39C(1) of the PPRA) as outlined in s. 14.27.2: 'Issuing a hand held scanner authority for a public place' of this chapter.

To issue a hand held scanning authority, a senior police officer is to:

(i) create a QPRIME 'Hand held scanner authority [1676]' occurrence in accordance with the QPRIME User Guide, and in relation to the nominated public place complete a QP1220 'Hand held scanner authority' within the QPRIME occurrence;

(ii) ensure the summary field of the occurrence contain reasons for which the authority is issued for the public place detailing the consideration factors mentioned in s. 14.27.2 of this chapter; and

(iii) issue the hand held scanner authority if the consideration factors are satisfied and ensure the completed QP1220 is contained in the 'Hand held scanner authority [1676]' occurrence.

Time limit for hand held scanning authority

A hand held scanner authority has effect for 12 hours after the authority starts (see s. 39D(2): 'Form and effect of hand held scanner authority' of the PPRA). Senior police officers issuing a hand held scanner authority are to ensure that members/officers exercising a power under the authority are advised of the start and end time for the authority.

Additional considerations

In relation to the issuing of a hand held scanner for a public place, the reasons for the authority being issued are to be noted on the hand held scanner authority form, QP1220 'Hand held scanner authority'.

Hand held scanner authority

Once issued by a senior police officer, a hand held scanner authority for a public place (other than a relevant place) must state:

(i) the day and time the authority starts and ends;

(ii) the address, place name or description of the public place (other than a relevant place) for which the authority is issued; and

(iii) the reasons for which the authority is issued for a public place,

see s. 39D: 'Form and effect of hand held scanner authority' of the PPRA.

OPM Issue 113 Public Edition

14.27.4 Exercising Jack's Law powers at a relevant place

Officers can use a hand held scanner without warrant in a relevant place without the need to obtain an authority from a senior police officer as outlined in s. 39BA: 'Use of a hand held scanner without warrant in relevant places' of the PPRA. Allowing the officer to require a person to stop and submit to the use of a hand held scanner in the following relevant places:

(i) licensed premises;

(ii) a public transport station;

(iii) a public transport vehicle;

(iv) retail premises;

(v) a safe night precinct;

(vi) a shopping centre;

(vii) a sporting or entertainment venue; and

(viii) a designated business and community precinct.

Training requirement

ORDER

An officer is not to conduct hand held scanning under Jack's Law unless they have successfully completed the current 'QC2186_01 Jack's Law—Hand Held Scanner' online learning product (OLP).

Licensed premises, retail premises, shopping centre and sporting or entertainment venue

An officer may conduct hand held scanner duties without a hand held scanner authority issued by a senior police officer. An officer may continue to exercise a hand held scanner power if a person leaves and moves to another public place or relevant place as prescribed in s. 39BA(2) of the PPRA.

Public transport network

An officer may conduct hand held scanner duties without a hand held scanner authority issued by a senior police officer.

All hand held scanning activities should be planned in collaboration with relevant work units and OICs.

Hand held scanning involving the Citytrain network is to be planned in collaboration with the Railway Squad Tactician to ensure no unnecessary delays to the rail network (see s. 13.12.3: 'Joint operations on Citytrain network' of this Manual). Hand held scanning for other public transport stations (i.e. bus interchange, ferry terminal) should be planned with relevant divisional OIC support to ensure disruptions to the community are minimised.

An officer without a warrant may require a person to stop and submit to the use of a hand held scanner at a public place at a public transport station along the line or on board a train or light rail vehicle while it is travelling on the nominated rail line or part of the line (see s. 39BA(1) of the PPRA).

Use of a hand held scanner at public transport station and on board public transport vehicle

An officer may, without warrant or hand held scanner authority, require a person to stop and submit to the use of a hand held scanner at, in or on:

(i) a public transport station; or

(ii) a public transport vehicle,

see s. 39BA(1) of the PPRA.

If a police officer starts to exercise a power in relation to a person under this section or s. 39BA(1) of the PPRA while at, in or on a public transport vehicle or public transport station, the police officer may continue to exercise the power in a public place in relation to the person, even if the person leaves the relevant place, see s. 39BA(2) of the PPRA.

Authorised use of hand held scanner without warrant in relevant places

An officer may, without warrant or hand held scanner authority, require a person to stop and submit to the use of a hand held scanner at, in or on a relevant place, see s. 39BA(1) of the PPRA.

If a police officer starts to exercise a power in relation to a person under this section or s. 39BA(1) of the PPRA while at, in or on a relevant place, the police officer may continue to exercise the power in a public place in relation to the person, even if the person leaves the relevant place, see s. 39BA(2) of the PPRA.

Notice to manager or occupier of premises

A notice to manager or occupier of a premises is no longer required prior to conducting hand held scanning activities at a shopping centre, retail shop, sporting or entertainment venue or licensed premises outside a safe night precinct. Despite removal of this process, the amendment does not prevent police from notifying a manager or occupiers of a premises, orally or in writing that hand held scanning activities will be conducted and the timings of such activities. This may ensure shopping centres for example have the ability to inform their security staff of potential hand held scanning activities being conducted on the premises.

Human rights

The purpose of Jack's Law is to detect or deter the commission of an offence involving possession or use of a knife or other weapons and in doing so provide community safety benefits by reducing the opportunity for offending involving weapons.

However, the *Human Rights Act* applies to officers using hand held scanners under Part 3A of the PPRA. Senior police officers issuing a Hand Held Scanner Authority and officers undertaking scanning activities are to assess whether their actions or decisions are compatible with human rights by applying the PLAN approach: Proportionate, Lawful, Accountable, and Necessary (see s. 1.2.3: 'How does the Human Rights Act apply to the Service as well as its members?' of this Manual including s. 28 Cultural rights—Aboriginal peoples and Torres Strait Islander peoples of the *Human Rights Act*).

Officers using a Hand Held Scanner are to select persons to be scanned on a random basis. However, a person or a group of persons may be identified for scanning because their behaviour may have led officers, or the public, to have on-going concerns for public safety. For example, 2 groups of young men who appear confrontational to the other group may be appropriate to be scanned.

Supervisors of scanning activities operations are to ensure that ethnic or religious groups are not to be targeted solely because of their ethnicity or religious affiliation.

ORDER

Officers are not to select a person or a group of people to be scanned solely because they are, are believed to be, a particular age, gender, or of a particular ethnic or religious group.

Safeguards

Officers are to comply with the safeguards in Jack's Law pursuant to s. 39H: 'Safeguards for exercise of powers' of PPRA which provides:

(i) if an officer exercises a power under ss. 39BA or 39E of the PPRA to require a person to stop and submit, or resubmit, to the use of a hand held scanner;

OPM Issue 113 Public Edition

(ii) the officer must exercise the power in the least invasive way that is practicable in the circumstances;

(iii) the officer may detain the person for so long as is reasonably necessary to exercise the power;

(iv) the officer must:

(a) if requested by the person, inform the person of the officer's name, rank and station;

(b) if requested by the person, provide the information mentioned in paragraph (a) in writing;

(c) produce the officer's identity card for inspection by the person unless the officer is in uniform;

(d) inform the person that the person is required to allow the officer to use a hand held scanner to determine whether the person is carrying a knife or other weapon; and

(e) the officer must inform the person that a failure to comply with a requirement under ss. 39BA, 39E or 39G is a prescribed circumstance under s. 30(1)(l) of the PPRA. See ss. 29: 'Searching persons without warrant' and 30: 'Prescribed circumstances for searching persons without warrant' of the PPRA;

(v) s. 637: 'Supplying police officer's details' of PPRA does not apply if an officer stops or detains a person under this part.

14.27.5 Scanning a person at a relevant place and public places

Officers undertaking hand held scanner activities are to ensure they have activated their BWC in accordance with s. 4.4: 'Body worn cameras' of the DERIE Manual).

The requirement

The officer should make the requirement to stop and submit to the use of a hand held scanner in the following manner:

I am [Rank/Name/Station].

I require you to stop and allow me to conduct a scan of you (and your belongings, if applicable) with this hand held scanner to determine whether you are carrying a knife or other weapon.

If you fail to comply with my requirement, it is a prescribed circumstance under s. 30(1)(l) of the PPRA and you may be the subject of a search.

Do you have anything to declare?

Scanner indicates presence of metal

Where the scanner indicates that metal is, or is likely to be present on the person or their belongings, the officer is to require the person:

(i) to produce the thing that may be causing the scanner to indicate that metal is, or is likely to be present; and

(ii) to resubmit to the use of the scanner as necessary.

If the person contravenes the requirement and they do not have a reasonable excuse, officers may search the person without warrant in accordance with ss. 29 and 30(1)(l) of the PPRA. See also ss. 633 'Safeguards for oral directions and requirements' and 791 'Offence to contravene direction of police officer' of the PPRA.

Should the scanner indicate the presence of metal then the person can be required to produce the thing causing the scanner to indicate that metal is or is likely to be present, see s. 39G: 'Requirements if hand held scanner indicates metal' of the PPRA.

If a person contravenes the requirement to stop and be scanned or contravenes the requirement to produce anything activating the scanner the person may be searched, see ss. 29 and 30(1)(l) of the PPRA.

An officer that reasonably suspects that a person has refused to produce the thing or resubmit to the use of a scanner may search the person without a warrant, see s. 30(1) 'Prescribed circumstances for searching persons without warrant' of the PPRA.

Fail to stop and submit to hand held scanner requirement

If the person fails to stop and submit to the use of a hand held scanner and they do not have a reasonable excuse, officers should consider the power to search the person without warrant under s. 29 and 30(1)(l) of the PPRA. See also ss. 633 'Safeguards for oral directions and requirements' and 791 'Offence to contravene direction of police officer' of the PPRA.

The scanning of a person by an officer using a hand held scanner is not a search of a person, even if the scanner indicates the presence of metal and officers require the person to produce the thing that may be activating the scanner. Use of a hand held scanner means to pass the hand held scanner in close proximity to the person or person's belongings.

OPM Issue 113 Public Edition

The prescribed circumstances under s. 30(1)(l) of the PPRA provides for searching a person without warrant where the person has failed to comply with a requirement under ss. 39C: 'Authorisation by a senior police officer' and 39E 'Authorised use of hand held scanner without warrant in stated public places' of the PPRA.

14.27.6 Searching of a person

While the authority to use a hand held scanner in relation to a person does not provide police with the power to search a person without a warrant, officers are to be mindful that when scanning a person for a knife or weapon that they maintain their existing powers to search a person without warrant should they form the requisite level of suspicion in relation to the prescribed circumstances provided for in ss. 29: 'Searching persons without warrant' and 30: 'Prescribed circumstances for searching persons without warrant' of the PPRA.

If the person to be searched is a child, an officer is to search the child in the presence of a support person (see s. 631: 'Special requirements for searching children and persons with impaired capacity' of the PPRA). However, an officer may, in accordance with s. 631(2) of the PPRA, search the person in the absence of a support person if the officer suspects:

(i) delaying the search is likely to result in evidence being concealed or destroyed; or

(ii) an immediate search is necessary to protect the safety of a person.

Effect of Jack's Law on power to search a person without warrant

The prescribed circumstances for searching a person without warrant outlined in s. 30(1)(l): 'Prescribed circumstances for searching persons without warrant' of the PPRA include where the person has failed to comply with a requirement under ss. 39C: 'Authorisation by senior police officer' and 39E: 'Authorised use of hand held scanner without warrant in stated public places' of the PPRA.

14.27.7 Hand held scanner recordings, audits and reporting

QPRIME occurrence

A senior police officer, on issuing a hand held scanning authority (see s. 14.27.3: 'Procedure for issuing a hand held scanner authority' of this Manual), is to ensure that a specific QPRIME 'Hand held scanner authority [1676]' occurrence is created to capture the duration of the hand held scanning authority. This will ensure that relevant street checks can be attached to the occurrence.

Where more than one authority has been made in relation to one specific policing response and each authority either starts or finishes with the start or finish of another authority (i.e. back to back authorities) then one QPRIME occurrence may be used to attach relevant street checks.

Street checks

When an officer has scanned a person, whether under an authority in a public place or without an authority in a relevant place, they are to ensure that prior to the end of their shift a separate street check is created in QPRIME (see 'Basics: Jack's Law hand held scanner: Hand held scanner authority occurrence' of the QPRIME User Guide). A group of people who are associates, and are scanned, can be listed within one street check. When a subsequent search of a person without a warrant is conducted, or a person declines to provide their details (name and date of birth) or the persons identify cannot otherwise be established, that person requires their own street check. Officers are to ensure that the subject person's correct ethnicity identifier, where known, is also entered into the street check. The officer is to ensure that the street check is then linked to the relevant scanning authority occurrence, if applicable, in QPRIME.

During the creation of a street check a member is to select:

(i) 'wanding' in the subject field; and

(ii) for wanding in a relevant place or public place (other than a relevant place), select the applicable subject details box; and

(iii) only check the 'Without Warrant' subject details box when a hand held scan progresses to a search.

(iv) for wanding in a public place—wanding public place, (address, place name or description of public place),

in the intelligence/street check tab.

Officers scanning a person must create a street check in 'real-time' on their QLiTE device to ensure the scanning is captured against the correct authorisation or occurrence. If the street check is unable to be entered in real-time, an officer must ensure the date and time in the street check accurately reflect the actual scanning activity. This is critical for linking scanning activities to the relevant authorisation or relevant place street check.

When an officer has used the scanning powers under Jack's Law and a subsequent search of the person without warrant is conducted (e.g. the scanned person is reasonably suspected of possessing a drug or stolen property) then the 'search without warrant' check box should also be selected in the relevant street check. The 'search without warrant' check box should not be selected where only the scan/produce item powers under Jack's Law have been used. The 'search without warrant' check box is only required where a subsequent search of the scanned person under ss. 29 and 30 of the PPRA is conducted.

OPM Issue 113 Public Edition

Where an officer has commenced a proceeding against a person for an offence as a result of scanning (e.g. possession of a knife in a public place) they are to ensure a street check is still created as well as any necessary QPRIME occurrence for the offence.

Enforcement register

Officers exercising Jack's Law powers are not required to complete an enforcement register entry in QPRIME (see enforcement act Schedule 6: 'Dictionary' of the PPRA).

However, if a search is conducted under s. 29: 'Searching persons without a warrant' of the PPRA, then an entry must be made in the enforcement register in QPRIME (see s. 2.1.2: 'Registers to be kept' of this Manual).

Body worn camera requirements

At the termination of an officer's shift, BWC recordings (see s. 4.4: 'Body worn cameras' of the DERIE Manual) should:

(i) be downloaded;

(ii) be categorised 'Evidential' or 'Non-Evidential';

(iii) be tagged 'BWC', 'HHS' and all other appropriate tags; and

(iv) include relevant QPRIME occurrence or street check in ID field of Evidence.com file.

Scanning audits

Responsibility for auditing of issued authorisations and scanning relevant places lies with the applicable district officer (DO), Special Services Group (SSG) manager or equivalent of the location where the authorisation was sought or scanning conducted, each calendar year. Where SSG have provided support to a district, responsibility for auditing remains with the applicable DO of the location the authorisation and scanning at a relevant place was carried out. Where SSG have issued an authorisation or organised scanning in a relevant place in a district, auditing responsibility remains with their manager or equivalent.

The auditing, of hand held scanner authorisations and associated street checks, utilising Form QP1220C: 'Hand Held Scanner Audit', are to be included as part of district level risk management and recorded in DAP. See 'Jack's Law' Hand Held Scanner Audit (DAP Recording) on the Regional Operations SharePoint page.

Annual reporting

The Commissioner must include certain information about authorisation of hand held scanners in the police service's annual report for a financial year as outlined in s. 808C: 'Annual report to include information about authorisation of hand held scanners' of the PPRA. The Director, Specialist Services Group has been assigned this responsibility in consultation with the Director, Research and Analytics.

OPM Issue 113 Public Edition

14.28 Miscellaneous operational matters

14.28.1 Rendering assistance to stranded motorists and passengers

Occupants of motor vehicles are sometimes stranded by the roadside due to mechanical failures, crashes, police enforcement action, and other unexpected incidents.

Members performing duty should be alert, particularly during the hours of darkness, for stranded persons. In circumstances where stranded persons may be exposed to danger, members should offer assistance.

ORDER

In cases where police enforcement action has resulted in occupants of a vehicle being left without transport, officers are to offer assistance to ensure the occupants are transported to their destination, or a place of safety. See also s. 16.4.5: 'Arrest of persons who have others in their care' of this Manual.

Assistance may include arranging for a relative or friend of the person to collect the person, or arranging for a taxi to collect the person. Members offering such assistance should clearly explain to the person for whom the assistance is sought that the Service is not responsible for any costs associated with the services subsequently provided.

Where it is not possible to obtain other suitable assistance, members should contact the RDO, DDO, or their OIC and seek permission to use a Service motor vehicle to convey the stranded person(s) to a place of safety. A place of safety may include an attended police station, but does not include a watch-house.

Unless otherwise directed by an RDO, DDO or their OIC, members offering assistance should remain with stranded persons until appropriate assistance is obtained.

Arrangements for assisting a stranded person should be made in consultation with the person and should be mutually convenient. There is no obligation on a person to accept assistance.

In appropriate cases where a stranded person is a child under the age of 12, officers should consider applying the provisions of s. 7.4.2: 'Moving a child to a safe place' of this Manual.

ORDER

The member with responsibility for command is to record full particulars of any assistance provided, or where assistance is offered and declined, including the names and addresses of parties concerned and the registered numbers of vehicles involved, in that member's activity log or official police notebook.

Additionally, where assistance has been offered by officers to stranded persons and declined, the relevant police communications centre or where no such centre is available, the OIC of the police station where the members are required to report, is to be notified of the assistance offered, the location of the stranded person, identification of the person if known, identification of stranded vehicle and reason for the person declining the offer of assistance.

14.28.2 Remotely piloted aircraft systems

Remotely piloted aircraft systems (RPAS), also referred to as unmanned aerial vehicles (UAV), remotely piloted aircraft (RPA) or drones, are utilised by law enforcement during police operations. The Service possesses a Civil Aviation Safety Authority (CASA) RPA Operators Certificate (ReOC) authorising the use of RPAS for law enforcement purposes.

A member intending to operate an RPA during a police operation is to be mindful of all CASA rules and requirements as they relate to RPA (see 'Flying drones/remotely piloted aircraft in Australia', 'Remotely piloted aircraft system resources and links'; 'Civil Aviation Safety Regulations, Part 101' available on the CASA webpage, the Services CASA approved Operations Manual and RPAS Operational Procedures Library).

The Service Chief Pilot (RPAS) is responsible for:

(i) ensuring all operations are conducted in accordance with Civil Aviation legislation;

(ii) maintaining a record of the qualifications of each member operating Service RPAS;

(iii) monitoring the operational standards and proficiency of each member operating Service RPAS;

(iv) maintaining a complete and up-to-date reference library of operational documents required by CASA (see s. 101.335(1): 'Eligibility for certification as UAV operator' of the Civil Aviation Safety Regulations) for the types of operations conducted;

(v) reporting all Service RPAS incidents/accidents to CASA; and

(vi) approval of all unit purchases of RPAS.

The Service approved CASA Maintenance Controller has responsibility for:

(i) ensuring all maintenance on Service RPAS is in accordance with approved documented procedures;

(ii) ensuring personnel carrying out maintenance on Service RPAS are trained and competent to do so;

(iii) maintaining a record of the serviceability or otherwise of Service RPAS;

(iv) ensuring all equipment essential to the operation of Service RPAS is serviceable;

(v) maintaining a thorough technical knowledge of the Services RPAS; and

(vi) investigating all defects in Service RPAS.

OPM Issue 113 Public Edition

Deploying a remotely piloted aircraft

A Service owned and approved RPA is not to be deployed unless the operator:

(i) holds a Remote Pilot Licence (RePL) or Controllers Certificate issued by CASA;

(ii) holds an Aviation Radio Operators Certificate (AROC);

(iii) has been tested by the Service Chief Pilot (RPAS);

(iv) has completed the annual flight proficiency test;

(v) has maintained flight currency; and

(vi) has sought and been granted approval to deploy an RPA by the Service Chief Pilot (RPAS) via the approved RPA flight authorisation process.

A qualified Service RPA remote pilot is required to undergo a minimum of 5 hours training on each RPAS type they intend to operate, and validate their qualifications and hours flown through maintenance of a flying hours logbook.

A non-Service owned RPA is not to be used for law enforcement purposes or Service operations, unless prior approval has been obtained from the Service Chief Pilot (RPAS). The non-Service RPA to be approved and used is to be CASA authorised. Consideration is to be given to ownership of footage or images when using a non-Service owned RPA. All costs associated with the use of non-Service owned RPA is the responsibility of the district employing the service of a non-Service RPA.

A non-Service approved Remote Pilot is not to utilise any RPAS for any Service operation.

Reporting deployment of a remotely piloted aircraft

If exceptional circumstances exist (e.g. to prevent loss of life or serious injury) telephone approval from the Service Chief Pilot (RPAS) is to be sought by the Service Remote Pilot. All required flight paperwork is to be completed as soon as practical by the Service Remote Pilot after the circumstances no longer exist.

Service Remote Pilots intending to operate a RPAS for a police operation are to seek approval from the Service Chief Pilot (RPAS) prior to deployment, using the approved flight approval process.

At the conclusion of an RPA deployment, the Service Remote Pilot is to notify the Service Chief Pilot (RPAS) of any injury, damage to property, damage to Service RPAS, and any breach of safety or regulations.

Information regarding the deployment

Electronic images and recordings obtained from the deployment of an RPA remain the property of the Service. See s. 4.3: 'Storage, retention and production of personal recording device recordings' of the DERIE Manual.

RPAS purchase

A unit wishing to purchase an RPAS is to gain the approval of the Service Chief Pilot (RPAS) and make submission for use of an 'exempted use item' of operational equipment in accordance with s. 14.6.9: 'Operational equipment development and approval' of this Manual.

All RPAS used for police operations are to be approved by the Service Chief Pilot (RPAS).

RPAS inquiries

Members are to contact the Service Chief Pilot (RPAS) (rpa@police.qld.gov.au) for all inquiries relating to the use of RPA and training of RPAS pilots.

Calls for service

CASA is responsible for regulating and overseeing the safe operations of RPA and model aircraft. Members of the community may contact QPS seeking assistance relating to the misuse of an RPAS. Officers are to investigate and report misuse of an RPAS and refer to the RPAS Aide Memoire for guidance. CASA is responsible for any enforcement action in relation to the misuse of an RPAS.

14.28.3 Queensland Health harm reduction services

Queensland Needle and Syringe Program

Queensland Health (QH) operates the Queensland Needle and Syringe Program (QNSP) from several locations across Queensland. The QNSP aims to reduce the incidence of blood-borne viruses and injection-related injuries and disease in Queensland.

Officers should be mindful of the need for the public to freely use these services.

Officers are not to deter members of the public from participating in these programs. Patrols, surveillance, or person checks in the vicinity of premises used for QNSP are not to be conducted unless warranted and justifiable.

OICs are to ensure that officers under their supervision are made aware of the location of premises where these programs operate to avoid any unnecessary police presence in the area.

Inquiries may be made with the QNSP to obtain information about the location of QNSP services in Queensland (see 'Find an NSP' on the QNSP webpage).

Inquiries about injecting drug users attending QNSP or opioid treatment programs may be made through the Inspector in Charge, Drug and Alcohol Coordination Unit (DACU), Domestic and Family Violence and Community Engagement Group.

Inquiries about prevention and treatment including drug diversion programs can be found under 'Programs and services' on the QH webpage.

14.28.4 Police bicycle patrols

Bicycle patrols can be an effective method of preventing and detecting crime. This is particularly true for operations in areas which are inaccessible to motor vehicles.

District officers should consider the benefits that may be derived from implementing bicycle patrols in their area of responsibility. The OIC of a region, may implement bicycle patrols where considered appropriate.

District officers who implement bicycle patrols are responsible for the acquisition of suitable bicycles, uniform and ancillary equipment.

Officers are not to be required to undertake duties as bicycle patrol officers unless they have sufficient skill and physical fitness to safely operate a bicycle.

Officers riding bicycles should not engage in pursuits of motor vehicles.

OPM Issue 113 Public Edition

When performing duty, bicycle patrol officers should:

(i) only use bicycles and other equipment provided by the Service unless approved by the district officer;

(ii) ensure that bicycles and equipment are appropriately cared for and maintained when in their possession;

(iii) wear the Service issue bicycle patrol uniform;

(iv) perform patrol duties as required by the OIC of the relevant station or establishment;

(v) at the termination of each shift:

(a) complete an activity log; and

(b) secure the bicycle at the relevant police establishment.

The OIC of a station or establishment which operate bicycle patrols are to ensure that:

(i) bicycles and other equipment issued to that station or establishment are appropriately maintained;

(ii) a monthly check is made of all accessories, tools and equipment supplied with the bicycles used for patrols and appropriate action is taken with respect to any item found to be missing or damaged;

(iii) only officers who are sufficiently skilled and physically fit are permitted to perform bicycle patrols.

14.28.5 First Aid response and Service First Aid kits

Policing may expose members to medical situations requiring first aid assistance to individuals, or when responding to incidents involving physical trauma, to officers, members of the public and offenders. Physical trauma can be the result of a vehicle, home or workplace incident, criminal acts or incidents involving the use of firearms or other weapons.

Members may also be required to apply self-first aid and respond individually to injuries they have received in the course of the duties.

Officers locating a person with a medical condition or physical trauma are to conduct an immediate risk assessment and assist the person in accordance with their first aid or tactical first aid training and seek medical assistance (see Chapter 38: 'Medical response' of the FRH).

For further information see First Aid in the Workplace SharePoint page.

Location of first aid kits, and tactical first aid kits and individual tactical first aid kits

To ensure standardisation and the ability to quickly locate a first aid kit (FAK) or tactical first aid kit (TFAK) and the components of the individual tactical first aid kit (ITFAK) in an emergency, an OIC, in coordination with their relevant Health and Safety Adviser, are to ensure:

(i) a FAK is located within:

(a) the station or establishment under their control and:

- is appropriately signed;
- is referenced in station instructions and briefed in orientation; and
- a member is delegated to ensure serviceability;

(b) Service vehicles allocated to their station or establishment; and

(c) Service vessels/aircraft and briefed in orientation/safety briefs; and

(ii) a TFAK is located:

(a) within the glove box or front dashboard storage compartment of all Service motor vehicles attached to their station or establishment. If an alternate location is to be used, due to the design of the vehicle, the location is to be clearly identifiable and appropriately marked;

(b) for Service motorcycles, in a compartment not affected by high heat and clearly marked;

(c) for Service vessels/aircraft, with the vessel first aid kit; and

(d) for individual officers when requested, for personal carriage options.

(iii) both pouches of an ITFAK:

(a) when carried by an officer on their person are carried in accordance with the provisions of the Operational Training Services Tactical First Aid Learner Guide;

(b) if only tourniquet in pouch is carried, officers are to have access to remaining ITFAK components; or

(c) are available at all times by an officer whilst performing operational duties (e.g. contained within the officers' kit bag); and

(d) for officers performing foot patrols, are carried at all times.

OPM Issue 113 Public Edition

Officers are to ensure they are aware of the location of FAK and TFAK within their station or establishment and within their Service vehicle/vessel or aircraft and have access to an IMIST proforma (see s. 38.4: 'IMIST proforma' of the FRH).

An OIC of a station or establishment is to ensure:

(i) TFAK inspection is included in the Service vehicle/vessel/aircraft checklist for their station/establishment; and

(ii) an IMIST proforma is provided with each FAK and TFAK; and

(iii) the contents of an officers ITFAK are not expired.

A Service supplied TFAK is to be kept in its vacuum sealed packaging and not broken down until required for use.

Physical carriage of TFAK

Officers responding to incidents without an ITFAK in their possession, and where a TFAK may be required, should consider carrying the vehicle's TFAK on arrival at an incident.

Officers who carry a TFAK on their person generally, or when attending an incident, should carry the TFAK:

(i) within the opposing trouser pocket to their firearm so they can access the TFAK whilst holding their firearm with the master hand; or

(ii) within an enclosed pouch on their ILBV.

Replacement and use of expired or used Service first aid kit components

Where components of a Service FAK have expired or have been used, or a complete TFAK has been opened or reached expiry, an OIC is to:

(a) request a new TFAK from the Richlands Supply Centre (RSC), or

(b) for a Service FAK, request replacement items from an approved FAK supplier.

Where components of an ITFAK have been used or have expired, the officer is to arrange replacement of ITFAK items through the RSC by completing a Requisition for Supply of Uniform under accessories. To justify replacement, officers are to complete in the additional information comments section:

(a) the QPRIME number or Incident/Injury Notification and Reporting System (IINRS) reference number if items have been used for a medical incident; or

(b) advice the item has expired.

Expired ITFAK or TFAK items, whether complete or incomplete, are to be delivered to an officer's local ETO office or BAOCC for use in training.

Use of non-approved TFAK and ITFAK components

Due to the risk of officers being unable to perform first aid response in accordance with tactical first aid training, officers are not to carry or use non approved TFAK and ITFAK components.

Automated external defibrillators

Automated external defibrillators (AED) may be located within stations and establishments, Service vessels or in public and private locations.

An AED is a portable electronic device used to treat sudden cardiac arrest. It is the only effective method to revert life-threatening cardiac arrest rhythms caused by trauma events or other causes such as illegal drug use.

Use of an AED is taught in Service first aid training, however all members can use an AED when required as the design and included instructions enables use by untrained persons.

OIC of stations and establishments are to ensure all AED are inspected and maintained in accordance with manufacturer's instructions, referenced in station instructions and briefed in orientation/safety briefs.

Naloxone for opioid overdose

Naloxone hydrochloride (also known as Naloxone, Narcan®, Nyxoid®) is a safe, fast acting and effective emergency treatment for known or suspected opioid overdoses. The Service has adopted the nasal spray form of naloxone medication for administration to a person suspected of an overdose during an emergency whilst waiting for an ambulance or advanced medical treatment to arrive.

Naloxone reverses the effects of opioids such as heroin, morphine, methadone, fentanyl, nitazenes and oxycontin. Recognising signs of an opioid overdose is important for early medical intervention. Signs and symptoms of an overdose are outlined in naloxone OLP training packages and is also available on the Queensland Poisons Information Centre website.

Naloxone is typically effective in restoring breathing and consciousness in the affected person. However, in some instances, its effects may be temporary and there is a risk the person could lose consciousness again once the naloxone

OPM Issue 113 Public Edition

wears off. Members are to call triple-zero (000) prior to administering naloxone and are to ensure the person receives continuous emergency medical treatment and is transported to a hospital.

Completion of naloxone training is required before members can administer naloxone to a person (see Schedule 5, Part 2, s. 6: 'Dealing authorised' of the Medicines and Poisons (Medicines) Regulation). Members are authorised to use Naloxone after completing current Opioid Overdose OLP training on Ignite.

Naloxone is to be stored:

(i) in original packaging and in compliance with the label on the product;

(ii) within a station or establishment at the same location as the FAK; or

(iii) inside a vehicle or vessel:

(a) within the vehicle or vessel's FAK; and

(b) in the coolest part of the vehicle or vessel.

See 'Location of first aid kits and tactical first aid kits' of this section.

OICs and managers of work units are to ensure stores of naloxone are to be regularly audited to ensure the naloxone medication hasn't expired. Replacement of naloxone products are to occur when the product expires or has been used. Expired or damaged stock may be disposed of in a regular bin.

When naloxone has been administered, members are to record the use of the medication in QPRIME.

Refer to the QPRIME User Guide for the usage recording procedure, which can be entered via the 'Naloxone template' located in the Occurrence Enquiry Log or Intelligence Enquiry Log, in a Street Check or Occurrence.

Where naloxone has been administered for first aid application to Service members in the course of their duty, record via the Incident/Injury Notification & Reporting System.

Naloxone can be reordered through Supply Services, Requisition for General Stores SharePoint Page and select item '82010440 NALOXONE NASAL SPRAY' or visit DACU 'Naloxone' SharePoint page for further information.

The Drug and Alcohol Coordination Unit (DACU) is the capability owner of naloxone policy and the central contact point for all enquiries. Further information is available on the Naloxone SharePoint page.

14.28.6 Responding to persons with altered levels of consciousness

Medical illness, traumatic brain injury, alcohol intoxication, drugs, poisonings, physiological trauma or a combination of these factors may affect a person's neurological and physiological status in a way that causes an abnormal level of consciousness. Such situations may lead to death if medical treatment is not sought.

The AVPU consciousness scale (an acronym from 'alert, verbal, pain, unresponsive') is a tool used by the Queensland Ambulance Service to measure and record a person's level of consciousness.

Members exposed to a person who has an abnormal level of consciousness are to take immediate steps using the AVPU scale to identify if medical attention should be sought.

Use of AVPU scale

The AVPU scale is a quick and simple way of detecting an altered mental status in a person. No formal training is necessary and any assessment lower than ALERT is considered abnormal until proven otherwise.

The AVPU scale has four possible outcomes based on the following criteria:

(i) **Alert**: The person is aware of the examiner and can respond (although not necessarily orientated) to the environment around them on their own. The person can also follow commands, although may be confused. Will open their eyes spontaneously and track objects.

(ii) **Verbal response**: The person's eyes do not open spontaneously, and eyes open only in response to a verbal stimulus directed toward them. The response could be as little as a grunt, moan, or slight move of a limb when prompted by voice.

(iii) **Pain response**: The person's eyes do not open spontaneously. The person will only respond to the application of painful stimuli by an examiner (e.g. rubbing sternum, pinching ear). The person may move, moan, or cry out directly in response to the painful stimuli.

(iv) **Unresponsive**: The person does not respond spontaneously and does not respond to verbal or painful stimuli.

When medical assistance is to be sought

Members are to immediately seek medical assistance when:

(i) an AVPU level lower than ALERT is identified;

(ii) there is any doubt; or

OPM Issue 113 Public Edition

(iii) when conducting a continual AVPU assessment a person's consciousness level changes, including instances where the consciousness level improves to ALERT.

Instances when medical assistance should be considered

Although the use of the AVPU may indicate ALERT, there may be situations where medical assistance may be appropriate as there are other health indicators of concern e.g. profuse sweating or a person in a heightened state of consciousness.

Passage of person information when requesting medical assistance

Members requesting medical assistance should provide information of a person's medical condition using the Service IMIST proforma (see s. 38.4: 'IMIST proforma' contained in the First Response Handbook).

14.28.7 Borrowing or using non-Service property for operational purposes

Where non-Service property is borrowed or used by members of the Service for operational purposes this creates a legal relationship similar to a bailment situation. In such cases, there will generally be no contractual arrangements between the parties that specify rights and obligations. Should the property be damaged, destroyed or lost, the Service bears an onus to demonstrate that reasonable care had been taken in relation to the property.

Where possible, consideration should be given to hiring such property instead of borrowing. Where such property is hired, the terms and conditions of any agreement should be in the form of a written contract. In any contractual or borrowing arrangement there should be clear agreement with the owner or lender regarding any damage that may occur to the property while in the possession of the Service. The owner or lender should be made aware that the Service is only responsible for damage, destruction or loss caused during the time it was in the possession of the Service.

Borrowing officers should ensure:

(i) where practicable:

(a) that they have a suitably qualified person:

- examine the quality of any property; and
- inspect and assess the property prior to use;

(b) that a contractual agreement is made with an owner or lender of property; and

(c) that members who use the property are appropriately licensed or qualified to use the equipment;

(ii) in the case of vehicles:

(a) the property is roadworthy and registered;

(b) authorisation to borrow the property is obtained from a responsible senior officer; and

(c) the property is suitable for the functions to be performed,

see also s. 4.2.6: 'Use of loan vehicles for Service purposes' of the MSM;

(iii) reasonable care is taken of non-Service property that is used for an operational purpose; and

(iv) a record is made in their official police notebook of the condition of the property, including any damage, destruction or loss, prior to delivering the property to the owner or lender.

An OIC or a supervisor of a borrowing officer is to ensure that a record is kept of the details of any vehicle(s), dates borrowed, the particulars of drivers and any other relevant information.

District officers are to ensure that appropriate district instructions are established in their area of responsibility.

14.29 Miscellaneous duties performed by police

14.29.1 Service of civil processes and other documents

Section 14: 'What a licence authorises' of the *Debt Collectors (Field Agents and Collection Agents) Act* (DC(FACA)), authorises the holder of the licence (a field agent) to perform activities including a process serving activity, which involves serving a writ, claim, application, summons or other process as an agent for others for reward.

Section 30: 'Acting as debt collector' of the DC(FACA), makes it an offence for a person, as an agent for someone else for reward, to perform a regulated activity unless the person is authorised to perform the activity under the DC(FACA) or another Act.

Section 5: 'Public officials' of the DC(FACA) provides a number of exceptions to s. 30 of the DC(FACA), but does not include an officer.

OPM Issue 113 Public Edition

Section 19: 'General power to enter to make inquiries, investigations or serve documents' of the PPRA provides that an officer performing a function of the Service may enter and stay for a reasonable time on a place to serve a document.

Also s. 798: 'Service and enforcement of process' of the PPRA provides that an officer may serve or enforce a warrant, summons, order or command of any court, judge, magistrate or justice even though the warrant, summons, order or command is not addressed to the officer and despite the requirements of any other Act or law, or rule having the force of law, about who may enforce the warrant, summons, order or command.

Although s. 19 and s. 798 of the PPRA appear to act as exceptions to the provisions of the DC(FACA), the scope of these sections was narrowly interpreted by the district court in the matter of Vaschina v Clague (2002) [Qld DCA 5199/1997] (see Criminal Law Bulletin No. 187.3: 'Service of court documents and the PPRA'). In this particular case the court held that as civil documents and processes are not required to be served by officers in particular, officers serving such documents are not performing a function of the Service and the provisions of s. 19(4) of the PPRA do not apply. Consequently s. 19 of the PPRA cannot be relied upon as an exception to s. 30 of the DC(FACA).

Furthermore, in regard to s. 798 of the PPRA, the district court viewed the meaning of 'warrant, summons, order or command' to be quite specific. In essence the court held that s. 798 of the PPRA only applies to situations where an officer serves a document that requires the party being served to take some form of action, for example to attend court, file a pleading or pay an amount claimed. Where the document being served is merely notification that a proceeding is commencing (or continuing) and does not require any specific action by the party being served, the document does not fall within the provisions of s. 798 of the PPRA and the section cannot be relied upon as an exception to s. 30 of the DC(FACA).

Officers are often requested to serve or attempt to serve civil processes and documents, particularly in areas where a bailiff or commercial agent may be unable to effect service. Fees provided to cover the cost of serving such documents usually accompany the civil process or document. However, officers should only serve such documents where the provisions of s. 798 of the PPRA apply.

OICs of stations or establishments receiving civil processes or documents to serve should:

(i) examine the process or document and ensure the provisions of s. 798 of the PPRA apply. If the process or document received is not a warrant, summons, order or command, it is to be returned unserved together with refunded fees, to the person/organisation requesting service;

(ii) comply with any relevant provisions of the:

(a) Mail Receipt and Primary Point Mail Opening Handbook (s. 5.2.3: 'Mail receipt and management' of the MSM);

(b) Financial Management Practice Manual relating to banking and collections; and

(c) regional collections manual practices; and

(iii) if the process or document can be served, ensure the service fee and expenses provided (e.g. travelling fees, hourly service fees) are consistent with those prescribed in the Uniform Civil Procedure (Fees) Regulation (UCP(F)R) (see 'Fees payable to enforcement officer, marshal or marshal's officer for service and enforcement' in Schedule 1: 'Supreme Court and District Court fees' or Part 2: 'Bailiff's Fees' in Schedule 2: 'Magistrates Courts Fees' as the case may be).

OPM Issue 113 Public Edition

If the service and expense fees provided are less than those prescribed in the UCP(F)R, further expenses are to be sought from the person/organisation requesting service prior to effecting or attempting to effect service of the civil process or document.

Where the OIC ascertains the fees supplied are consistent with those prescribed in the UCP(F)R, officers may serve the relevant civil process or document.

If the actual expenses incurred in serving a civil process or document exceed expense fees previously provided, the officer serving or attempting to serve same is still entitled to payment. In any case, the OIC is to request additional expenses be paid by the person/organisation requesting service to cover all expenses actually incurred. Where applicable, reference is to be made to the schedule of fees payable for the service or attempted service of any process or document under the UCP(F)R (see Schedule 1: 'Supreme Court and District Court fees' or Schedule 2: 'Magistrates Courts Fees') as the case may be.

The OIC of a station or establishment who receives and causes the service or attempted service of any civil process or document is to issue a QP 220A: 'Official receipt' for the total amount received. The receipt is to be forwarded to the person/organisation requesting service. The receipt is to show the number of the civil process or document, name and address of the person/organisation requesting service, and any other relevant information. All service and expense fees are to be banked into the collections account for the relevant station.

The service fee and any expense fees should be disbursed by the OIC to the officer effecting or attempting to effect service of the process or document, if service is effected or attempted while the officer is not on rostered duty. For taxation liability reasons, the payment of service and expense fees should not be disbursed directly to station social clubs. If service is affected or attempted while the officer is on rostered duty, the service fee and any expense fees are to be retained by the Service.

Where a Service vehicle is used for service or attempted service of a civil process or document the vehicle expense allowance is payable to the Service. This amount is to be banked into the collections account at the station concerned and remitted monthly.

Where an officer uses a private vehicle to effect or attempt to effect service of a civil process or document, the travelling fee is to be disbursed to that officer. When the disbursement of the vehicle expense allowance is made to an officer the disbursement notice is to state a Service vehicle was not used.

When serving a civil process or other document, officers should comply with the provisions of Chapter 4: 'Service' of the Uniform Civil Procedure Rules.

OICs are to retain and file a copy of the affidavit of service of any civil process or document served by officers.

Officers serving civil processes and documents whilst not on rostered duty are considered to be working in a private capacity for remuneration (not in the course of their employment for the Service) and are not covered by the Service Work Cover policy in the event of any injury or illness. Furthermore, officers using their own private vehicles to serve civil summonses or processes may not be covered by their motor vehicle insurance, as the use of the vehicle in such circumstances may be considered commercial as opposed to private use.

Officers considering applying for a licence pursuant to the DC(FACA) should consider the provisions of the Outside Employment Guideline available on the Human Resources webpage and the Standard of Professional Practice available on the ESC Knowledge Hub webpage on the Service Intranet.

14.29.2 Public Trustee

All inquiries by or on behalf of the Public Trustee concerning estates, deceased persons, incapacitated persons, relatives or property, are to be forwarded to the relevant district officer, who is to liaise directly with the inquirer. Inquiries on behalf of the Public Trustee are only to be accepted from an official source, including the clerk of the court, Magistrates Courts Offices. Such requests should be undertaken as part of the performance of the officer's rostered duty. Officers are entitled to travelling allowance in accordance with the 'Police Service Award—State' when complying with such requests.

Prior to complying with a request, the district officer should ascertain the expenditure anticipated. This is to include estimates of travelling allowance and vehicle expenses. If satisfactory confirmation cannot be obtained regarding sufficient funds in the estate, subject of the request, any further police involvement in the matter is to be at the discretion of the relevant district officer.

Upon completion of the inquiries subject to the request, the officer who has completed the inquiries is to prepare a separate report setting out details of the actual work performed and any other expenses, such as travelling allowance and distance travelled, and forward same through the district officer for transmission to the inquirer.

It is the responsibility of the Service to deliver to the Public Trustee property taken possession of by police during the course of inquiries. These situations do not become a Public Trustee request, as outlined above, until after the property has been delivered to the Public Trustee. Details regarding handling property of deceased persons and mentally ill persons are dealt with in s. 4.3.2: 'Property of deceased persons' of this Manual.

OPM Issue 113 Public Edition

14.29.3 Family Law Act

Details regarding the serving of process under the *Family Law Act* (Cwlth) are dealt with in s. 11.13: 'Family Law Act' of this Manual.

14.29.4 Extraneous duties of officers and officers in charge of stations

POLICY

The officer in charge of a station or establishment may be appointed to perform extraneous duties, such as assistant clerk of the court, subject to approval of the Commissioner. Extraneous duties are not to adversely interfere with policing duties.

A member of the Service responsible for extraneous duties who relinquishes charge of those duties, temporarily or permanently, shall provide adequate familiarisation of those duties for the incoming/relieving officer.

14.29.5 Service of New South Wales court attendance notices

A court attendance notice may be issued in NSW in respect of a person, if the person has committed or is suspected of having committed an offence (see ss. 47–54 and ss. 172–181 of the *Criminal Procedure Act* (NSW) (CPA)). A court attendance notice must:

(i) describe the offence;

(ii) briefly state the particulars of the alleged offence;

(iii) contain the name of the prosecutor;

(iv) require the accused person to appear before the magistrate or court at a specific date, time and place, unless a warrant is issued for the arrest of the person or the person is refused bail; and

(v) state, unless a warrant is issued for the arrest of the person or the person is refused bail, that failure to appear may result in the arrest of the person or in the matter being dealt with in the absence of the person (see ss. 50(3): 'Form of court attendance notice' and 175(3): 'Form of court attendance notice' of the CPA).

Court attendance notices may, in cases where the accused person resides in Queensland, be forwarded to the officer in charge of the police station nearest the accused's residence for service.

POLICY

Officers in charge of stations or establishments receiving court attendance notices are to:

(i) check to ensure that the appearance date is at least twenty-one days after the notice is received;

(ii) assign such notices to officers under their control for service;

(iii) forward the notice to another police station or establishment for service, if inquiries reveal that the accused person is now residing in another division;

(iv) retain a photocopy of any court attendance notice served, including the signed endorsement of service;

(v) arrange for the 'service copy' of any court attendance notice served to be returned to the issuing or prosecuting officer in NSW as quickly as possible. A copy of a court attendance notice must, except with leave of the court, be filed in the registry of the relevant NSW court within seven days after it is served and it must contain an endorsement as to service (see ss. 52(4): 'Service of court attendance notices' and 177(4): 'Service of court attendance notices' of the CPA). Consequently, the issuing or prosecuting officer in NSW must receive the endorsed service copy of the court appearance notice within seven days after service so that it can be filed at the relevant court registry; and

(vi) return any court attendance notice unable to be served for any reason, to the issuing or prosecuting officer in NSW.

Court attendance notices must be served in Queensland at least twenty-one days before the court appearance date specified in the notice (see s. 25: 'Time for service' of the *Service and Execution of Process Act* (Cwlth) (SEPA). This twenty-one day period does not include the date of service and the court appearance date (see s. 36: 'Calculating time' of the *Acts Interpretation Act* (Cwlth)).

Service on individuals

Section 24(2): 'Initiating process may be served in any part of Australia' of the SEPA, provides that service on an individual must be effected in the same way as service of such an initiating process in the place of issue.

For committal proceedings, the provisions of s. 52 of the CPA apply.

For summary proceedings, s. 177 of the CPA and rule 5.9: 'Service of court attendance notices in summary proceedings' of the Local Court Rules (NSW) apply.

PROCEDURE

In both committal and summary proceedings, court attendance notices may be served by handing the notice to:

(i) the accused person; or

(ii) a person at the accused person's usual place of residence or business who is apparently of or above the age of sixteen years; or

(iii) if the accused person is an inmate of a correctional centre, by handing it to the officer in charge of the correctional centre.

POLICY

Where a court attendance notice is unable to be served via personal or substituted service, it is to be returned to the issuing or prosecuting officer in NSW. The postal service of court attendance notices is not to be undertaken by QPS officers.

Service on companies and registered bodies

In accordance with s. 24(3) of the SEPA the service on a company or a registered body must be effected in accordance with s. 9: 'Service on companies and registered bodies' of the SEPA.

Service on other body corporate

Pursuant to s. 24(4) of the SEPA the service on any other body corporate must be effected in accordance with s. 10: 'Service on other bodies corporate' of the SEPA.

OPM Issue 113 Public Edition

Actual service

PROCEDURE

An officer when serving a court attendance notice on an accused person, company, registered body or other body corporate is to:

(i) hand the 'defendant copy' of the notice to the accused person;

(ii) explain the offence for which the court attendance notice has been issued; and

(iii) advise the time, date and court at which the accused person is to appear.

Where an accused person refuses to accept a copy of the court attendance notice, the notice may be served by putting it down in the person's presence after the person has been told of the nature of the notice (see rules 5.3: 'How personal service effected generally' and 5.9: 'Service of court attendance notices in summary proceedings' of the Local Court Rules (NSW)).

Pursuant to s. 19: 'General power to enter to make inquiries, investigations or serve documents' of the PPRA, a police officer may enter and stay for a reasonable time on a place to serve a document; this includes a court attendance notice. However, if the place contains a dwelling the only part of the place a police officer may enter without the consent of the occupier is the part of the place that is not a dwelling.

Endorsement of service

POLICY

After serving a court attendance notice officers are to:

(i) complete the statement of service details outlining the time and manner of service and sign the 'service copy' of the notice. This signature must be witnessed, however it does not need to be witnessed by a justice of the peace and can be witnessed by another officer; and

(ii) return the service copy of the court attendance notice, including the completed endorsement of service, to the officer in charge of the station or establishment, who will arrange for the notice to be returned to the issuing or prosecuting officer in NSW.

An officer who receives a court attendance notice for service and:

(i) is unable to serve the notice at least twenty-one days before the appearance date;

(ii) is unable to locate the defendant after all avenues of inquiry have been exhausted; or

(iii) locates information to suggest that the defendant is residing in another division;

is to complete a brief covering report outlining the circumstances and submit that report with the unserved court appearance notice to the officer in charge of their station or establishment.

OPM Issue 113 Public Edition

14.29.6 Interstate service of an originating process

The *Service and Execution of Process Act* (Cwlth) (SEPA) allows for the interstate service of a civil process issued by a Queensland court or tribunal.

In Queensland a civil proceeding starts when the originating process is issued by the court (see rule 8: 'Starting proceedings' of the Uniform Civil Procedure Rules (UCPR)).

POLICY

Where an officer commences a civil proceeding under the UCPR in a Queensland court that requires service on a party interstate, a copy of a SEPA Form 1: 'Notice to defendant' is to be attached to the originating process (see s. 16: 'Information to be provided' of the SEPA and Form 1: 'Notice to defendant' under the SEPA). For example, where an application is made under s. 694: 'Application by police officer for order if ownership dispute' of the PPRA and a party to the proceeding is located interstate. (see s. 4.7.1: 'Disputed ownership (disposal)' of this Manual).

PROCEDURE

When service of an originating process is required to be made on a party located interstate, the applicant officer should:

(i) liaise with the local Service prosecutor and the registrar of the relevant Queensland court to ensure the required originating process, forms and affidavits in relation to the civil proceeding are completed correctly and a suitable hearing date is obtained;

(ii) complete a Form 1: 'Notice to defendant' of the SEPA;

(iii) file all copies of the originating process, forms and affidavits with the registrar of the relevant Queensland court;

(iv) ensure that the originating process, together with a copy of the Form 1: 'Notice to defendant' of the SEPA and any other required forms and/or affidavits are served on the interstate party in accordance with rule 123: 'Service

outside Queensland' of the UCPR, s. 15: 'Initiating process may be served in any part of Australia' of the SEPA and Chapter 4: 'Service' of the UCPR.

Where personal service is required, officers should firstly contact the officer in charge of the interstate police division where service is to be attempted to ensure that they are able to serve the documents. Attach the originating process together with all other attachments to a report addressed to the officer in charge of the relevant interstate police division. The report should request that all documents be served personally and that an affidavit to establish proof of service be completed and returned. (See s. 11: 'Proof of service' of the SEPA. See also Appendix 13.12 of this Manual for an example of a completed 'Affidavit of Service').

Where police from the interstate division are unable to assist in serving the documents, officers should make the necessary arrangements to have the originating process and attachments served by a process server.

Where service is affected by post, officers concerned should complete an affidavit of service in accordance with s. 11: 'Proof of service' of the SEPA.

All affidavits of service are to be returned to the relevant Queensland court prior to the hearing date; and

(v) forward to the prosecutor all documentation in relation to the matter.

All forms are available on QPS Forms Select or the Queensland Courts website.

14.30 Use of tyre deflation devices

Tyre deflation devices (TDD) are designed to immobilise vehicles with minimum risk of injury to all participants and minimal damage to involved vehicles and surrounding property. They may be used, where justified, to safely conclude pursuits, in roadblocks or in other situations which require a vehicle of interest (VOI) to be immobilised. For use of a TDD device in a roadblock, see s. 2.4.12: 'Roadblocks' of this Manual.

The Service currently uses single lane (4.57 metre) and dual lane (7.62 metre) Stinger Spike System TDD.

The contents of this section are to be read in conjunction with ss. 15.4: 'Vehicle interceptions', 15.5: 'Pursuits', and s. 14.26: 'Use of force options for intercepting offenders in vehicles' of this Manual and the Tyre Deflation Device Good Practice Guide on the Service Intranet.

OPM Issue 113 Public Edition

Definitions

For the purpose of this section:

Approved site

means a TDD site that has been pre-approved for use and appears on the 'TDD Mapping Layer'.

ATLAS

means Advanced Tactical Location Analysis System.

At-risk behaviour

is attributed where a review identifies that the deploying or assisting officer compromised their personal safety during TDD use, including:

(i) deploying a TDD without any officer cover (see 'Definitions' of this section);

(ii) deploying a TDD with officer cover that is not policy compliant; or

(iii) breaching their officer cover or unnecessarily entering a roadway during the deployment process.

Emergency circumstances

means:

(i) counter terrorism or other mass casualty incident;

(ii) offender has or is likely to commit murder;

(iii) serious offence of violence;

(iv) extreme acts of dangerous operation of a motor vehicle independent of any police interaction; or

(v) vehicle borne attacks or intentional ramming of a Service vehicle which is not engaged in an authorised boxing in technique attempt.

Non-approved site

means a TDD site that has not been pre-approved for use and does not appear on the 'TDD Mapping Layer'.

Officer cover

means a manufactured or natural object that provides an officer with both visual protection and physical protection which can withstand the impact of a vehicle collision.

Service or other vehicles are not to be used as cover.

Service vehicle concealment

means an object or location that provides visual protection or obscurity for a Service vehicle.

Pursuit Controller

means:

(i) a commissioned officer;

(ii) a DDO; or

(iii) an OIC or supervisor of a police communication centre (PCC).

Supervisor

means:

(i) a commissioned officer;

(ii) a DDO;

(iii) a supervisor of a police communication centre (PCC); or

(iv) a shift supervisor of the rank of sergeant who has been delegated by either (i), (ii) or (iii).

TDD use

means each occasion TDD use is authorised and the device is:

(i) not deployed;

(ii) successfully deployed; or

(iii) unsuccessfully deployed.

TDD Mapping Layer

means a digital application accessible on QTASKS (QLiTE) and desktop (ATLAS) which overlays the geographical location of all approved sites within the state.

OPM Issue 113 Public Edition

14.30.1 Authority to deploy tyre deflation devices

Relevant legislative authority to use a TDD is contained in ss. 21: 'General power to enter to arrest or detain someone or enforce warrant'; 52: 'Prevention of offences—general'; 614: 'Power to use force—exercise of certain powers'; 615: 'Power to use force against individuals—police officers', and 26: 'Roadblocks' of the PPRA, and policy contained in this section and s. 14.26: 'Use of force options for intercepting offenders in vehicles' of this Manual.

14.30.2 Authorising TDD Use

TDD use is accompanied with risks which, if not carefully considered and managed, can result in death and serious injury and is a tactically dangerous situation for the purposes of s. 17.3.7: 'Tactically dangerous situations' of this Manual.

In a pursuit, TDD use is to be authorised by a pursuit controller (see 'Definitions' of this section and s. 15.5.7: 'Officer responsible for the control of pursuits' (Pursuit Controller) of this Manual.

Other than a pursuit, all TDD use is to be authorised by a supervisor (see 'Definitions' of this section).

TDD are not to be used to immobilise motorcycles or similar vehicles.

When TDD use is considered by a pursuit controller or supervisor to be a lawful and appropriate means of immobilising a VOI, the pursuit controller or supervisor is to:

(i) advise all officers involved in the incident that authorisation is given to deploy a TDD. Where the pursuit controller or supervisor is not an officer at a PCC, they are to ensure the relevant PCC is advised;

(ii) obtain the deployment site location from the deployment officer;

(iii) ensure the location of the deployment site is communicated to all units involved in the incident; and

(iv) where appropriate, task support units in the vicinity of the deployment site to assist with traffic control.

ORDER

A pursuit controller or supervisor is not to authorise TDD use unless they have undertaken a risk assessment (see s. 15.5.4: 'Risk assessment for Service response to VOI' of this Manual) and given due consideration to the nature of the offending the occupants of the VOI are suspected of having committed.

Any authorisation for TDD use is to be accompanied by a clear verbalised tactical plan, communicated via the Service radio, outlining the aim and appropriate allocation and direction of policing resources to resolve the incident.

TDD User levels

The following are approved user levels for TDD use.

Level 1 User

Level 1 officers are authorised to use both single lane and dual lane Stinger Spike System TDD from approved sites only using the Service preferred pull deployment method, unless the use of non-approved sites and/or the kerbside deployment method has been authorised by a pursuit controller or supervisor.

Level 2 User

Level 2 officers, having completed the 'Advanced Vehicle Disruption Strategy' training, are authorised to use both single lane and dual lane Stinger Spike System TDD from both approved and non-approved sites using the Service preferred pull deployment method, unless the use of the kerbside deployment method has been authorised by a pursuit controller or supervisor. Level 2 users may also have their Level 2 certification endorsed with additional TDD qualifications, including all remote operated TDD and Rat Trap TDD (see s. 14.30.12: 'TDD Training' of this chapter).

14.30.3 Identification of approved sites

Each district is to maintain adequate numbers of officers who have completed the specialised 'site planning' training and who are responsible for the selection, approval, and biannual inspections of all approved sites within their district.

ORDER

Each district is to ensure those trained officers use the Service approved 'site planning' digital application:

(i) when undertaking their site selection and approval processes; and

(ii) when conducting biannual reviews of their approved sites, to ensure each site remains safe and policy compliant.

OPM Issue 113 Public Edition

14.30.4 Use of approved sites

Due to the risks accompanying TDD use, the use of approved sites should be prioritised over the use of non-approved sites wherever possible.

Approved site locations are recorded on the 'TDD Mapping Layer' which is accessible on both QTASKS (QLiTE) and desktop (ATLAS).

ORDER

Officers are to use approved sites for all intended TDD deployments unless the use of a non-approved site has been authorised by a pursuit controller or supervisor (see 'Definitions' of this section).

14.30.5 Use of non-approved sites

Due to difficulties associated with identifying safe and policy compliant TDD sites in time critical situations, there is a risk that officers may select a site that compromises their personal safety.

ORDER

Officers are not to use non-approved sites unless;

(i) emergency circumstances exist (see 'Definitions' of this section); and

(ii) the use of a non-approved site is authorised by a pursuit controller or supervisor (see 'Definitions' of this section).

Prior to authorising the use of a non-approved site, a pursuit controller or supervisor is to:

(i) validate 'emergency circumstances' exist (see 'Definitions' of this section);

(ii) conduct a risk assessment (see s. 15.5.4: 'Risk assessment for Service response to VOI' of this Manual);

(iii) validate the proposed non-approved site is policy compliant by:

(a) monitoring the body worn camera (BWC) of involved officers using the respond function in Evidence.com;

(b) request the involved officers send a photograph of the proposed site to the pursuit controller or supervisor; or

(c) the pursuit controller or supervisor has personal knowledge of the proposed site (e.g. a brick wall at the entrance of a known unit complex).

14.30.6 TDD deployment methods

TDD deployment methods consist of either the pull or kerbside (commonly referred to as the throw method).

The Service preferred deployment method is the pull method.

ORDER

Officers are not to use the kerbside deployment method unless:

(i) emergency circumstances exist (see 'Definitions' of this section); and

(ii) the use of the kerbside deployment method has been authorised by a pursuit controller or supervisor.

A pursuit controller or supervisor is not to authorise the use of the kerbside deployment method unless they have undertaken a risk assessment (see s. 15.5.4: 'Risk assessment for Service response to VOI' of this Manual) and given due consideration to the nature of the offending the occupants of the VOI are suspected of having committed.

14.30.7 Officer responsibilities

District officers (see SMD)

Are to ensure:

(i) specialised trained officers use the 'site planning' digital application whenever they are undertaking their site selection and approval processes and biannual reviews within their area of control;

(ii) the location of all approved sites recorded on the 'TDD Mapping Layer' are communicated to all operational officers, PCC, and District Tasking and Coordination Centre (DTACC) staff within their area of control;

(iii) all operational officers who authorise or use a TDD have successfully completed the annual TDD 'All Users' OST training and TDD OLP (QC1614), or any equivalent training as determined by the Chief Operational Skills and Tactics (OST) Instructor; and

(iv) ensure each successful and unsuccessful TDD deployment is reviewed without exception (see s. 1.17.1: 'District/group significant event review matter' of this Manual).

Pursuit Controllers and supervisors

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

Debriefings by pursuit controller or supervisor

Where a TDD has been deployed, and time permits, pursuit controllers or supervisors should undertake a debriefing with all officers involved in the TDD deployment (see s. 1.4.6: 'Responsibilities of regional duty officer, district duty officer and shift supervisor' of this Manual).

Deploying and assisting officers

When authority has been given to use a TDD, the deploying and assisting officers are to:

(i) not use a TDD unless they have successfully completed the TDD 'All Users' OST training and TDD OLP (QC1614), or any equivalent training as determined by the Chief OST Instructor;

(ii) ensure they are booked on with a recognised call sign, inclusive of current vehicle fleet details;

(iii) monitor the progress of the incident on the Service radio;

(iv) use approved sites recorded on the 'TDD Mapping Layer' accessible on QTASKS (QLiTE) and desktop (ATLAS),

(v) only use a non-approved site when authorisation has been given by a pursuit controller or supervisor;

(vi) communicate the location of the deployment site to the pursuit controller or supervisor and relevant PCC;

(vii) ensure pedestrians are directed away from the deployment site (see s. 59: 'Power for regulating vehicular and pedestrian traffic' of the PPRA);

(viii) wear a reflectorised vest when entering a roadway to set up or remove a TDD, or when stopping traffic for that purpose, and remove the reflectorised vest once they are safely off the roadway to increase their concealment;

(ix) activate their BWC upon arrival at a deployment site to record the site risk assessment as to the suitability of that site and any subsequent deployment attempt. If an officer is unable to activate their BWC then the officer is not authorised to use a TDD;

(x) refrain from deploying the device if:

OPM Issue 113 Public Edition

(a) officer or community safety is compromised;

(b) there is a likelihood that a civilian vehicle(s) will also be impacted by the device;

(c) the authority to deploy the TDD is revoked by a pursuit controller or supervisor; or

(d) a pursuit is abandoned pursuant to s. 15.5.11: 'Abandoning a pursuit' of this Manual;

(xi) deploy the TDD using the Service preferred pull deployment method, unless authorisation to use the kerbside deployment method has been provided by a pursuit controller or supervisor;

(xii) immediately remove the TDD from the roadway as soon as it is safe to do so, once the VOI proceeds through the deployment site or when the device is no longer required;

(xiii) not leave the TDD unattended;

(xiv) remove from the roadway or vicinity of the deployment site any debris that is related to the deployment;

(xv) inspect the TDD after use and perform any required maintenance in accordance with Service policy (see s. 14.30.14: 'Maintenance' of this chapter);

(xvi) pack the TDD in its case and place it in a secure location within a Service vehicle prior to leaving the site; and

(xvii) update the relevant QPRIME occurrence indicating use of a TDD.

In addition to the above criteria, and relevant safety considerations of a tactically dangerous situation, officers involved in TDD use are to consider the components of the 'TDD Safety Triangle' and if they cannot meet all points of the triangle they are **not to attempt a deployment**.



OPM Issue 113 Public Edition

Officers who make the decision not to use a TDD after being authorised to do so are to be supported for making that decision and the reasons for their decision are to be included in the reporting of the TDD use.

PCC and district tasking and coordination centre staff

Are to:

(i) familiarise themselves with the location of all approved sites recorded on the 'TDD Mapping Layer' in their district, which are accessible on QTASKS (QLiTE) and desktop (ATLAS); and

(ii) assist a pursuit controller or supervisor whenever requested, including alerting a pursuit controller or supervisor of potential prohibited practices (e.g. more than 2 Service vehicles being engaged in a pursuit unless authorised by a pursuit controller) (see s. 15.5.9: 'Operational considerations' of this Manual).

14.30.8 TDD use during a pursuit

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

14.30.9 QPRIME Use of Force report

ORDER

The officer responsible for TDD use (see 'Definitions' of this section) is to create a standalone TDD 'Use of Force' QPRIME occurrence. If the officer is incapacitated, their supervisor is to ensure a 'Use of Force Report' is completed on the relevant QPRIME occurrence (see s. 14.3.9: 'Use of force reporting' of this chapter).

14.30.10 Significant Event Message reporting by exception

A record is also required to be entered on the Significant Event Messaging System (SEMS) by a supervisor for any TDD use which results in an injury to any person or substantial damage to property (see s. 1.17.1: 'District/group significant event review matter' in this Manual).

In those instances, the following categories are to be used:

(i) TDD Authorisation—not deployed (by exception);

(ii) TDD Authorisation—successful deployment (by exception); and

(iii) TDD Authorisation—unsuccessful deployment (by exception).

The record on SEMS is to include:

(i) the name of the officer who authorised the use of the TDD;

(ii) the factors the officer considered to make the authorisation;

(iii) if a TDD is deployed, the result of the deployment;

(iv) the name of the deploying officer and any assisting officer; and

(v) the nature of any injuries or damage to vehicles and property.

The record on SEMS is in addition to the reporting requirement in s. 14.30.9: 'QPRIME Use of force report' of this chapter.

14.30.11 Cross border activities

Officers holding special constable designation are infrequently requested to assist other policing jurisdictions with the immobilisation of a VOI within the border of that state. In these instances, officers are to:

(i) conduct a risk assessment (see s. 15.5.4: 'Risk assessment for Service response to VOI' of this Manual);

(ii) select an appropriate TDD site consistent with the components of the 'TDD Safety Triangle';

(iii) activate their BWC to capture both their deployment site location risk assessment and any TDD use;

(iv) ensure a QPS supervisor validates the proposed non-approved site is policy compliant by:

(a) monitoring the BWC of involved officers using the respond function in Evidence.com; or

(b) request the involved officers send a photograph of the proposed site to the QPS supervisor; and

(v) comply with all UOF reporting requirements of this Manual.

OPM Issue 113 Public Edition

14.30.12 TDD training

The ability to authorise and use a TDD is restricted to officers who have successfully completed the annual TDD 'All Users' OST training and TDD OLP (QC1614), or any equivalent training as determined by the Chief OST Instructor.

Officers who fail to qualify are not to authorise or use a TDD until deemed competent.

14.30.13 TDD use of force reviews

All successful and unsuccessful TDD deployments are to be reviewed by each district without exception (see s. 1.17.1: 'District/group significant event review matter' of this Manual).

District officers (see SMD) are to select appropriately experienced portfolio officers for that purpose.

The extent of the review will depend on the nature and seriousness of the incident, however at a minimum the review should include:

(i) the relevant TDD 'UOF' QPRIME occurrence;

(ii) the BWC footage of the involved officers; and

(iii) any in-vehicle camera (see s. 4.5: 'In-vehicle cameras of the DERIE Manual), POLAIR or external CCTV footage, if applicable.

If the reviewing officer determines the TDD use involved any 'at-risk behaviour' (see 'Definitions' of this section) by either the deploying or assisting officer, they are to:

(i) complete a SERP review (or equivalent) outlining the nature of the at-risk behaviour;

(ii) make a modification in the OEL on the relevant TDD 'UOF' QPRIME occurrence;

(iii) consider any relevant history concerning the involved officer(s) (e.g. current TDD training status, prior rescindment of TDD qualifications etc.); and

(iv) give reasonable consideration to rescinding the TDD qualifications of the involved officer(s).

Rescinding of TDD qualifications

Pursuit controllers, supervisors and level 1 and level 2 qualified officers may have their TDD qualifications rescinded in the following circumstances:

(i) failure to complete the annual TDD 'All Users' OST training and TDD OLP (QC1614), or any equivalent training as determined by the Chief OST Instructor; or

(ii) where they have demonstrated at-risk behaviour (see 'Definitions' of this section) during TDD use.

(iii) where they have authorised or used a non-approved site without:

(a) emergency circumstances existing (see 'Definitions' of this section); and

(b) validating the proposed non-approved site is policy compliant (see s. 14.30.5: 'Use of non-approved sites' of this chapter);

For the purpose of this section a rescinding officer is:

(i) District SERP (or equivalent);

(ii) commissioned officer; or

(iii) experienced TDD portfolio officer selected by a district officer (or equivalent).

Action when rescinding an officers TDD qualifications

The rescinding officer is to ensure that the involved officer(s), their OIC, and overviewing Inspector are all advised by email.

The involved officers OIC is responsible for ensuring the provision of further training (i.e. TDD 'All Users' OST training facilitated by a district qualified trainer).

When the rescinding of a TDD qualification may be lifted

Level 1 Users

A district SERP (or equivalent), the involved officers overviewing Inspector, or an experienced portfolio officer selected by a district officer (or equivalent) can recertify a level 1 officers TDD qualifications, but only after additional training has been undertaken by the involved officers.

Level 2 Users

A district SERP (or equivalent), the involved officers overviewing Inspector, or an experienced portfolio officer selected by a district officer (or equivalent) can recertify a level 2 officers TDD qualifications, but only after additional training has been undertaken by the involved officers. Repeat occurrences of at-risk behaviour by a level 2 user may result in that qualification being rescinded for a 12-month period.

OPM Issue 113 Public Edition

14.30.14 Protection of methodologies

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

14.30.15 Maintenance

Officers are to immediately report to their OIC:

(i) the loss of any TDD;

(ii) any damage or defect to a TDD; or

(iii) any unsatisfactory condition relating to any TDD (e.g. maintenance consumables or replacement parts have been exhausted).

ORDER

Officers are not to make any modifications to a TDD (e.g. modifying the deployment handle or affixing additional rope to the existing deployment rope etc.) without the approval of the Operational Equipment Committee.

Regions and commands are responsible for ongoing financial expenses regarding the purchase of replacement TDD and all related consumable components.

OICs are responsible for the issue, care, and storage of TDD allocated to their station or establishment and are to ensure when the TDD is not in use the TDD is appropriately stored in accordance with s. 213: 'Maintenance and inspection of plant' of the Work Health and Safety Regulation.

OICs are to ensure a TDD Safety Sticker, available from Supply Services is attached to the inner lid of each TDD carry case and is in a serviceable condition.



14.30.16 Compensation

If a member of the community suffers loss as a result of any TDD use, compensation may be payable by the State to the person whose property is damaged. Any claim for compensation arising from TDD use is the responsibility of the region or command from where the deploying officer originates. The deploying officers region or command is also responsible for furnishing and submitting any required Ministerial submission to obtain a decision pursuant to s. 804: 'Compensation' of the PPRA.

Involved officers are to make a physical record and photograph any damage caused as a result of TDD use and upload the record and/or photograph into the relevant QPRIME UOF report.

14.31 Use of Taser 10 energy weapons

Background

A limited rollout of Taser 10 energy weapons has commenced in Queensland. During this rollout, Taser 10 will be issued progressively to officers on completion of conversion training.

This section is to be read in conjunction with this chapter and the 'Taser 10 Learner Guide' available from OTS media library (see Taser training) on the Service Intranet, with the provisions of this section taking precedence.

Application

This section only applies to officers that have been trained, approved to use and issued Taser 10.

For the purpose of this section officers trained, qualified and issued Taser 10 are to comply with all applicable aspects of s. 14.23: 'Conducted energy weapons (Tasers)' of this chapter as detailed:

(i) the following sections remain unchanged:

(a) 14.23.2: 'Taser training';

(b) 14.23.4: 'Use of more than one Taser';

(c) 14.23.5: 'Using the Taser on people who are suspected of mental ill-health';

(d) 14.23.6: 'Special precautions to avoid eye and head injuries';

(e) 14.23.7: 'Probe removal and disposal';

(f) 14.23.8: 'Reporting the use of a Taser';

(g) 14.23.9: 'Carriage of a Taser';

(h) 14.23.10: 'Storage';

(i) 14.23.11: 'Taser repairs and replacement'; and

(j) 14.23.14: 'Review of Taser incidents',

however, a reference to:

(a) 'a Taser' is a reference to a Taser 10 Energy Weapon; and

(b) 'downloading' is a reference to data transfer;

(c) s. 14.23.1: 'Definitions' of this chapter is a reference to s. 14.31.1: 'Definitions for Taser 10 use' of this section;

(d) s. 14.23.3: 'Use of Tasers' of this chapter is a reference to s. 14.31.2: 'Use of Taser 10' of this section;

(e) s. 14.23.12: 'Downloading data from a Taser' of this chapter is a reference to s. 14.31.3: 'Data transfer from a Taser 10' of this section; and

(f) s. 14.23.13: 'Officer in charge and district officer responsibilities' of this chapter is a reference to s. 14.31.4: Taser management responsibilities' of this section; and

(ii) the following sections are replaced with corresponding section of this section detailed below:

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(a) s. 14.23.1: 'Definitions' with s. 14.31.1: 'Definitions for Taser 10 use';

(b) s. 14.23.3: 'Use of Tasers' with s. 14.31.2: 'Use of Taser 10';

(c) s. 14.23.12: 'Downloading data from a Taser' with s. 14.31.3: 'Data transfer from a Taser 10'; and

(d) s. 14.23.13: 'Officer in charge and district officer responsibilities' with s. 14.31.4: 'Taser management responsibilities'.

14.31.1 Definitions for Taser 10 use

For the purpose of s. 14.23 of this chapter relating to the use of a Taser 10 the following definitions apply:

Presentation of a Taser

means pointing a Taser in the direction of a person without deploying or firing a probe.

Deployment of a Taser

means when the selector switch is in the armed position and the trigger is pressed and a probe is deployed and includes firing the Taser:

(i) against a person or animal, or in the direction of a person or animal; or

(ii) unintentionally discharging a probe in any circumstance (other than during Taser training).

Completed circuit

means when two or more probes have been deployed into a subject person and a connection (closed circuit) is established allowing charge to be delivered from the Taser to the person.

Single cycle

means when a completed circuit is made on a subject person and a single (continuous) five second programmed cycle commences (of electrical charge emitted by the Taser 10). If a completed circuit is not achieved after a second probe is deployed, then subsequent probe deployment may be required to commence a single cycle. One full (five second) single cycle is the operational standard for Taser deployment. A cycle may be shortened by the operator moving the selector switch to the down (safe) position.

Multiple cycles

means in relation to a subject person when an officer:

(i) if a completed circuit is made and a five second cycle has commenced, and a further probe is deployed and the five second restarts;

(ii) re-energises the Taser 10 following the initial five second cycle, or

(iii) deploys additional probes following the initial five second cycle,

during the same incident or deployment.

Re-energising a Taser

means when:

(i) an initial five second cycle has concluded;

(ii) the Taser 10 is re-energised by pushing the selector switch upwards momentarily; and

(iii) the weapon commences an additional five second cycle.

Neuromuscular Incapacitation

means when a completed circuit is achieved, and the Taser transmits short duration electrical impulses into the body which affect the sensory and motor functions of the peripheral nervous system temporarily causing involuntary muscle contractions and rendering a person unable to perform coordinated action.

Taser 10

means the Taser branded weapon in the general category of 'energy weapon' and is a hand-held neuro-muscular disruption device capable of temporarily incapacitating a person and causing pain through the application of an electrical current. Taser 10 is a category R weapon, as defined in s. 8(f): 'Category R weapons' of the Weapons Categories Regulation.

Unintentional discharge of a Taser

means an unintentional deployment of a Taser cartridge in any circumstance other than during Taser training e.g. during station loading and unloading procedures.

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Use of a Taser

means:

(i) drawing the Taser out of the holster; or

(ii) presentation of the Taser; or

(iii) deployment of the Taser,

in the performance of the officer's duties.

Use of a Taser for reporting purposes does not include:

(i) use during Taser training;

(ii) station loading and unloading procedures;

(iii) administrative tasks (e.g. data transfer and storage); and

(iv) drawing or presentation only against an animal (i.e. not deploying).

The term 'use' includes any and all subsequent actions carried out with the Taser.

Warning alert

means when the selector switch is pushed upwards prior to the deployment of any probes, a bright pulsing light and loud alert sound will emit from the weapon. The warning alert may assist an officer in de-escalating an incident without the need to deploy probes.

14.31.2 Use of Taser 10

The Taser 10 is a multiple shot weapon that has the capability of firing individually targeted probes to allow for accurate aiming and the possibility of creating probe spread over the entire useful range of the weapon. The Taser utilises a magazine which holds 10 single probe cartridges, and each trigger pull of the Taser will deploy one single probe.

The deployment of a Taser should be determined by the circumstances existing at the time, bearing in mind the Situational Use of Force Model (see s. 14.3.2: 'Situational Use of Force Model (2016)' of this chapter). Officers are reminded the Service's philosophy of consider all options and practise safety (COPS) should be embraced when dealing with use of force incidents.

Single probe deployment allows officers to place each probe with accuracy over the entire effective range of the Taser. To create a completed circuit, at least two probes must strike and embed in the body of the subject person. Additional probes should only be deployed after an officer has assessed the effectiveness of the Taser and determined behavioural change has not been obtained.

When deploying a Taser on a subject person, officers can create their own probe spread by firing probes at the preferred target areas with a view to achieving neuromuscular incapacitation (NMI).

ORDER

Officers are to fire the minimum number of cartridges necessary in the circumstances of the incident in order to obtain behavioural change from a subject person.

There must be a risk of serious injury to a person before an officer can use a Taser. The decision to apply force or use a Taser is an individual one for which every officer will be held accountable.

Officers are not to intentionally deploy the Taser in a prolonged fashion unless it is absolutely necessary and is justifiable in the circumstances.

Every decision to use force should be the subject of a continuous assessment prior to the application of another use of force.

Officers should consider all the use of force options available to them and all the circumstances of an incident when determining the most appropriate use of force option(s) to be used.

The Taser 10 does not have a drive-stun capability; however, it can be deployed at close range (less than 30cm from the subject person). In such circumstances, officers create probe spread by individual targeting of probes to the preferred target areas on a subject person.

Prior considerations to use of a Taser

Prior to deploying a Taser officers should:

(i) where practicable, verbally warn the subject person(s) and initiate the warning alert; and

(ii) be mindful of the area in which the subject may fall, for example on a hard surface. When an effective deployment is achieved, the Taser causes temporary incapacitation which may cause the subject to fall down. Injuries may be sustained by the subject where this occurs.

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When a Taser should not be used

A Taser should not be used:

(i) against persons offering passive resistance (e.g. refusing to move or offering little or no physical resistance and refusing to comply with police instructions. A person acting as a dead weight or requiring an officer to lift, pull, drag or push them to maintain control);

(ii) against persons handcuffed unless exceptional circumstances exist;

(iii) as a crowd control measure (e.g. for crowd dispersal at a demonstration or industrial dispute);

(iv) against the occupants of a vehicle or the operator of machinery where there is a danger of the vehicle or machinery going out of control and injuring the occupants or other people;

(v) against children or persons of particularly small body mass, except in extreme circumstances where there is no other reasonable option to avoid the imminent risk of serious injury;

(vi) against females suspected on reasonable grounds of being pregnant, except in extreme circumstances where there is no other reasonable option to avoid the imminent risk of serious injury;

(vii) near explosive materials, flammable liquids or gases due to the possibility of ignition;

(viii) punitively for purposes of coercion;

(ix) to rouse unconscious, impaired or intoxicated persons;

(x) on persons where there is a likelihood of significant secondary injuries (particularly concussive brain injury) from a fall (e.g. standing on a ladder or other elevated position); or

(xi) on elderly persons, except in extreme circumstances where there is no other reasonable option to avoid the imminent risk of serious injury.

LED lights and laser

The LED lights and laser are only to be used to aid in aiming and are not to be used for any other purpose. The laser sight should not intentionally be aimed at the eyes of the subject, or any other sensitive tissue area (face, neck, breasts groin etc).

Deployment of a Taser

A typically operational application of a Taser is characterised by a single five second cycle. The five second cycle commences after a minimum of two probes have been deployed and embedded into a conductive target and a completed circuit has been established. Officers are to use the Taser on persons by application of a single five second cycle.

The Taser has the capability to fire multiple probes. Officers should deploy probes to the preferred target areas of a subject person until the officer observes signs that a successful connection has been established or behavioural change is achieved.

Multiple cycles may be applied in justifiable circumstances after the officer has reassessed the situation prior to each additional cycle.

Officers should be aware there may be technical or physiological reasons why the device is not working as expected on a particular individual. Therefore, if the initial application of the Taser is not effective, officers should reassess the situation and consider other available use of force options.

Officers should be aware multiple cycles of a Taser have been linked to deaths, particularly where:

(i) use of a Taser was accompanied by the use of restraints or chemical incapacitant sprays (e.g. OC spray);

(ii) subjects had underlying health problems such as heart conditions or mental illness;

(iii) subjects were under the influence of drugs and/or alcohol;

(iv) subjects were struggling violently for a sustained period; or

(v) a combination of these factors existed.

There are cases where persons exposed to the effects of Taser have died sometime after being exposed. It is recognised there are circumstances where the only alternative may be the use of a potentially lethal use of force e.g. firearm or where the deployment of the Taser irrespective of the additional risk is absolutely necessary to protect life.

Officers should be aware Indigenous people are more likely to suffer from underlying health problems such as heart disease, lung disease and other illnesses increasing their risk of experiencing adverse health effects when a Taser is deployed against them.

ORDER

Where practicable, officers are not to deploy a Taser on a person who has just been subjected to deployment of OC spray.

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Deployment of a Taser on multiple persons by a single officer

The Taser 10 is capable of being deployed against multiple subject persons and delivering a cycle against each at the same time. The application of each cycle to each person would need to be lawful and justified. As such the use of a single Taser against multiple subjects during an incident or event would require articulation, as the application of further cycles to a compliant subject could be considered excessive in the circumstances.

ORDER

An officer is not to deploy probes into multiple subject persons at the same time unless exceptional circumstances exist, i.e. they fear death or grievous bodily harm from a subject person and have no other option available other than the use of lethal force.

Recording of cartridge serial numbers

Where an officer has deployed a Taser, the officer is to record the serial number of every cartridge that was deployed in Evidence.com against the corresponding event log entry for that deployment. For detailed instructions on how to record cartridge serial numbers in Evidence.com, refer to the Taser 10 Learner Guide.

14.31.3 Data transfer from a Taser 10

The Taser has an internal memory that stores the operating firmware and a record of every deployment. The Taser rechargeable battery, which supplies power to the Taser handle, also has an internal memory which will download and store data from the Taser handle.

The data stored by a Taser is transferred from the Taser handle to Evidence.com via the battery. When the battery is removed from the Taser handle and placed into a Taser 10 battery dock, the data from the Taser handle is automatically uploaded into Evidence.com (see 'Data transfer' of the Taser 10 Learner Guide).

Do not remove a battery from a Taser handle or battery dock whilst a data transfer or data synchronisation is in progress (see 'Nomenclature' of the Taser 10 Learner Guide for procedures on docking Taser batteries).

The data from a Taser:

(i) that has been involved in an incident:

(a) where ESC or the Crime and Corruption Commission have assumed responsibility for investigation of a matter (see s. 14.31.4: 'Taser management responsibilities' of this chapter) is not to be transferred to Evidence.com:

- without the approval of the Superintendent, Internal Investigations Group, ESC; or
- until returned to the relevant unit after the investigation is complete; or

(b) otherwise, the district officer or equivalent is to ensure is uploaded into Evidence.com within 72 hours of when the deployment occurred; or

(ii) is to be otherwise uploaded into Evidence.com every 30 days.

Each battery from a Taser is required to be docked:

(i) for an eight-hour period every 90 days to allow for the battery to be reconditioned and any firmware upgrades to be downloaded; and

(ii) when the battery percentage drops to 20% or less, the battery should be immediately docked and recharged.

14.31.4 Taser management responsibilities

The OIC of a station or establishment or unit manager is to:

(i) ensure an inspection of Tasers, cartridges and other ancillary equipment under their control, is carried out on a monthly basis. Particulars of these inspections are to be recorded in a register kept for this purpose. The OIC of a region, command or division (i.e. Legal Division) may authorise inspections of Tasers and ancillary equipment to be undertaken at other specified time intervals in conjunction with local risk management practices;

(ii) implement compliance/management practices at a local level ensuring data from all Tasers is uploaded into Evidence.com at least every 30 days. A sample of the data is to be cross-checked against the Taser register to identify any discrepancies. Where a discrepancy is identified, they are to as soon as practicable:

(a) advise their supervisor; and

(b) commence an investigation;

(iii) immediately report to the district officer, commander, director or other supervising manager or commissioned officer the loss of, any damage or defect to, or any unsatisfactory condition relating to Taser equipment and comply with the provisions of the Financial Management Practice Manual in relation to any losses and, where appropriate, the recovery of debts resulting from the loss or destruction or damage to property while in the care of members;

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(iv) when aware of the necessity for the repair or replacement of a damaged or defective Taser, follow the procedure contained in s. 14.23.11: 'Taser repairs and replacement' of this chapter;

(v) where a damaged Taser requires repair or replacement:

(a) make arrangements with the QPS Armoury for the Taser's return; and

(b) where the Taser requires replacement, complete a QP 0413: 'Requisition for weapons/restricted item';

(vi) if a Taser malfunctions during the first 5 years of operational use and is:

(a) within the manufacturer's warranty period, it is to be returned to the Armoury for RMA replacement; or

(b) outside the manufacturer's warranty period, it is not to be used operationally, however it can be used in a training environment;

(vii) notify the QPS Armoury of any permanent or long-term change of a Taser's location so the Weapons Asset Control System (WACS) can be updated;

(viii) ensure where possible, that a data transfer is conducted on a Taser to Evidence.com prior to changing its physical location or being forwarded to the QPS Armoury (see s. 14.31.3: 'Data transfer from a Taser 10' of this chapter).

When a Taser is forwarded to the QPS Armoury, any costs involved in the inspection, testing, repair or replacement of the equipment are to be met by the requesting region, command or division.

Taser data required for other purposes (investigation and court)

Where a Taser has been damaged or is defective and the information recorded in the Taser needs to be extracted for investigation, the officer requiring the information is to contact the Armoury supervisor.

Where data from a Taser handle is required for court purposes, the officer should contact the Inspector, Operational Training Services, Recruiting and Development Command for advice.

Recording of Taser equipment

The Inspector, Operational Equipment and Armoury is responsible for ensuring the following information is recorded on WACS:

(i) the district, or other organisational unit within the Service that each Taser and cartridge is issued to;

(ii) the serial number of each Taser; and

(iii) the date of issue.

District officers or equivalent are to maintain a local register of Taser equipment within their area of responsibility. Particulars to be recorded include:

(i) the date of receipt of each Taser and cartridge;

(ii) the station or establishment each Taser and cartridge is issued to;

(iii) the serial number of each Taser; and

(iv) the date, reason and method of disposal for each Taser.

The OIC of a station or establishment or unit manager is to maintain a local register of all Taser equipment issued to their work area. Particulars to be recorded include:

(i) the date of receipt of each item;

(ii) the serial number of each Taser;

(iii) the expiry date of each batch of cartridges;

(iv) the date each Taser was last inspected; and

(v) the date, reason and method of disposal for each item.

Issue and return register

The OIC of a station or establishment, or unit manager is to maintain a local register to record the issuing and return of Taser equipment after each shift. The QPB 70: 'Taser Issue and Return Register' should record:

(i) the time and date of signing the equipment in and out;

(ii) the serial number of each Taser;

(iii) officer details including signature; and

(iv) a comment section to record the condition of the Taser and cartridges when returned and any damage, defect or unsatisfactory condition identified.

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There is no requirement to record the serial number of a Taser cartridge in the QPB 70 when issuing or returning Taser equipment. Cartridge serial numbers are recorded by exception in Evidence.com when a Taser has been deployed (see s. 14.31.2: ‘Use of Taser 10’ of this chapter).

All registers are to be accurately maintained and updated to reflect the acquisition, transfer or disposal of Tasers and cartridges within the Service.

Additional storage requirements for Taser 10

When officers return Taser 10 or place them into storage, they are to ensure the battery is inserted.

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Appendix 14.1 Deleted

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Appendix 14.2 Authority to possess weapons

(s. 14.4.2)

(Section 2(1)(e) of the *Weapons Act 1990*)

I,....., Assistant Commissioner/Executive Director of the Queensland Police Service, do hereby authorise the following staff member(s) of the Queensland Police Service, as defined in s. 2.5(1) of the *Police Service Administration Act 1990*, to possess weapons as part of the performance of their duty as such:

-

This authorisation is subject to the following condition(s):

(i) the authorisation is only valid whilst the staff member remains a fit a proper person as defined in s. 10B of the *Weapons Act 1990*;

(ii) (insert any additional conditions, if required)

This authority is granted pursuant to:

(i) s. 2(1)(e) of the *Weapons Act 1990*; and

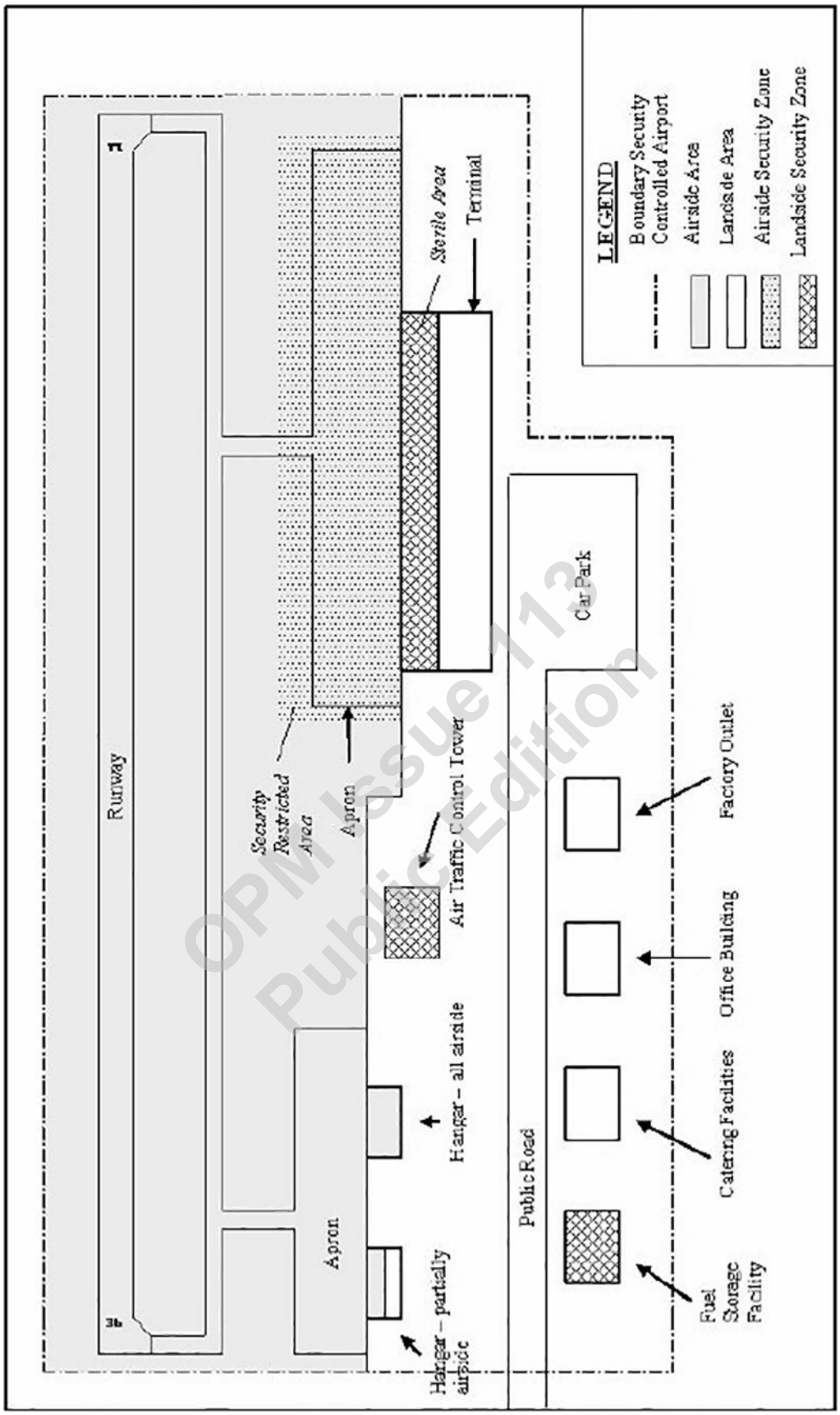
(ii) the authority provided by the instrument of Delegation D 8.7, as contained in the Queensland Police Service Delegations and Authorities Library.

Dated at ..... this ..... day of ....., 20.....

ASSISTANT COMMISSIONER/EXECUTIVE DIRECTOR

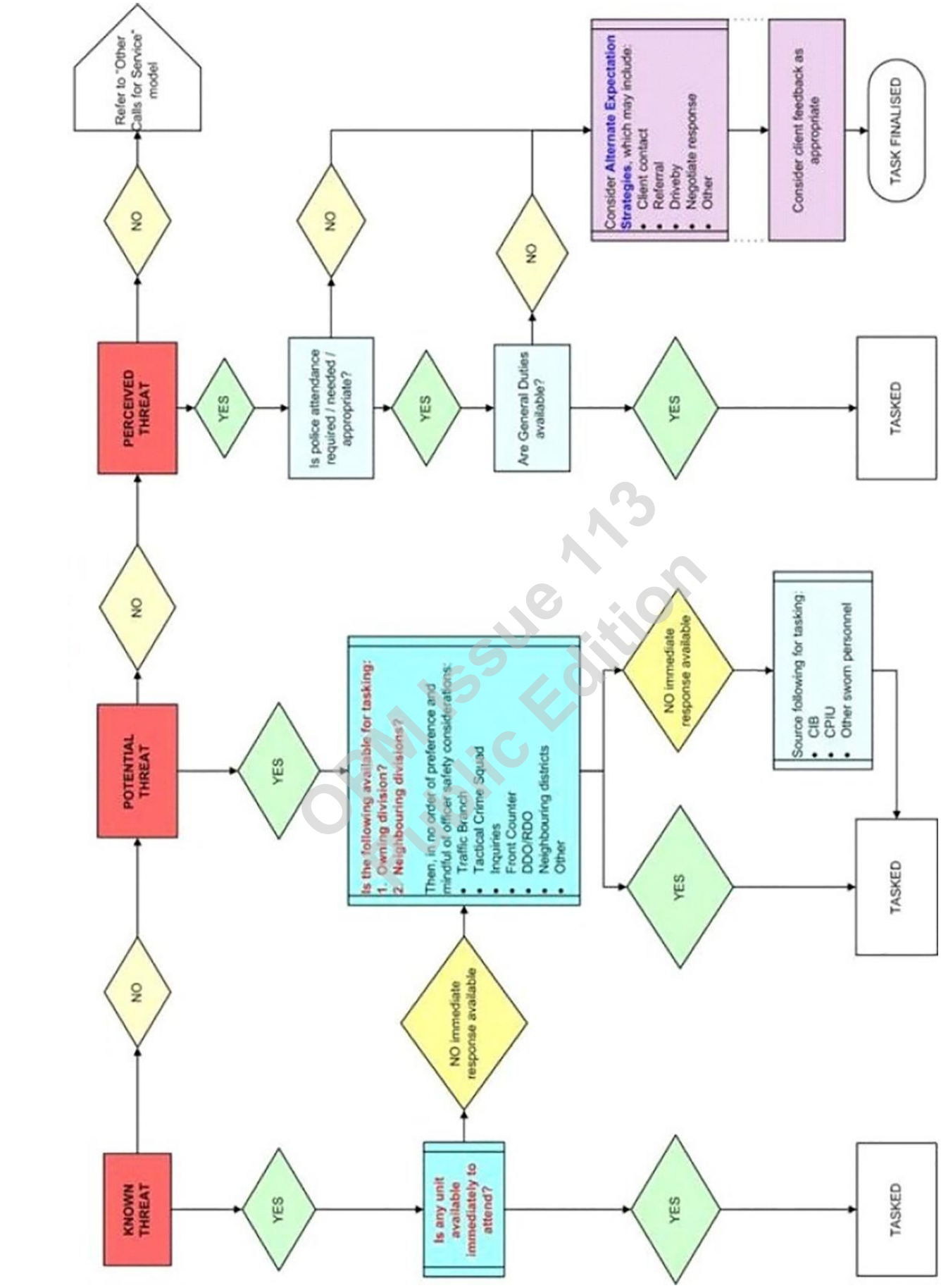
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Appendix 14.3 Airport security 'areas' and 'zones'



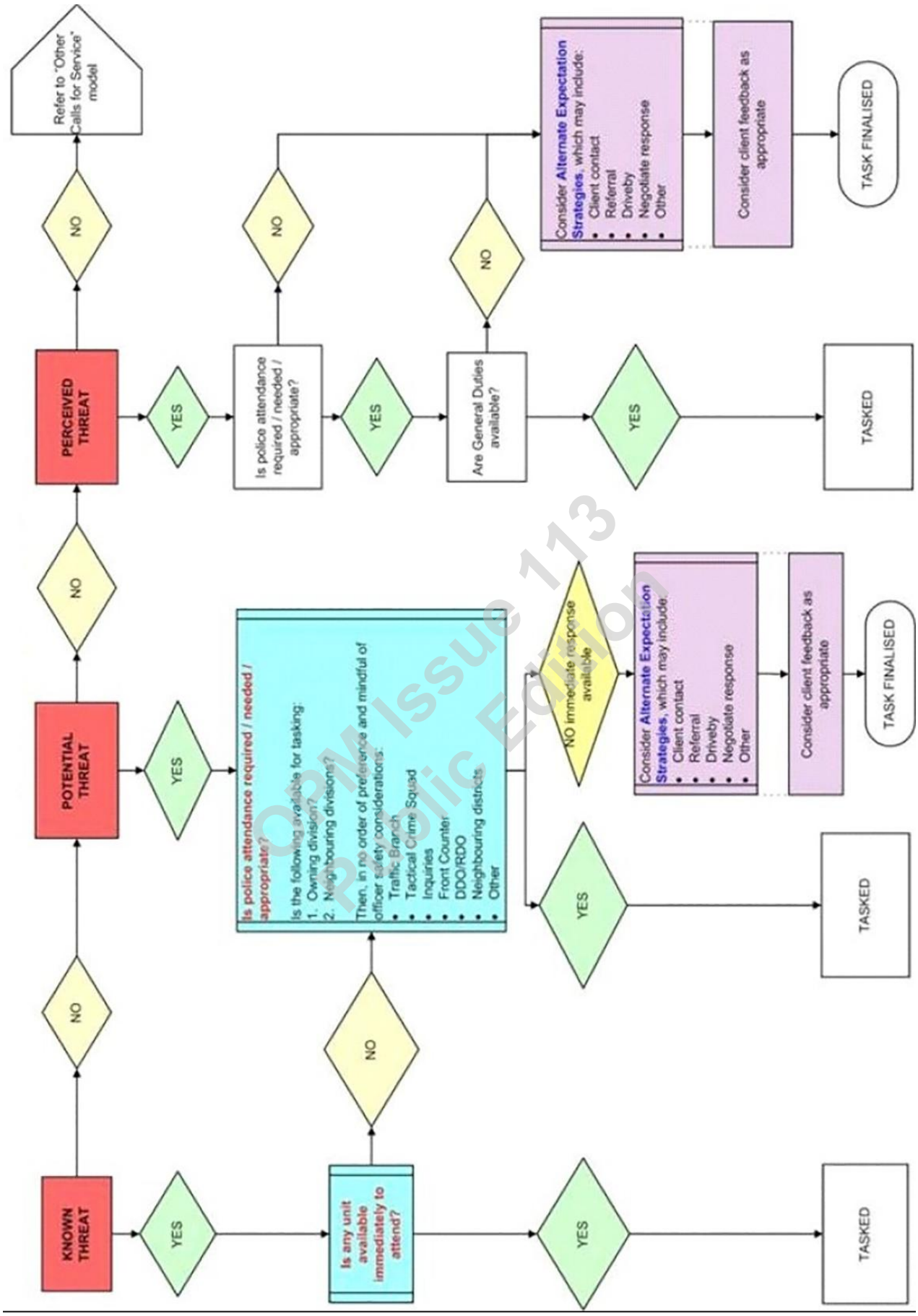
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Appendix 14.4 Threats to personal safety



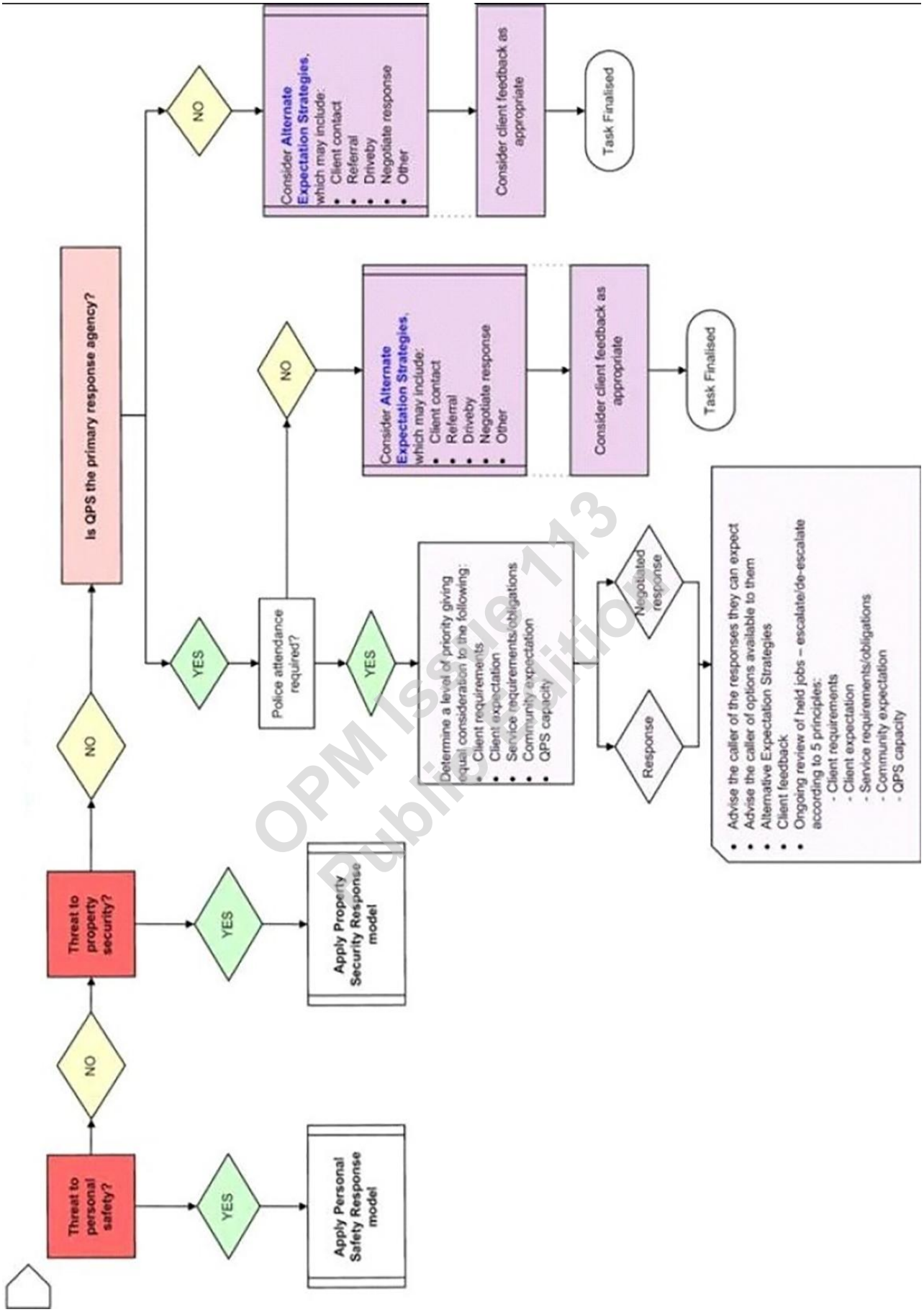
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Appendix 14.5 Threats to property security



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Appendix 14.6 Other calls for service



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Appendix 14.7 Security controlled airports

(s. 14.11)

Security Controlled Airports (183)
At 10 March 2009

© indicates Commonwealth owned under the Airports Act,
* indicates Territories,
◊ indicates joint defence facilities

The names below are the airport names recognised under the *Aviation Transport Security Act 2004*. These may be different to the airport operating names.

Designated (11)	**Non-Screening (139)**		
Adelaide ©	Albany	Garden Point	Mount Gambier
Alice Springs ©	Archerfield © (GA no RPT)	Geraldton	Mount Hotham
Brisbane ©	Armidale	Gladstone	Mount Magnet
Cairns ©	Aurukun	Grafton	Mudgee
Canberra ©	Badu Island	Griffith	Murray Island
Gold Coast ©	Bamaga/Injinoo	Groote Eylandt	Narrabri
Darwin © ◊	Bankstown © (GA no RPT)	Gunnedah	Narrandera
Hobart ©	Barcaldine	Halls Creek	Normanton
Melbourne ©	Bathurst	Hamilton	Numbulwar
Perth ©	Bathurst Island	Hooker Creek	Olympic Dam
Sydney ©	Bedourie	Horn Island	Orange
Screening (33)	Belmont	Hughenden	Palm Island
Albury	Birdsville	Inverell	Parafield © (GA no RPT)
Argyle	Blackall	Jandakot © (GA no RPT)	Parkes
Avalon	Blackwater	Julia Creek	Pormpuraaw
Ayers Rock	Boigu Island	Kalbarri	Port Augusta
Ballina	Boulia	Kalkgurung	Port Keats
Broome	Bourke	Karumba	Port Lincoln
Christmas Island *	Broken Hill	Katherine/Tindal ◊	Portland
Cocos Island *	Bundaberg	Kempsey	Quilpie
Coffs Harbour	Burketown	King Island	Ramingining
Curtin	Burnie	Kingscote	Richmond
Gove	Cambridge	Kowanyama	Roma
Hamilton Island	Carnarvon	Kubin Island	Saibai Island
Hervey Bay	Ceduna	Lake Evella	Shark Bay
Kalgoorlie-Boulder	Charleville	Latrobe Valley Airport	Snake Bay
Karratha	Cloncurry	Laverton	Saint George
Kununurra	Cobar	Leinstar	Strahan
Launceston ©	Coconut Island	Leonora	Warraber Island
Learmonth ◊	Coen	Lightning Ridge	Tamworth
Mackay	Coober Pedy	Lismore	Taree
Maroochydore / Sunshine Coast	Cooktown	Lockhart River	Tennant Creek ©
McArthur River Mine	Cooma	Longreach	Thangool
Mildura	Coonabarabran	Lord Howe Island	Thargomindah
Mount Isa ©	Coonamble	Mabuiag Island	Toowoomba
Newcastle ◊	Cunnamulla	Maningrida	Victoria River Downs
Newman	Darnley Island	Maryborough	Wagga Wagga ◊
Norfolk Island *	Derby	Meekatharra	Walgett
Paraburdoo	Devonport	Merimbula	Warrnambool
Port Hedland	Doomadgee	Milingimbi	Weipa
Port Macquarie	Dubbo	Moorabbin	West Wyalong
Proserpine / Whitsunday Coast	Elcho	Moree	Whyalla
Ravensthorpe	Island	Mornington Island	Wiluna
Rockhampton	Emerald	Moruya	Windorah
Townsville © ◊	Esperance		Winton
	Essendon ©		Wollongong
	Flinders Island		Yam Island
	Fitzroy Crossing		Yorke Island

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Appendix 14.8 Quick reference (use of force reporting requirements)

(s. 14.3.9)

QPRIME Use of Force Report & Significant Event Message (SEM) Reporting Requirements—Firearm/Taser/OC Spray

Use of force weapon type	Use of force action			Policy
	Withdrawing weapon only	Pointing weapon at person (not discharging)	Discharging firearm or Deploying Taser or Spraying OC spray	
Firearm	• QPRIME UoF Report • Custody 'UoF' tab • SEM	• QPRIME UoF Report • Custody 'UoF' tab • SEM	• QPRIME UoF Report • Custody 'UoF' tab • SEM#	s. 14.7 of this chapter
Taser	• QPRIME UoF Report^ • Custody 'UoF' tab	• QPRIME UoF Report^ • Custody 'UoF' tab	• QPRIME UoF Report^ • Custody 'UoF' tab	s. 14.23.8 of this chapter
OC Spray	• Custody 'UoF' tab	• QPRIME UoF Report^ • Custody 'UoF' tab	• QPRIME UoF Report • Custody 'UoF' tab	s. 14.21.4 of this chapter

QPRIME Use of Force Report & Significant Event Message Reporting Requirements—Other

Use of force type	No Reportable injury occurs	Reportable injury occurs to a person*	Policy
Open/closed hand tactics	• Custody 'UoF' tab	• QPRIME UoF Report • Injury Report (where applicable) • Custody 'UoF' tab	s. 14.3.9 of this chapter
Restraining accoutrements	• Custody 'UoF' tab +	• QPRIME UoF Report • Injury Report (where applicable) • Custody 'UoF' tab	s. 14.3.9 of this chapter
Baton	• Custody 'UoF' tab	• QPRIME UoF Report • Injury Report (where applicable) • Custody 'UoF' tab	s. 14.3.9 of this chapter
Police dog	• Custody 'UoF' tab	• QPRIME UoF Report • Injury Report (where applicable) • Custody 'UoF' tab	s. 14.3.9 of this chapter
Police horse	• Custody 'UoF' tab	• QPRIME UoF Report • Injury Report (where applicable) • Custody 'UoF' tab	s. 14.3.9 of this chapter
Officer presents & uses an object	• QPRIME UoF Report • Custody 'UoF' tab	• QPRIME UoF Report • Injury Report (where applicable) • Custody 'UoF' tab	s. 14.3.9 of this chapter

OPM Issue 113 Public Edition

Use of force type	No Reportable injury occurs	Reportable injury occurs to a person*	Policy
Police pursuit	QPRIME Police Pursuit Report & SEM (for all pursuits)	If UoF option used post-pursuit, QPRIME UoF Report & Injury Report (where applicable) apply. (If injury results from a traffic crash, traffic crash reporting procedures also apply)	s. 15.7 of this Manual

No SEM required where firearm discharged for lawful destruction of injured or sick animal.

* Injury means an identifiable bodily injury to a person requiring first aid or medical treatment by a qualified ambulance officer, nurse or doctor at the time of the incident (see ss. 14.2: 'Definitions and references to legislation' and 14.3.9: 'Use of force reporting' of this chapter).

^ A SEM is required by exception only (see s. 1.18: 'Significant events' of this Manual)

+ For officers performing watch-house or prisoner transport duties, the routine handcuffing of non-resisting / compliant prisoners for cell movements, prison transports and court appearances, is exempt from being recorded on the Custody UoF tab.

OPM Issue 113 Public Edition

Chapter 15—Driving of Service Vehicles

15.1 Safe Driving Policy 1237

15.1.1 When driving a Service vehicle is considered a use of force 1238
15.1.2 Pursuit Controller and Supervisor responsibilities 1238
15.1.3 Non-compliance with a direction from a pursuit controller or supervisor 1238
15.1.4 Polair or other Service tasked air asset to provide situational awareness to supervisors 1239
15.1.5 Use of Service vehicles to employ boxing in techniques against an occupied stationary VOI 1239
15.1.6 Restrictions on locations to employ boxing in techniques against an occupied stationary VOI 1239
15.1.7 QPRIME Use of Force Report 1240
15.1.8 Vehicle borne attacks on Service vehicles 1240

15.2 Driving of Service vehicles generally 1240

15.2.1 Compliance with the Transport Operations (Road Use Management) Act and Regulations 1240
15.2.2 Legal requirements relevant to police drivers 1240
15.2.3 Operation of Service vehicles by staff members and government employees 1241
15.2.4 Driving of vehicles without a licence 1242
15.2.5 Persons other than police officers travelling in Service vehicles 1243
15.2.6 Transportation of sick or injured persons in Service vehicles 1243
15.2.7 Medical conditions affecting the operation of Service vehicles and vessels 1244

15.3 Urgent duty driving 1245

15.3.1 When urgent duty driving is permitted 1245
15.3.2 Urgent duty driving not permitted for priority code 3 and 4 tasks 1245
15.3.3 Use of flashing warning lights and siren 1246
15.3.4 Proceeding against traffic light signals 1246
15.3.5 Use of high-powered vehicles for urgent duty driving 1246
15.3.6 Vehicle capabilities to be considered when urgent duty driving 1247

15.4 Vehicle interceptions 1247

15.4.1 Authority to intercept 1247
15.4.2 Considerations prior to interception 1247
15.4.3 Intercepting a vehicle 1248
15.4.4 Abandoning an attempted interception 1249
15.4.5 Procedures after interception 1249
15.4.6 Protracted following of a vehicle 1250
15.4.7 Attempts to intercept a confirmed stolen vehicle or a VOI that has been involved in a recent evasion offence 1250
15.4.8 Mobile interception of heavy vehicles 1251
15.4.9 Security firms' special purpose armoured vehicles 1251

15.5 Pursuits 1252

15.5.1 Pursuit policy principles 1252
15.5.2 Alternate strategies to pursuits 1252
15.5.3 Justification for pursuit 1253
15.5.4 Risk assessment for Service response to VOI 1253
15.5.5 Conduct of a pursuit 1254
15.5.6 Notification of pursuits 1256
15.5.7 Officer responsible for the control of pursuits (Pursuit Controller) 1256
15.5.8 Responsibilities of the Pursuit Controller 1256
15.5.9 Operational considerations 1257
15.5.10 Use of Polair or other Service tasked air assets during a pursuit 1258
15.5.11 Abandoning a pursuit 1259
15.5.12 Resumption of a pursuit 1260
15.5.13 Conclusion of a pursuit 1260
15.5.14 Support to officers for pursuit decision making 1261
15.5.15 Investigation of offences committed during pursuits 1261

15.6 Use of force against a mobile vehicle or vessel 1262

OPM Issue 113 Public Edition

15.6.1 Use of tyre deflation devices during a pursuit 1262
15.6.2 Use of Service vehicles to employ boxing in techniques against a mobile VOI 1262
15.6.3 QPRIME Use of Force Report 1262
15.6.4 Service vessels involved in marine pursuits or marine operations 1263

15.7 Mandatory reporting of police pursuits 1263

15.8 Evading police officers and type 1 vehicle related offences 1263

15.8.1 Type 1 vehicle related offences and notices 1263
15.8.2 Impounding and forfeiture of motor vehicles for evasion offences 1264

15.9 Review of police driving 1264

15.10 Traffic breaches committed by drivers of police vehicles 1264

15.10.1 Officer detected breaches 1264
15.10.2 Camera detected breaches 1265
15.10.3 Auto Exculpation of Camera detected breaches 1266

15.11 Operation of specialised police vehicles 1266

15.11.1 Service motorcycles 1266
15.11.2 Service trail bikes, quad bikes and utility off-road vehicles 1267

OPM Issue 113
Public Edition

15.1 Safe Driving Policy

Introduction

The Service has a primary duty of care to ensure the health and safety, so far as is reasonably practicable, of all officers and members of the community that officers interact with when performing their functions.

A primary role of the Service is to protect the safety of the community. Driving Service vehicles in a manner which causes unjustified risk is against this primary role.

The onus is on each officer driving a Service vehicle to demonstrate that due care and attention has been exercised at all times and that a continual risk assessment is being conducted as required under this policy.

Although officers driving Service vehicles may be engaged in the lawful performance of their duties, they are not relieved of their obligations to other road users, and may be liable to criminal, civil, disciplinary or remedial action as a result of events associated with their driving.

The following sections constitute the Service's safe driving policy and is to be complied with by all members of the Service where appropriate.

Definitions

For the purpose of this chapter:

ATLAS

means Advanced Tactical Location Analysis System.

Boxing in

means positioning Service vehicles closely around a vehicle of interest (VOI) so the movement of the VOI is restricted. Boxing in is not a routine traffic stop where a Service vehicle is positioned behind an intercepted vehicle.

Emergency circumstances

means:

(i) counter terrorism or other mass casualty incident;

(ii) offender has or is likely to commit murder;

(iii) serious offence of violence;

(iv) extreme acts of dangerous operation of a motor vehicle independent of any police interaction; or

(v) vehicle borne attacks or intentional ramming of a Service vehicle which is not engaged in an authorised boxing in technique attempt.

Marked Service vehicle

means any vehicle or vessel bearing Service insignia or markings, including artwork (e.g. Look to the Stars), irrespective of whether flashing warning lights or flashing blue light are displayed/fitted.

No contact following of a vehicle

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

Pre-emptive use of force action

means the use of a TDD against offenders in a VOI without an overt attempt to intercept the vehicle (see s. 14.26: 'Use of force options for intercepting offenders in vehicles' of this Manual).

Pursuit Controller

means:

(i) a commissioned officer;

(ii) a DDO; or

(iii) an OIC or supervisor of a police communication centre (PCC).

Supervisor

means:

(i) a commissioned officer;

(ii) a DDO;

(iii) a supervisor of a police communication centre (PCC); or

OPM Issue 113 Public Edition

(iv) a shift supervisor of the rank of sergeant who has been delegated by either (i), (ii) or (iii).

15.1.1 When driving a Service vehicle is considered a use of force

Officers are to be aware that for the purpose of this section, driving a Service vehicle whilst involved in the following supervisor authorised actions is considered to be a UOF:

(i) no contact following of a vehicle (see 'Definitions' of this chapter);

(ii) TDD use responses *(*see ss. 14.26: 'Pre-emptive force against an offender in a vehicle' and 14.30: 'Use of tyre deflation devices' of this Manual);

(iii) pursuit responses (see s. 15.5: 'Pursuits' of this chapter); or

(iv) use of boxing in techniques (see ss. 15.1.5: 'Use of Service vehicles to box in occupied stationary vehicles of interest' and 15.6.2: 'Use of a Service vehicle to employ boxing in techniques against a mobile VOI' of this chapter).

Officers are to conduct a continual risk assessment and identify when a UOF action should be deescalated or ceased (see s. 15.5.4: 'Risk assessment for Service response to VOI' of this chapter).

Officers are to consider the seriousness of the offending or behaviour and any reasonably foreseeable risk to the community.

Body Worn Camera activation

ORDER

All officers involved in any of the above supervisor authorised UOF actions, including passengers of Service vehicles, are to activate their body worn camera (BWC) irrespective of whether their Service vehicle has a functioning in-vehicle camera (see s. 4.5: 'In-vehicle cameras' of the DERIE Manual).

15.1.2 Pursuit Controller and Supervisor responsibilities

Pursuit controllers or supervisors are to ensure they:

(i) gain and maintain situational awareness of all authorised:

(a) no contact following of a vehicle;

(b) TDD use responses;

(c) pursuit responses; and

(d) use of boxing in techniques;

(ii) conduct continual risk assessments (see s.15.5.4: 'Risk assessment for Service response to VOI' of this chapter);

(iii) adopt a command-and-control approach when managing authorisations in subsection (i) (a) to (d);

(iv) deliver clear directions to officers via the Service radio and ensure acknowledgement of those directions;

(v) in addition to Service vehicles having functioning in-vehicle cameras (see s. 4.5: 'In-vehicle cameras' of the DERIE Manual), direct officers to activate their BWC;

(vi) continually seek situation updates; and

(vii) use, or cause to be used, technology to prevent prohibited practices (see s. 15.4.6: 'Protracted following of a vehicle' of this chapter) by monitoring:

(a) the BWC of involved officers using the respond function in Evidence.com; or

(b) the live feeds of involved Service vehicle locations (e.g. ATLAS or iSURV).

Where an RDO or DDO has not acknowledged a situation update, an OIC or supervisor within the relevant PCC is to perform the role of pursuit controller or supervisor until a handover is established.

A pursuit controller or supervisor is to cause a physical record to be made of all reportable UOF incidents within 24-hours of the incident.

ORDER

A pursuit controller or supervisor is not to automatically deny a request for the no contact following of a VOI, TDD use response, pursuit response, or use of boxing in techniques and their decision is to be based on an individual risk assessment (see s. 15.5.4 of this chapter).

15.1.3 Non-compliance with a direction from a pursuit controller or supervisor

Where officers are given a direction by a pursuit controller or supervisor, they are to comply with any direction issued or may be subject to disciplinary action.

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Officers to advise of involvement

ORDER

Where an authorised no contact following of a vehicle, TDD use response, pursuit response or use of boxing in techniques against a VOI is being controlled by a pursuit controller or supervisor, officers are not to become involved, including specialist units, unless they:

(i) immediately advise the pursuit controller or supervisor using the Service radio of their presence, location and intended actions; or

(ii) have been tasked by the pursuit controller or supervisor.

Officers may offer suggestions using the Service radio whilst pre-emptively moving in a direction that may provide a pursuit controller or supervisor with an effective response (e.g. driving towards a nearby underground carpark).

15.1.4 Polair or other Service tasked air asset to provide situational awareness to supervisors

Where Polair or other Service tasked air asset is monitoring a VOI electronically or by other means, they are to provide pursuit controllers or supervisors with relevant information that will assist their situational awareness, decision making and command and control.

This is to include, but is not limited to:

(i) number of known Service vehicles actively in pursuit, or within close proximity of a VOI;

(ii) traffic conditions ahead of a VOI (e.g. congested traffic conditions or roadworks); or

(iii) manner of driving and community safety risks being committed by the driver of a VOI.

ORDER

Officers engaged in an authorised no contact following of a vehicle, TDD use response, pursuit response, or use of boxing in techniques against a VOI are not to independently react to situation updates provided by a Polair, or other Service tasked air asset, and are to only react to directions given by the pursuit controller or supervisor.

15.1.5 Use of Service vehicles to employ boxing in techniques against an occupied stationary VOI

Officers are to be aware that offenders within a stationary VOI may intentionally ram Service vehicles that have blocked their direction of travel or escape route. Unless confirmed otherwise, all stationary VOI are to be treated as occupied.

ORDER

Officers are not to use a Service vehicle to employ boxing in techniques against an occupied stationary VOI unless:

(i) they have successfully completed the current online learning product QC1979: 'Boxing in Techniques' or any other equivalent training as determined by the Chief OST Instructor;

(ii) emergency circumstances exist (see 'Definitions' of this chapter);

(iii) a risk assessment for a Service response to a VOI has been conducted (see s. 15.5.4: 'Risk assessment for Service response to VOI' of this chapter);

(iv) the UOF has been approved by a pursuit controller or supervisor;

(v) the VOI only has one exit route and suitable hard cover exists to support the use of boxing in techniques; and

(vi) there are no other options available in the circumstances.

This section does not apply where an officer's interaction with a VOI was the subject of a chance sighting (e.g. VOI was not reported stolen at the time of engagement etc.).

This section also does not apply to SERT involved in an approved tactical action.

BWC activation

ORDER

Officers who receive authorisation to employ boxing in techniques against an occupied stationary VOI, including passengers of Service vehicles, are to immediately activate their BWC irrespective of whether their Service vehicle has a functioning in-vehicle camera (see s. 4.5: 'In-vehicle cameras' of the DERIE Manual).

15.1.6 Restrictions on locations to employ boxing in techniques against an occupied stationary VOI

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

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15.1.7 QPRIME Use of Force Report

If a Service vehicle is used to employ boxing in techniques against an occupied stationary VOI, the officer responsible for the UOF is to create a QPRIME occurrence within 24 hours of the incident. If the officer is incapacitated, their supervisor is to ensure a QPRIME occurrence is created (see s. 14.3.9: 'Use of force reporting' of this Manual).

Additional reporting requirements

A pursuit controller or supervisor who authorises the use of boxing in techniques against an occupied stationary VOI is to enter a record onto the Significant Event Message System (SEMS).

In those instances, the following SEMS categories is to be used: 'Boxing in Techniques—stationary'.

The record on SEMS is to include:

(i) the name of the pursuit controller or supervisor who authorised the use of boxing in techniques;

(ii) the nature of the emergency circumstance and factors considered to make the authorisation;

(iii) if boxing in techniques are employed, the result of the UOF;

(iv) the name of the officers involved in the UOF; and

(v) the nature of any injuries to any person or damage to any vehicles and other property, if any,

(see s. 1.18.1: 'Significant event messaging system (SEMS)' of this Manual).

15.1.8 Vehicle borne attacks on Service vehicles

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

15.2 Driving of Service vehicles generally

For Service policy in relation to the operation of specialised road policing vehicles, Service trail bikes, quad bikes and utility off-road vehicles, see s. 15.11: 'Operation of specialised police vehicles' of this chapter.

15.2.1 Compliance with the Transport Operations (Road Use Management) Act and Regulations

ORDER

Service recruits and staff members driving Service vehicles are to comply with the provisions of the *Transport Operations (Road Use Management) Act* (TO(RUM)A) and Transport Operations (Road Use Management—Road Rules) Regulation (the Queensland Road Rules—QRR).

Officers driving Service vehicles are to comply with the provisions of the TO(RUM)A and the QRR so far as may be consistent with the effective performance of their duty (see s. 15.3: 'Urgent duty driving' of this chapter).

15.2.2 Legal requirements relevant to police drivers

The provisions of the TO(RUM)A and a number of sections in Part 19: 'Exemptions' of the QRR exempt officers from provisions of this Act and the QRR. In addition, several sections of the QRR provide specific exemptions for drivers or passengers of Service vehicles e.g. ss. 267(4) and (5): 'Exemptions from wearing seatbelts' and 300: 'Use of mobile phones' of the QRR and 'Use of mobile telephones' of this section.

Protection afforded by Transport Operations (Road Use Management) Act

The purpose of s. 167: 'Protection from liability' of the TO(RUM)A is to protect police officers against civil liability. Members should bear in mind that the protection from civil action afforded by this section extends to acts or omissions done 'honestly and without negligence' under a transport Act.

Section 144 of the TO(RUM)A provides an exemption to officers from the offence provisions of the Act (other than offences under s. 79: 'Vehicle offences involving liquor or other drugs' and s. 80: 'Breath and saliva tests, and analysis and laboratory tests'), while exercising a power or performing a function under this or another Act.

The protection from prosecution under s. 144 of the TO(RUM)A has been held to apply where:

(i) the breach committed is *"considered to be a vital part of the functions the officer was required to perform"* (*Bett v. Dugger*, unrep Brisbane DC No 301 of 2000); or

(ii) the officer's journey *"was in the course of his exercising a power of performing a function under PPRA"* (*Fenelon v. Bone*, unrep Brisbane DC No 3216 of 2003),

(iii) officers are *"engaged in the actual exercise of a power or performance of a function"* (*Bevis v. Priebe* [1998] 2 QldR 1),

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and not incidental to the exercise of a power or performance of a function (see Criminal Law Bulletins 93.3: 'Performance of duty' and 171.2: 'Police Officers Breaching Traffic Laws').

Even though officers engaged in the lawful performance of their duties may be protected by the provisions of ss. 144 and 167:

(i) their obligations to other road users remain and officers may be liable to criminal and civil action if driving inappropriately in the circumstances; and

(ii) the sections do not provide protection for:

(a) disciplinary or remedial action under the PSAA; or

(b) offences under the CC which relate to the driving of a motor vehicle.

Protection afforded by Queensland Road Rules

Provisions of the QRR do not apply to an officer driving a vehicle in the course of the officer's duty.

The exemption from prosecution under QRR has been held to apply where it was determined that *"it was reasonable that the regulation imposing a speed limit should not apply to him at the time, as he had exceeded the speed limit to perform his crime car duties"* (*Yabsley v. Donaldson* [2006] QDC 395).

Officers are also provided exemptions under ss. 307: 'Stopping and parking exemption for police and emergency vehicles', and 308: 'Exemption for police officers and emergency workers on foot' of the TO(RUM)R and QRR stating provisions relating to each section that do not apply to an officer acting in the course of their duty if, in the circumstances:

(i) the officer is taking reasonable care; and

(ii) it is reasonable that the provisions should not apply.

The concept of 'performance of duty' is expressly dealt with by s. 792: 'Performance of duty—police officers' of the PPRA, which states:

'A police officer performing a function of the police service is performing a duty of a police officer even if the function could be performed by someone other than a police officer',

which has been held in case law to relate to the QRR exemptions. The 'functions of the Police Service' are contained in s. 2.3: 'Functions of service' of the PSAA.

A breach of Service policy does not, of itself, negate the applicability of ss. 144 or 167 of the TO(RUM)A or ss. 305, 307, and 308 of the QRR respectively.

Example:

A police officer driving a vehicle during a pursuit in the course of the officer's duty fails to first stop before driving against a red traffic light as required by s. 15.3.4: 'Proceeding against traffic light signals' of this chapter. The provisions of s. 305 of the Queensland Road Rules may apply to the officer if the driving through the red traffic light was done with reasonable care, it was reasonable in the circumstances that the requirement to stop at the red traffic light should not apply and subject to the provisions dealing with blue or red flashing light and alarm. The officer may not be charged with an offence in relation to s. 56: 'Stopping on a red traffic light or arrow' of the Queensland Road Rules. However, disciplinary action may be taken in respect to the officer's failure to comply with Service policy.

Use of mobile telephones

Despite the exemption provided by s. 300: 'Use of mobile phones' of the TO(RUM)R, drivers of Service vehicles are not to use a mobile telephone while the vehicle is moving, or is stationary in traffic, but not parked, unless the phone is connected via the vehicles hands free mode.

Drivers of Service vehicles involved in urgent duty driving are to ensure that the Service radio is used as the primary means of communication at all times. Only under exceptional circumstances (e.g. black spot or loss of radio contact) are officers to consider the use of a mobile telephone as a means of communication. Any use is to be recorded on the associated job card for later justification if required.

15.2.3 Operation of Service vehicles by staff members and government employees

For this section, the term **vehicle** includes all motor vehicles and vessels operated by the Service.

Staff members (see SMD) and employees of government departments (co-responder team members) working with officers or police liaison officers to provide a multi-agency response, who hold an appropriate licence, may operate Service vehicles where necessary as part of their duties. Whenever practicable, staff members are only to use unmarked vehicles. Co-responder team members are only authorised to operate unmarked vehicles.

An officer of the rank of superintendent or above, or equivalent, can authorise persons contracted or seconded to the Service and co-responder team members to drive unmarked Service vehicles other than as authorised above. These staff members and persons are to carry a mobile telephone whilst driving Service vehicles.

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When staff members, contractors or co-responder team members are in a Service vehicle and are approached by a member of the public, they are to:

(i) clearly advise the person that they are not a police officer;

(ii) contact Policelink by telephone and request assistance;

(iii) avoid placing themselves in a situation of unnecessary, foreseeable risk to themselves, other persons or property; and

(iv) provide appropriate assistance only where they are qualified to do so (e.g. first aid).

ORDER

Staff members, co-responder team members and persons contracted or seconded to the Service are not to:

(i) drive high performance Service vehicles (see s. 15.3.5: 'Use of high-powered vehicles for urgent duty driving' of this chapter);

(ii) operate the flashing warning lights or siren; or

(iii) undertake urgent duty driving.

When staff members are detailed to perform duties in areas where they are required to drive high performance Service vehicles as part of a Service-approved driver training program, the relevant assistant commissioner, chief superintendent or superintendent may provide a specific authorisation for that staff member to drive high performance Service vehicles as part of the performance of their duty.

However, this authorisation should only be provided if:

(i) the assistant commissioner, chief superintendent or superintendent is satisfied the staff member has the necessary expertise or experience;

(ii) the staff member possesses a valid Queensland drivers' licence for the vehicle class; and

(iii) the staff member has satisfactorily completed approved training, in the safe operation of vehicles.

Partners and immediate family members accompanying members in Service vehicles

Partners and immediate family members may accompany members in Service vehicles where approval has been granted by the member's district officer or equivalent ranking officer. Members working in regions/districts (e.g. Highway Patrols) are to obtain approval of the district officer or equivalent ranking officer where the member is located.

Operation of Service vehicles by persons other than members

ORDER

Unless exceptional or emergent circumstances exist, Service vehicles are not to be operated by persons other than members and persons contracted or seconded to the Service.

In emergent or extraordinary circumstances where transportation is required and there are no members of the Service available, an officer may authorise a family member or other suitable member of the public to drive the Service vehicle under their direction provided the person is licensed to drive that class of vehicle.

Examples of situations:

(i) a violent prisoner or injured person being transported requires restraint or attention from the officer;

(ii) the officer is required to drive an ambulance;

(iii) an offender has been arrested by an officer on foot and a Service vehicle is required to transport the offender; or

(iv) a Service vehicle is to be returned to the station for security while the officer is engaged in other duties, e.g. searching for a missing person.

15.2.4 Driving of vehicles without a licence

ORDER

Officers are not to drive any vehicle for which they are not duly licensed except in emergency circumstances or where authorisation has been obtained from a commissioned officer.

Commissioned officers should consider the following factors prior to authorising officers to drive vehicles for which they are not duly licensed:

(i) the risk to officers and members of the public including the:

(a) type of vehicle to be driven;

(b) prior experience/training of officer;

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(c) physical capacity of the officer to effectively control the vehicle;

(d) type of cargo or load contained in or carried by the vehicle;

(e) roadworthiness of the vehicle;

(f) availability of an appropriate escort vehicle, where appropriate;

(g) distance to be travelled;

(h) time and location of travel;

(i) volume of traffic on the road;

(j) location of schools, pedestrian crossings and other hazards; and

(k) weather conditions; and

(ii) any alternative means of moving the vehicle including use of:

(a) an appropriate tow truck;

(b) another officer licensed to drive the particular vehicle; or

(c) an appropriately licensed member of the public acting at the direction of an officer (e.g. directing a MC licensed person to move a B-Double truck to an appropriate parking area).

15.2.5 Persons other than police officers travelling in Service vehicles

At times persons other than police officers travel in Service vehicles. They may include:

(i) persons in custody;

(ii) Service staff members;

(iii) police recruits;

(iv) volunteers in policing;

(v) stranded motorists or welfare transports;

(vi) other government agency staff members; and,

(vii) external observers (e.g. researchers, media, visiting police, and other emergency service personnel).

ORDER

Drivers of Service vehicles are not to engage in urgent duty driving where there are persons:

(i) in custody in the Service vehicle. As outlined in s. 10.4.6: 'Transport of arrested persons' of this Manual, unless to obtain priority travel to a watch-house to minimise:

(a) risk of harm to the arrested person;

(b) escape risk (e.g. arrested person is attempting to force a door of a Service vehicle); or

(c) damage to the Service vehicle; and

(ii) other than police officers travelling in the Service vehicle, unless:

(a) those persons can safely exit the vehicle prior to commencing urgent duty driving;

(b) the safety of those persons is not compromised; and

(c) there is no other reasonable alternative to this course of action.

15.2.6 Transportation of sick or injured persons in Service vehicles

In situations of emergency or otherwise, members may transport sick or injured persons in a Service vehicle or render other required assistance provided that:

(i) appropriate circumstances exist which dictate that such transport services or the rendering of such assistance is required;

(ii) such transport services or the rendering of such assistance is required by the reasonable expectations of the community or as are reasonably sought of officers by members of the community (see s. 2.3(g): 'Functions of service' of the PSAA); and

(iii) paramedics, ambulance or other medical professionals cannot provide transport to the sick or injured person in a reasonable timeframe, or have requested police assistance.

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ORDER

The senior officer at an incident where a sick or injured person requires transportation or the provision of other assistance, is to decide whether it is appropriate to transport that person in a Service vehicle or provide any other required assistance.

In making the decision, the officer should consider the circumstances of the request, including the:

(i) nature of the person's illness or injury;

(ii) need for transportation to be conducted in a properly equipped vehicle on an appropriate carrier, e.g. an approved stretcher;

(iii) likelihood of exacerbating the patient's injury or illness by providing inappropriate transport;

(iv) availability of a properly equipped vehicle;

(v) nature of the terrain to be traversed;

(vi) distance from the scene to the nearest place of treatment; and

(vii) need for the Service vehicle to be used at the scene, e.g. command post in an armed offender situation.

15.2.7 Medical conditions affecting the operation of Service vehicles and vessels

Certain medical conditions, disabilities and treatments can affect a member's (see SMD) ability to operate vehicles safely, especially when officers are called upon to perform urgent duty driving. Accordingly, it may be necessary for the Service to require members with certain medical or physical conditions to produce an appropriate medical clearance showing they are fit to operate Service vehicles or vessels.

In accordance with Chapter 3, Part 6, Division 1: 'Jet's law: eligibility for licences and reporting of particular medical conditions' of the Transport Operations (Road Use Management—Driver Licensing) Regulation, persons are:

(i) required to advise the Chief Executive of the Department of Transport and Main Roads (DTMR); and

(ii) restricted from obtaining, holding or renewing a Queensland driver licence,

if the person has a permanent or long term mental or physical incapacity.

The Chief Executive, DTMR may authorise a person with a permanent or long term mental or physical incapacity to hold a Queensland driver licence with appropriate conditions on the licence (e.g. the person is to wear spectacles or may drive a vehicle fitted with hand controls).

Health practitioners determine whether a person with a medical or physical condition should operate a motor vehicle in accordance with the 'Assessing fitness to drive' which is available on the Austroads website.

'Assessing fitness to drive' outline periods where persons should not be permitted to drive a motor vehicle for:

(i) prescribed medical and physical conditions;

(ii) short periods of time following certain medical procedures; or

(iii) when prescribed certain medication.

Certain medical and physical conditions require a period of stability or treatment prior to the relaxation of any restrictions on operating motor vehicles or vessels.

The list of medical and physical conditions in the Guidelines are not exhaustive and other conditions may prevent a member from operating a Service vehicle or vessel upon the advice of the member's health practitioner, e.g. a driving restriction for an appropriate period of time when prescribed certain medication.

ORDER

Where a member is:

(i) required to advise the Chief Executive DTMR of a medical condition in accordance with Chapter 3, Part 6 of the Transport Operations (Road Use Management—Driver Licensing) Regulation; or

(ii) directed by their health practitioner to not operate a motor vehicle or vessel due to a medical or physical condition,

the member is:

(i) to ensure their OIC or manager is advised of the relevant medical or physical condition and is supplied with a copy of a medical certificate outlining their restriction from operating vehicles or vessels; and

(ii) not to operate any Service vehicles or vessels until an appropriate medical clearance is received by the Service.

OIC and manager responsibilities

OIC or managers, upon being notified by a member of a relevant medical or physical condition are to:

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(i) ensure the member does not operate a Service vehicle or vessel until the member produces a medical certificate issued by the member's health practitioner stating that the member is fit to operate a Service vehicle or vessel; and

(ii) consult with Workforce Management and Wellbeing Division in relation to appropriate management of the member's condition through the injury management process.

In determining the length of time that a member is restricted from operating a Service vehicle or vessel due to a medical condition, in accordance with 'Assessing fitness to drive':

(i) officers are deemed to be 'commercial vehicle drivers'; and

(ii) other members are deemed to be 'private vehicle drivers.

15.3 Urgent duty driving

Definition

Urgent duty driving

means driving a Service vehicle to perform a duty which requires prompt action and may include:

(i) the use of flashing warning lights and siren to obtain priority travel over other motorists; and

(ii) driving in a manner that, if not justified, would ordinarily constitute an offence.

15.3.1 When urgent duty driving is permitted

Generally, officers should only engage in urgent duty driving when:

(i) responding to priority code 1 and 2 job taskings (see s. 14.24: 'Priority codes' of this Manual);

(ii) it is not practicable to obtain a priority code and immediate Service response to an incident is required;

(iii) obtaining a 'follow speed' of a VOI in accordance with s. 6.5: 'Follow speed' of the TM;

(iv) intercepting or attempting to intercept a VOI (see s. 15.4: 'Vehicle interceptions' of this chapter);

(v) involved in a pursuit (see s. 15.5: 'Pursuits' of this chapter); or

(vi) otherwise exercising a power or performing a function covered by legislation and case law, as outlined in s. 15.2.2: 'Legal requirements relevant to police drivers' of this chapter, in circumstances which require prompt action by police.

When engaging in urgent duty driving, officers are to:

(i) apply the considerations in s. 15.5.4: 'Risk assessment for Service response to VOI' of this chapter;

(ii) recognise that the safety of all persons (i.e. other officers, members of the community and offenders) is paramount-and are not to drive a Service vehicle in a manner which is likely to expose themselves or other road users to undue risk, injury or death;

(iii) not exceed their own personal driving skills and the capabilities of the police vehicle;

(iv) be aware that whilst they have certain exemptions under the *Transport Operations (Road Use Management) Act* and Queensland Road Rules, any actions are to be reasonable in the circumstances (e.g. exceeding the posted speed limit);

(v) drive in such a manner to avoid having a collision whilst proceeding to a call for service; and

(vi) use sound professional judgment and be cognisant that they will be held accountable for their decisions.

Officers are to be mindful that other road users may not be aware of the presence of a Service vehicle engaged in urgent duty driving including, drivers hearing being impaired by having windows closed and noise from car stereos and air-conditioners. Environmental factors, position of the police vehicle and other road users may diminish the effectiveness of flashing warning lights and siren and add to the risks associated with urgent duty driving.

Officer decision making

When undertaking urgent duty driving, officers who are involved in incidents or detected offences may be directed to explain their decision making and risk assessment in any subsequent investigation, inquest or inquiry.

15.3.2 Urgent duty driving not permitted for priority code 3 and 4 tasks

Drivers of Service vehicles assigned a job tasking with a priority code 3 or 4 are not to engage in urgent duty driving (see s. 14.24: 'Priority codes' of this Manual).

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Where officers believe a priority code should be amended or a code 3 direct response may be unreasonably delayed they are to seek prior approval and provide justification for the change (e.g. blocked traffic or prioritising officers attendance at a TDD site).

15.3.3 Use of flashing warning lights and siren

ORDER

Drivers of Service vehicles and vessels are to use the flashing warning lights and siren fitted to the vehicle when engaged in urgent duty driving, unless exceptional circumstances exist.

Where an officer in a Service vehicle or vessel decides to activate the siren, the flashing warning lights are to be activated.

Use when not undertaking urgent duty driving

The flashing warning lights and siren are to be activated in the performance of duty when circumstances require officers to highlight to the community a Service vehicle or vessels presence, such as:

(i) when conducting traffic or marine control;

(ii) at incidents to identify the location of a Service vehicle or vessel;

(iii) in circumstances which may require taking special precautions or manoeuvres (e.g. moving through large crowds or other vessels, moving to the incorrect side of the road to avoid storm damage or whilst performing a wide load escort); or

(iv) proceeding through congested traffic to reach the site of a traffic crash requiring a timely Service response.

For the purposes of this policy, exceptional circumstances include:

(i) covert operations, including covert surveillance;

(ii) obtaining a 'follow speed' of a VOI pursuant to s. 6.5: 'Follow speed' of the TM. However, once sufficient evidence has been obtained to prove the offence of speeding, officers are to intercept the VOI in accordance with s. 15.4: 'Vehicle interceptions' of this chapter; or

(iii) situations where the use of flashing warning lights and siren is not appropriate, such as:

(a) accelerating the Service vehicle or vessel to catch up to and attain positioning behind a VOI or vessel to be intercepted, in order to give the driver of the vehicle or vessel a direction to stop (see s. 15.4 of this chapter). However, once a suitable position has been obtained to give a direction to stop, officers are to intercept the vehicle or vessel as soon as practicable in accordance with s. 15.4.3: 'Intercepting a vehicle' of this chapter; or

(b) when it is not tactically sound, e.g. approaching breakers on premises, alarms or disturbances; and

(iv) where the early activation of the flashing warning lights and siren would defeat enforcement action.

Officers are to ensure the provisions of s. 15.3.1: 'When urgent duty driving is permitted' of this chapter are applied in the situations above.

OPM Issue 113 Public Edition

15.3.4 Proceeding against traffic light signals

ORDER

Officers engaged in urgent duty driving may drive against a red traffic control light signal only after stopping and ensuring that continuing through the intersection (or pedestrian, railway or other crossing) will not create a dangerous situation.

15.3.5 Use of high-powered vehicles for urgent duty driving

The Service has a number of high-powered vehicles generally used for traffic enforcement duties. These vehicles have performance capabilities beyond those of standard vehicles.

High-powered vehicles are defined in Schedule 9: 'Dictionary' of the Transport Operations (Road Use Management—Driver Licensing) Regulation. For the purposes of this chapter, a four wheel drive vehicle which is designed to travel off-road (e.g. Toyota Landcruiser) is not a high-powered vehicle.

Officers are not to drive high-powered vehicles in urgent duty driving situations unless they have:

(i) successfully completed a 'Car Course Level II'; or

(ii) obtained prior authorisation from a commissioned officer of their district or command.

Officers who have an operational requirement to drive high-powered vehicles in urgent duty driving situations, but have not completed a 'Car Course Level II', should apply for authorisation from a commissioned officer.

Commissioned officers considering such an application are to consider:

(i) the successful completion by the officer of departmental driving courses;

(ii) the experience of the officer in driving high-powered vehicles;

(iii) the types and number of vehicles available to the officer;

(iv) the officer's driving history;

(v) whether the officer has previously been authorised to drive high-powered vehicles in urgent duty driving situations and the period of time elapsed since last being authorised to drive high-powered vehicles; and

(vi) when the next 'Car Course Level II' is to be held.

When an officer has an ongoing need to drive a high-powered vehicle in urgent duty driving situations, but has not successfully completed a 'Car Course Level II' (e.g. Highway Patrol officer), the OIC of the relevant officer should recommend the officer is enrolled in the next available course.

ORDER

Districts and Commands are to maintain a register of officers authorised to drive high-powered vehicles in urgent duty driving situations.

The OIC, Driving Skills Section, Operational Training Services is to ensure:

(i) appropriate records are made and maintained for officers who successfully complete a 'Car Course Level II'; and

(ii) the 'Car Course Level II' is regularly scheduled to meet ongoing demand.

15.3.6 Vehicle capabilities to be considered when urgent duty driving

Officers engaged in urgent duty driving are to drive within the limits of their capabilities and the capabilities of the Service vehicle being driven.

15.4 Vehicle interceptions

Definition

Vehicle interception

means the period from when an officer in a Service vehicle decides to intercept the driver of a VOI until:

(i) the driver stops; or

(ii) fails to stop as soon as reasonably practicable.

This includes the period when the Service vehicle closes on the VOI prior to giving the driver a direction to stop.

When a vehicle interception transitions to a pursuit

When a vehicle fails to stop as soon as reasonably practicable after being given a direction to stop, and the driver of the Service vehicle continues to follow the VOI, a pursuit will exist (see s. 15.5: 'Pursuits' of this chapter).

15.4.1 Authority to intercept

In all instances, officers are entitled, where lawful, to intercept a vehicle. The following sections of the PPRA contain provisions relating to the stopping of vehicles:

(i) s. 21: 'General power to enter to arrest or detain someone or enforce warrant';

(ii) s. 26: 'Roadblocks';

(iii) s. 31: 'Searching vehicles without warrant';

(iv) s. 52: 'Prevention of offences—general';

(v) s. 60: 'Stopping vehicles for prescribed purposes';

(vi) s. 614: 'Power to use force—exercise of certain powers'; and

(vii) s. 615: 'Power to use force against individuals—police officers'.

15.4.2 Considerations prior to interception

Officers intending to intercept motor vehicles should ensure:

(i) they do not unnecessarily expose themselves or any other persons, to undue risk; and

(ii) appropriate safety precautions are taken.

OPM Issue 113 Public Edition

Tactical assessment

Officers are to consider if an overt attempt to intercept a VOI may be tactically unsound in the circumstances (e.g. confirmed stolen vehicle or a VOI which has been involved in a recent evasion offence) (see s. 15.8: 'Evading police officers and type 1 vehicle related offences' of this chapter). In such instances, any attempt to intercept a VOI is likely to lead to an escalation in offending driving behaviour and overt acts to avoid detection.

Consideration should be given, if time and resources permit, to undertaking a pre-emptive UOF action (see s. 14.26.1: 'Pre-emptive force against and offender in a vehicle' of this Manual).

Prior to giving a direction to the driver of another vehicle to stop, officers should:

(i) consider the reason for the interception and what action can be taken if the driver of the vehicle refuses to stop, see ss. 15.5.3: 'Justification for pursuit' and 15.4.4: 'Abandoning an attempted interception' of this chapter;

(ii) consider whether to stop the vehicle immediately or call for assistance. This consideration should include whether the vehicle is being driven in a manner dangerous to road users, the offence suspected of having been committed by the vehicle occupants and whether the officer is attempting the interception is alone;

(iii) whenever practicable, inform the relevant PCC of their intentions prior to attempting to stop the particular VOI; and

(iv) select a suitable interception site having regard to the distances required for vehicles to stop safely when travelling at the speed limit for that relevant section of road. Where practicable, the interception site should be well lit and located on a level stretch of roadway so that both the Service vehicle and the intercepted vehicle are visible from a distance. If possible, avoid stopping over the crest of a hill or in an area where visibility of the Service vehicle is impeded.

15.4.3 Intercepting a vehicle

Unless in exceptional circumstances, unmarked Service vehicles which are not fitted with flashing warning lights and a siren should not intercept vehicles.

Once an officer has decided to intercept a vehicle, a direction to stop is to be given as soon as practicable (see s. 15.4.6: 'Protracted following of a vehicle' of this chapter) after:

(i) an officer's vehicle is appropriately positioned in relation to the vehicle to be intercepted; or

(ii) observing the subject vehicle being driven in a manner which poses a risk to road users.

Where a vehicle is confirmed stolen or has been involved in a recent evasion offence, officers are to comply with s. 15.4.7: 'Attempts to intercept a confirmed stolen vehicle or a VOI which has been involved in a recent evasion offence' of this chapter prior to attempting an interception.

When an officer has decided to intercept the driver of a vehicle, the officer is to:

(i) check the rear vision mirror and monitor any following traffic and keep a clear view of and do not overtake the vehicle to be intercepted;

(ii) be alert to the possibility that the vehicle may:

(a) stop suddenly and the occupants decamp from the vehicle;

(b) make a U-turn and drive off in the opposite direction; or

(c) reverse with the intent to ram and disable the Service vehicle.

(iii) position the Service vehicle to the rear of, and at a safe distance from, the vehicle to be intercepted. This may include exceeding the speed limit to catch up to the VOI prior to activating the flashing warning lights and siren;

(iv) activate the flashing warning lights and siren fitted to the Service vehicle to give the driver a direction to stop (see s. 748: 'Giving a direction for ch 22' of the PPRA);

(v) when intercepting oncoming vehicles, at no time position the police vehicle on the incorrect side of the road or travel into the path of an oncoming vehicle. However, this does not apply to a roadblock established pursuant to s. 2.4.12: 'Roadblocks' of this Manual;

(vi) indicate to the driver of the vehicle by hand signals, visual means (such as a 'POLICE—STOP' sign, if available), loudspeaker or other suitable means, to stop the vehicle; and

(vii) if the vehicle:

(a) comes to a halt, stop the Service vehicle at a reasonable distance behind the vehicle, allowing visibility of the interior of the vehicle. The Service vehicle should be stopped in an off-set position if the interception site allows it. Officers should comply with the provisions of s. 15.4.5: 'Procedures after interception' of this chapter; or

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(b) fails to stop as soon as reasonably practicable and the officer believes on reasonable grounds the driver of the subject vehicle is intentionally attempting to evade police:

- if appropriate, commence a pursuit in accordance with s. 15.5: 'Pursuits' of this chapter, or
- abandon the attempted interception and comply with s. 15.4.4: 'Abandoning an attempted interception' of this chapter.

15.4.4 Abandoning an attempted interception

For the purposes of this policy, an attempted interception is where the driver of a vehicle fails to comply with a direction to stop as soon as reasonably practicable (see s. 15.4.3: 'Intercepting a vehicle' of this chapter) and the officer decides to abandon the interception of the vehicle.

When an attempted interception is abandoned, officers are to:

(i) turn off the flashing warning lights and siren of the Service vehicle;

(ii) pull over and stop the Service vehicle in the first available safe position;

(iii) provide the local police communications centre with:

(a) brief details of the attempted interception; and

(b) location and odometer reading of the Service vehicle.

(iv) make notes of the circumstances of the attempted interception to assist with the subsequent investigation of the evade police offence (see s. 754: 'Offence for driver of motor vehicle to fail to stop motor vehicle' of the PPRA) and any other offences detected; and

(v) ensure that prior to the end of the shift:

(a) an investigation is commenced; and

(b) a QPRIME occurrence report is furnished.

For an evade police offence and any other offences detected prior to abandoning the attempted interception (see s. 15.8: 'Evading police officers and type 1 vehicle related offences' of this chapter).

The information to be recorded in QPRIME includes:

(i) in the 'Offence Location Details'—the location where the initial direction to stop was given;

(ii) in the 'Modus Operandi Details':

(a) the reason for the attempted interception (e.g. a traffic infringement or random breath test);

(b) how the direction to stop was given (e.g. by positioning the Service vehicle to the rear of the vehicle or the use of flashing warning lights and siren);

(c) descriptions of additional directions to stop, if any (e.g. by re-positioning the Service vehicle alongside the other vehicle, whether the driver of the vehicle was directed by hand signals, visual means (such as a 'POLICE—STOP' sign), loudspeaker or other suitable means, to stop the vehicle;

(d) the actions of the driver which led to the reasonable belief that they were deliberately attempting to evade police (e.g. increasing speed, weaving between lanes to travel at a speed higher than the surrounding traffic);

(e) the speeds attained during the attempted interception;

(f) the reason the attempted interception was subsequently abandoned;

(g) the location where the attempted interception was abandoned;

(h) the type of Service vehicle(s) involved (e.g. motorcycle, sedan, four-wheel drive) and whether marked or unmarked; and

(i) description of the offending vehicle, driver and any other occupants; and

(iii) in the 'Officer's Report', the details of the officers in the Service vehicle(s).

15.4.5 Procedures after interception

Before leaving the Service vehicle to speak to the occupants of the intercepted vehicle, officers should:

(i) notify the relevant PCC of the interception and the exact location as well as any other information regarding the description of the intercepted vehicle and its occupants;

(ii) continue to operate the flashing warning lights;

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(iii) observe the occupants of the intercepted vehicle for any unusual movement (e.g. change of seating positions, attempts to dispose of anything or attempts to leave the scene unexpectedly either in the vehicle or on foot);

(iv) avoid walking or standing between the police vehicle and the intercepted vehicle; and

(v) conduct a threat assessment using the POP process (Person Object Place) and, if safe to do so, approach the intercepted vehicle in accordance with the 'Recruit and Constable Training Driving Skills Learner Guide' (available on the Service Intranet).

15.4.6 Protracted following of a vehicle

The protracted following of a subject vehicle, without attempting an intercept, can create an undue risk to all road users.

Protracted following means the following of a VOI by the driver of a Service vehicle who directly observes the driver of the VOI:

(i) committing a driving offence; or

(ii) conducting overt acts to avoid either detection or apprehension (e.g. speeding, conducting multiple left and right turns),

beyond the time reasonably necessary to:

(i) conduct QPRIME checks in relation to the vehicle and occupants;

(ii) obtain a follow speed;

(iii) determine whether an interception of the vehicle should be attempted;

(iv) identify a suitable location to safely intercept; or

(v) coordinate and execute a planned interception of the vehicle (e.g. arranging additional crews to assist with a planned interception).

It is immaterial if the police vehicle's siren or flashing warning lights are activated and officers are required to conduct a continual risk assessment (see s. 15.5.4: 'Risk assessment for Service response to VOI' of this Manual) when undertaking any action listed in subsection (ii)(a) to (e).

ORDER

The continued following of a VOI where the vehicle is committing a driving offences or overt acts to avoid either detection or apprehension will constitute a pursuit (see s. 15.5: 'Pursuits' of this Manual).

This section does not apply:

(i) to SERT, and Covert and Special Operations Groups; and

(ii) to a Service air asset (see s. 2.21.3: 'Polair Queensland tasking' of this Manual).

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15.4.7 Attempts to intercept a confirmed stolen vehicle or a VOI that has been involved in a recent evasion offence

Where a vehicle is confirmed stolen or has been involved in a recent evasion offence (see Chapter 22: 'Provisions about type 1 vehicle related offences' of the PPRA), it is likely the driver of the VOI will commit acts of dangerous driving or overt acts to avoid either detection or apprehension if an intercept is attempted.

Tactical assessment

All officers are to consider whether a further overt attempt to intercept a VOI may be tactically unsound, due to the likelihood of an escalation in offending driving behaviour and increased community safety risks.

Consideration should be given, if time and resources permit, to undertaking a pre-emptive UOF action (see ss. 14.26: 'Use of force options for intercepting offenders in vehicles' and 14.26.1: 'Pre-emptive force against an offender in a vehicle' of this Manual).

ORDER

Where an officer identifies a VOI that they intend to intercept is a confirmed stolen vehicle or has been involved in a recent evasion offence, prior to attempting an interception the officer is to:

(i) immediately activate their BWC irrespective of whether their Service vehicle has a functioning in-vehicle camera (see s. 4.5: 'In-vehicle cameras' of the DERIE Manual);

(ii) conduct a risk assessment (see s. 15.5.4: 'Risk assessment for Service response to VOI' of this chapter); and

(iii) provide a situation update via the Service radio and advise of:

(a) the VOI's current location;

(b) any offences being committed by the driver of the VOI;

(c) relevant information which will assist with the decision making process; and

(d) request authority to conduct an interception.

Supervisor requirements

A supervisor is to acknowledge the situation update and:

(i) conduct a risk assessment (see s. 15.5.4 of this chapter);

(ii) give due consideration to the nature of the offending the occupants of the VOI are suspected of having committed;

(iii) issue control measures, for example authorise the no contact following of the VOI (see 'Definitions' of this chapter) if the VOI is not committing any driving offences to provide direction of travel updates; and

(iv) if appropriate, deliver directions for a pre-emptive UOF action (see s. 14.26 of this Manual).

Where an RDO or DDO has not acknowledged the situation update, an OIC or supervisor within the relevant PCC is to perform the role of the supervisor until a handover is established.

Decision to authorise interception

A supervisor is to assess all provided information provided and all relevant circumstances, including historical evades, any reduced risk (e.g. vehicle is now in rural area) and the nature of the offending the occupants of the VOI are suspected of having committed to determine if a further interception or other UOF action should be conducted.

Any decision by a supervisor to approve a further interception or other UOF action is to incorporate a continued risk assessment (see s. 15.5.4 of this chapter) and is to be accompanied by a clearly verbalised tactical plan communicated via the Service radio outlining the aim and appropriate allocation and direction of policing resources to resolve the incident.

Decision not to intercept a confirmed stolen vehicle or a vehicle that has been involved in a recent evasion offence

Supervisors are not to deny intercept approval or other UOF action without first conducting a risk assessment (see s. 15.5.4 of this chapter).

Where a supervisor decides that no attempted intercept or other UOF action is to be undertaken against a VOI, the officer making the decision should:

(i) direct all officers on the relevant radio talkgroup/s to cease any further interception attempts;

(ii) consider if officers should continue to follow the subject VOI (see s. 15.4.6: 'Protracted following of a vehicle' of this chapter);

(iii) ensure a modification to the BOLO for the VOI with the details of the vehicles direction; and

(iv) advise the relevant adjoining PCC if the VOI is likely to enter their location.

Officers are to comply with any direction regarding the continued following of the VOI (see s. 15.1.3: 'Non-compliance with a supervisor's direction' of this chapter).

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15.4.8 Mobile interception of heavy vehicles

Heavy vehicles such as articulated motor vehicles, B-Doubles, road trains or other rigid motor vehicles towing one or more trailers, due to their weight and size require suitable interception sites.

Officers intending to intercept heavy vehicles should ensure that any selected interception site:

(i) has sufficient space for the stopping of the vehicle;

(ii) has a safe 'pull-off' section;

(iii) provides for good visibility of stopped vehicles to approaching traffic and wherever practicable be on flat roadway;

(iv) does not require the sudden application of brakes by drivers of heavy vehicles or the driving of the heavy vehicles uphill when departing; and

(v) has sufficient space for vehicles to move off and return into the traffic flow.

15.4.9 Security firms' special purpose armoured vehicles

Where officers intercept drivers of special purpose armoured vehicles owned by security firms, the intercepting officer should:

(i) permit the driver to remain in the special purpose armoured vehicle; and

(ii) allow the driver to communicate through a microphone system fitted to that vehicle.

Any written communication, including any identification or driver licence may be passed by the driver to the officer through the vehicle's gun ports.

Special purpose armoured vehicles should not be left on roadways and where appropriate the vehicle is to be driven to a police station or establishment. The relevant security firm's supervisor will attend upon request to make any necessary arrangements depending on the circumstances.

Where a special purpose armoured vehicle is involved in a traffic incident officers should permit the driver of such vehicle to communicate with their supervisor to enable that supervisor to attend the scene. If the driver is incapacitated as a consequence of an injury, officers should contact the security firm's supervisor.

Officers performing duties at a random breath test interception site should not intercept special purpose armoured vehicles.

15.5 Pursuits

Definition

For the purpose of this chapter:

A **pursuit** exists when an officer driving a Service vehicle continues to follow another vehicle after:

(i) an officer in a Service vehicle gives a direction to the driver of another vehicle to stop (see s. 15.4.3: 'Intercepting a vehicle' of this chapter) and the vehicle fails to stop as soon as reasonably practicable; or

(ii) an officer in a Service vehicle continues to follow a vehicle which they have directly observed committing driving offences or overt acts to avoid either detection or apprehension (see s. 15.4.6: 'Protracted following of a vehicle' of this chapter).

It is immaterial whether the flashing warning lights and siren of the Service vehicle are activated.

ORDER

A pursuit is not to be conducted for a non-pursuable matter (see s. 15.5.3: 'Justification for pursuit' of this chapter); or is to be abandoned if the pursuit creates an unjustifiable risk to the safety of any person (see s. 15.5.11: 'Abandoning a pursuit' of this chapter).

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15.5.1 Pursuit policy principles

The pursuit policy is underpinned by the following principles:

(i) pursuit driving is potentially dangerous;

(ii) officers should consider alternative options prior to initiating a pursuit;

(iii) pursuits should only be conducted where justified and authorised;

(iv) officers at all times are to consider the risks of conducting pursuits; and

(v) officers who determine that it is:

(a) unjustifiable to conduct a pursuit; or

(b) justifiable to conduct a pursuit and undertake appropriate risk assessments in compliance with Service policy,

will be supported by management and senior officers of the Service.

The Service considers pursuits a serious matter and will make every effort to identify and apprehend offender(s). The Service will continue to encourage alternate options to apprehend offenders who evade interception, and pursuits will not be the principal means of effecting apprehension.

15.5.2 Alternate strategies to pursuits

Before considering the justification for a pursuit in accordance with s. 15.5.3: 'Justification for pursuit' of this chapter, officers are to consider:

(i) the relevant risks factors in accordance with s. 15.5.4: 'Risk assessment for Service response to VOI' of this chapter;

(ii) alternative options to pursuit including:

(a) not pursuing the offender given the risks of pursuing are too high;

(b) identifying and/or apprehending the offender at a later time (e.g. there are current telecommunications strategies on a known offender within a VOI), or attending the last known address of the driver or registered owner and conducting investigations and exercising powers under the PPRA or another Act including

powers for evade offences (see s. 15.8: 'Evading police officers and type 1 vehicle related offences' of this chapter); and

(c) where a Polair helicopter or other Service tasked air asset is in the vicinity and is able to track the offending vehicle, requesting the mission commander of the air asset to maintain electronic surveillance of the offender(s) (see s. 15.5.10: 'Use of Polair Queensland during a pursuit' of this chapter); and

(iii) applying a pre-emptive UOF action (see s. 14.26.1: 'Pre-emptive force against an offender in a vehicle' of this Manual).

Officers should apply the pursuit decision making process (see s. 15.5.5: 'Conduct of a pursuit' of this chapter) prior to commencing a pursuit and on a continual basis throughout a pursuit.

15.5.3 Justification for pursuit

The justification for a pursuit is based on the officer's reasonable belief. For the definition of 'reasonable belief' see the SMD.

Pursuable matters

ORDER

A pursuit is not to be commenced or continued unless officers can justify the need to pursue a VOI to immediately apprehend an offender who:

(i) will create an imminent threat to life;

(ii) has or may commit an act of unlawful homicide or attempt to murder;

(iii) has issued threats to kill any person and has the apparent capacity to carry out the threat;

(iv) has committed an indictable offence prior to an attempt by police to intercept the vehicle; or

(v) is committing extreme acts of dangerous operation of a motor vehicle independent of any police interaction

Non-pursuable matters

The following matters do not justify a pursuit:

(i) licence, vehicle or street checks;

(ii) routine traffic interceptions where no other offence exists apart from failing to stop as directed;

(iii) random breath tests;

(iv) all simple offences (including traffic offences and evasion offences); and

(v) indictable offences based on officer instinct alone or suspicion only (without supporting evidence).

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15.5.4 Risk assessment for Service response to VOI

All officers are to conduct a risk assessment of the factors impacting or potentially impacting the conduct of a UOF action against a VOI, including:

(i) prior to intercepting or attempting to intercept a vehicle (see s. 15.4: 'Vehicle interceptions' of this chapter);

(ii) when involved in the authorised no contact following of a vehicle (see 'Definitions' of this chapter);

(iii) during an authorised TDD use response (see ss. 14.30: 'Use of tyre deflation devices' and 14.26: 'Use of force options for intercepting offenders in vehicles' of this Manual);

(iv) prior to deciding to commence a pursuit (see s. 15.5.3: 'Justification for pursuit' of this chapter);

(v) continually throughout an authorised pursuit (see s. 15.5: 'Pursuits' of this chapter); and

(vi) when employing authorised boxing in techniques against a VOI (see ss. 15.1.5: 'Use of Service vehicles to box in occupied stationary VOI' and 15.6.2: 'Use of a Service vehicle to employ boxing in techniques against a mobile VOI' of this chapter).

ORDER

Where the risk assessment for Service response to VOI identifies an unjustifiable risk of death or serious injury, the UOF action against a VOI is:

(i) not to be conducted;

(ii) to be discontinued or abandoned (see s. 15.5.11: 'Abandoning a pursuit' of this chapter); or

(iii) to have previous issued supervisor directions amended to mitigate or reduce an identified risk in response to a change in circumstances.

The risk assessment considerations for a Service response to a VOI include, but are not limited to:

Risk factor	Consideration
Manner of driving	Speed of VOI and Service vehicles Distance between the VOI and Service vehicle Disobeying traffic control signals, signs and markings Excessive weaving and lane changing 'Hoon' type behaviour Effect of police presence on the driver's behaviour Prior acts of dangerous operation of a motor vehicle without any police involvement Imminent danger to life
Occupant	Identity of the offender—known or unknown Apparent age of the driver/occupants Offence/s committed or suspected Driving impairment (i.e. affected by intoxicating substances) Occupant behaviour (i.e. suffering an apparent mental health episode, affected by alcohol/drugs, brandishing weapons, disposing property, irregular movements/gestures)
Vehicle of interest	Reported and confirmed stolen Apparent condition (i.e. roadworthiness or damage) Involved in recent evasion offences Ramming or attempting to ram emergency service vehicles
Weather	Raining or dry conditions Time of day (i.e. light conditions, dawn or dusk, visual impacts)
Environment	Type of road (i.e. sealed/unsealed, road width, multi-lane, separated, one way, limited/unlimited access) Built up area (i.e. traffic calming, speed zone, school zone, entertainment precinct) Condition of the road (i.e. roadworks, sealed/unsealed, road width, state of repair) Foreseeable emerging road conditions Existing visibility and lighting (i.e. street lighting availability at night)
Traffic	Pedestrian activity Road traffic Peak/off peak Parked or stationary vehicles
Officer/vehicle capabilities	Experience of the driver Type of Service vehicle (motorcycle/trail bike, four-wheel drive, ATV, utility off-road vehicles, van, marked/unmarked and vessels) Single officer patrol Knowledge of the road and area If deploying TDDs, time for crew to attend a TDD site, set up and safely deploy (compliance with TDD Safety Triangle)

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15.5.5 Conduct of a pursuit

Officers who:

(i) have commenced or are involved in an authorised pursuit; or

(ii) are the pursuit controller in a pursuit,

are to be aware that safety of all members of the public, police officers and suspect persons is the primary consideration.

Officers are to embrace the 'Consider all Options and Practise Safety' (COPS) when involved in pursuits and conduct a continual risk assessment in accordance with s. 15.5.4: 'Risk assessment for Service response to VOI' of this chapter.

BWC activation

ORDER

All officers involved in an authorised pursuit of a VOI, including passengers of Service vehicles, are to immediately activate their BWC irrespective of whether their Service vehicle has a functioning in-vehicle camera (see s. 4.5: 'In-vehicle cameras' of the DERIE Manual).

Pursuit decision making process

Officers are to apply the following decision making process when deciding whether to commence or continue a pursuit. Pursuit controllers are to apply the decision making process when deciding whether a pursuit should be continued or abandoned.

Pursuits – Decision making and risk assessment tool

Apply the following when considering whether to initiate a pursuit and continually throughout a pursuit.

Is there a need to immediately apprehend the vehicle occupant/s for a pursuable matter?

Yes

No / Uncertain → Abandon

Are there other appropriate methods locating and for apprehending the vehicle occupant/s?

No

Yes / Uncertain → Abandon

Conduct a risk assessment of the current environment and driver behaviour hazards.

Consider these examples:

Manner of driving	**Occupant**	**Vehicle of interest (VOI)**
Weather	**Environment**	**Traffic**
Officer / vehicle capabilities (see s. 15.5.4: 'Risk assessment for Service response to VOI' of the Operational Procedures Manual		

Consider the risk:

What are the possible consequences, including any injury to a person that may result from the pursuit?

Is the overall harm the members are seeking to prevent greater than the risks involved in conducting the pursuit?

Yes
May initiate or continue pursuit but **continually assess the risks**

No / Uncertain → **Abandon**

Continual Assessment

The pursuit decision making process and continual assessment should be conducted in conjunction with:

(i) s. 15.5.1: 'Pursuit Policy Principles';

(ii) s. 15.5.2: 'Alternate strategies to pursuits'; and

(iii) s. 15.5.3: 'Justification for pursuit';

of the OPM.

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15.5.6 Notification of pursuits

When an officer initiates a pursuit in an area where radio contact can be maintained, that officer is to ensure the following details are immediately broadcast over the Service radio:

(i) the identity of the Service vehicle;

(ii) the reason for the pursuit (see 'Pursuable matters' in s. 15.5.3: 'Justification for pursuit' of this chapter);

(iii) the location of the pursuit, its direction of travel and speed;

(iv) a description of pursued vehicle and occupant(s);

(v) the type of Service vehicle (e.g. sedan, motorcycle, van) and whether the unit is marked or unmarked;

(vi) the number and identity of occupants of the Service unit; and

(vii) risk factors and any other relevant details in accordance with ss. 15.5.4: 'Risk assessment for service response to VOI' and 15.5.5: 'Conduct of a pursuit' of this chapter.

When there are two officers in a Service vehicle, the officer who is not the driver is responsible for maintaining radio contact, and relaying as soon as possible all relevant details to the radio operator.

Where there is a backup unit, an officer from that vehicle is to ensure that the local PCC is immediately advised of points (i), (iii) and (v) above in instances where that information is not already known to the PCC.

The radio operator, wherever possible, is to instruct all units not actually involved in the pursuit to maintain radio silence unless urgent. Officers involved in a police pursuit are to ensure that the police radio is at all times used as the primary means of communication. Only under exceptional circumstances (i.e. black spot or loss of radio contact) are officers to consider the use of a mobile telephone as a means of communication during a police pursuit, and only where two or more officers are present in the pursuing vehicle.

15.5.7 Officer responsible for the control of pursuits (Pursuit Controller)

ORDER

The senior officer in the primary unit is responsible for initiating the pursuit and will remain in control of the pursuit until control is passed to a 'Pursuit Controller' (see 'Definitions' of this chapter).

When a radio operator is advised of a pursuit and an RDO or DDO has not established command and control as the pursuit controller, the operator is to ensure the:

(i) OIC or supervisor of the PCC or police station or establishment (outside Brisbane); or

(ii) Duty Officer, PCC, Brisbane,

is immediately advised.

The Duty Officer, OIC, or supervisor of a PCC is to advise over the Service radio that they are the pursuit controller and will retain command and control of the pursuit unless they conduct a pursuit controller handover with an RDO or DDO, who may have greater situational awareness including knowledge of the area of operation, offending intelligence and crew experience and capabilities.

The designation of pursuit controller applies regardless of rank. For example, where the supervisor of a PCC is a senior constable and the officer in the primary unit is a sergeant, the senior constable supervisor assumes the role of pursuit controller unless a handover occurs with an RDO or DDO.

In areas where radio contact cannot be maintained, the senior officer in the primary unit will remain the pursuit controller.

All officers in a pursuing vehicle are to:

(i) comply with any direction given by the pursuit controller; and

(ii) ensure where radio contact can be maintained that the PCC is updated of the progress of the pursuit at regular intervals and when requested to do so by the radio operator.

15.5.8 Responsibilities of the Pursuit Controller

Pursuit controllers are accountable for their actions and decisions in authorising a pursuit and allowing a pursuit to continue. Pursuit controllers are to, when immediately becoming aware of a pursuit:

(i) broadcast over the Service radio that the pursuit is now under their command and control;

(ii) confirm that the pursuit is authorised under the policy (see s. 15.5.3: 'Justification for pursuit' of this chapter);

(iii) develop and communicate a clear and verbalised tactical plan via the Service radio outlining the aim and appropriate allocation and direction of policing resources to resolve the incident (e.g. the deployment of TDD, see s. 14.30 'Use of tyre deflation devices' of this Manual);

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(iv) conduct a continual risk assessment of the pursuit (see s. 15.5.4: 'Risk assessment for Service response to VOI' and 'Pursuit decision making process' in s. 15.5.5: Conduct of a pursuit' of this chapter);

(v) determine whether Polair or other Service tasked air asset is available to perform electronic surveillance of the pursuit (see s. 15.5.10: 'Use of Polair Queensland during a pursuit' of this chapter); and

(vi) authorise if appropriate, the continuation or abandonment of the pursuit (see s. 15.5.11: 'Abandoning a pursuit' of this chapter).

During a pursuit, the pursuit controller is responsible for:

(i) designating which vehicle will perform the role of primary unit and back-up unit in the pursuit (see s. 15.5.9: 'Operational considerations' of this chapter);

(ii) identifying and assigning other available resources to assist in the pursuit (e.g. a backup unit to assist in the pursuit or TDD equipped units);

(iii) gaining and maintaining situational awareness including via the use of technology (e.g. Polair downlink, monitoring police resource locations via ATLAS or iSURV);

(iv) authorising use of force actions against the pursued vehicle, in accordance with ss. 14.26: 'Use of force options for intercepting offenders in vehicles' and 14.30: 'Use of tyre deflation devices' of this Manual, and 15.6: 'Use of force against a mobile vehicle or vessel' of this chapter, as appropriate;

(v) notifying the relevant adjoining PCC, where a pursuit is moving into that centre's area of control, and providing information including:

(a) the identity of the pursuing Service unit(s);

(b) a description of the pursued vehicle and occupant(s);

(c) the location of the pursuit, its direction of travel and speed;

(d) the reason for the pursuit;

(e) any actions the offending vehicle has taken to avoid capture; and

(f) request the adjoining district supervisor is advised and prepare for the handover as pursuit controller;

(vi) authorising, if appropriate, a pursuit to cross the border into another State or Territory (see s. 15.5.11: 'Abandoning a pursuit' of this chapter). In considering such approval, the pursuit controller is to notify and consult with the relevant PCC for that State or Territory;

(vii) authorising the resumption of an abandoned pursuit if appropriate in accordance with s. 15.5.12: 'Resumption of a pursuit' of this chapter; and

(viii) as soon as possible at the conclusion of a pursuit, contact the officers involved in the pursuit (see s. 15.5.13: 'Conclusion of a pursuit' of this chapter).

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15.5.9 Operational considerations

ORDER

Unmarked Service vehicles which are not fitted with flashing warning lights and siren are not to engage in pursuits.

Unmarked Service vehicles which have flashing warning lights and siren fitted and Service motorcycles are not to be the primary unit for pursuits.

Officers engaged in motor vehicle pursuits are to ensure:

(i) they relinquish the primary unit position to another Service vehicle if:

(a) the pursuit is beyond the capabilities of the member or Service vehicle; or

(b) consider another unit is in a better position to undertake the primary unit position;

(ii) if an unmarked Service vehicle or Service motorcycle initiates a pursuit, that unit is to immediately relinquish the primary unit position when advised by the pursuit controller once a marked Service vehicle with four wheels is in position to undertake the primary unit position;

(iii) if the initial pursuing vehicle contains only one member, that unit is to relinquish the primary unit position to another vehicle with two members once that unit is in position to assume the primary unit position;

(iv) where the pursuit controller designates a second four-wheel unit as a backup unit, that unit is to maintain a safe distance behind the primary unit, but should be close enough to render assistance if required;

(v) unless directed by the pursuit controller, only two units are to pursue an offender's vehicle. If additional units are requested after the pursuit has ended to assist in detaining occupants of the pursued vehicle, the pursuit controller is to arrange accordingly. Under no circumstances are other Service vehicles to engage in the pursuit unless authorised to do so by the pursuit controller; and

(vi) pursuits of trail bikes by Service vehicles, other than on formed roads, are to only be conducted in extreme circumstances. Trail bikes should only be pursued in off-road situations by approved motorcyclists riding trail bikes.

Where the initiating pursuit vehicle relinquishes the role of primary unit in a pursuit, that vehicle should:

(i) if a marked vehicle, accompany the primary unit at a safe distance, but should be close enough to render assistance if and when required; and

(ii) if an unmarked vehicle or Service motorcycle, accompany the primary unit at a safe distance,

and at the conclusion of the pursuit initiate the investigation with respect to the offence for which the pursued vehicle was originally required to stop.

15.5.10 Use of Polair or other Service tasked air assets during a pursuit

The Service operates air assets that provide aerial support with policing activities including Polair helicopters (see s. 2.21.3: 'Polair Queensland tasking' of this Manual).

In response to incidents involving VOI, Service air assets may provide:

(i) real time visual observation and situational awareness by day and night;

(ii) recorded electronic footage; and

(iii) encrypted video downlink capability enabling access to live streaming of footage.

To enhance interoperability, situational awareness and response to authorised pursuits, regions utilising Polair are to ensure all supervisors have the Polair live streaming application on their QLiTE or desktop Service computers.

In regional areas, officers may have support capability from a Queensland Government helicopter (e.g. Rescue 510) where authorised by a commissioned officer.

ORDER

A pursuit is not permitted to continue solely to await the arrival of a Service air asset.

A Service air asset is not to take the role of the primary vehicle in a pursuit.

Where a Service helicopter is in the vicinity of a pursuit and able to assist with electronic surveillance:

(i) the ground-based pursuit of a vehicle may be able to be abandoned, which may reduce the risk factors outlined in s. 15.5.4: 'Risk assessment for Service response to VOI' of this chapter; and

(ii) alternate options for intercepting the vehicle and apprehending the offender(s) such as:

(a) preparing TDD deployments (see s. 14.30: 'Use of tyre deflation devices' of this Manual) ahead of the vehicle;

(b) performing an interception of the vehicle in an appropriate location; or

(c) tracking the vehicle until it stops,

may become available to the pursuit controller.

Service tasked air assets are only to be utilised as a 'support' role in a pursuit as well as maintaining electronic contact with the subject vehicle once a pursuit is abandoned.

Role of Pursuit Controller

When advised of a pursuit, ensure inquiries are conducted as a priority to determine whether Polair or another Service asir asset is available to assist with the pursuit.

When an air asset has commenced electronic or other surveillance of the pursuit, the pursuit controller is to conduct a risk assessment (see s. 15.5.4 of this chapter), and apply the 'Pursuit decision making process' in accordance with s. 15.5.5: Conduct of a pursuit' of this chapter and decide whether the pursuit should:

(i) continue; or

(ii) be abandoned with the air asset maintaining contact with the VOI using electronic or other surveillance.

Where available, the pursuit controller should access the real-time video footage transmitted from the air asset to assist in determining whether the pursuit should continue, be abandoned, or resumed, as appropriate.

Role of Polair and other Service tasked air assets during a pursuit or pre-emptive use of force action

The mission commander of an air asset is a member of Police Air Operations, Aviation Group, trained and authorised by the Inspector, Police Air Operations to perform this function.

The mission commander is to determine whether it is safe or practical to respond to a request for assistance. The mission commander has the final decision in relation to whether the air asset can assist.

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An observer is a sworn member who has completed the minimal training required to perform observation from an air asset as a passenger. An observer is not involved in determining whether an air asset can assist.

The mission commander, or the observer in situations where the air asset only contains an observer, is to:

(i) advise the pursuit controller when the air asset has engaged and commenced electronic or other surveillance of the VOI;

(ii) await any further requests from the pursuit controller regarding their observations and provide regular situation reports to the pursuit controller and warn of approaching dangers (e.g. traffic congestion, heavy pedestrian traffic etc.);

(iii) where a pursuit has been abandoned, whenever practicable, the air asset may continue to maintain electronic or other surveillance of the VOI to allow the location and arrest of the offender(s). The pursuit controller should be briefed regularly in relation to the VOI location and actions;

(iv) conduct a continual risk assessment (see s. 15.5.4 of this chapter),

(v) apply the 'Pursuit decision making process' in accordance with s. 15.5.5 of this chapter and where an unacceptable risk exists, discontinue assistance and advise the pursuit controller or supervisor;

(vi) advise the pursuit controller of any Service vehicles observed to be not complying with Service policy; and

(vii) terminate the air assets engagement of the VOI when directed by the pursuit controller or Inspector Police Air Operations to disengage.

When directed to disengage from the VOI, the air asset is to change direction to create a physical separation between the air asset and the VOI as soon as practicable considering airspace, methodology, and weather restrictions. Electronic surveillance may be continued until out of range.

15.5.11 Abandoning a pursuit

ORDER

A pursuit is to be abandoned immediately it creates an unjustifiable risk to the safety of any person. All officers involved in a pursuit are to:

(i) consider the risk factors in s. 15.5.4: 'Risk assessment for Service response to VOI' of this chapter; and

(ii) conduct a continuous risk assessment as part of the 'Pursuit decision making process' (see s. 15.5.5: Conduct of a pursuit' of this chapter),

when deciding whether to abandon the pursuit.

Officers are to abandon a pursuit when:

(i) the pursuit exposes officers, community or the occupants of the pursued vehicle to unjustifiable risk of death or serious injury;

(ii) continuing the pursuit is futile;

(iii) visual contact with the pursued vehicle has been lost and is unlikely to be regained;

(iv) the identity of the driver of the pursued vehicle is known and it is not necessary to immediately apprehend the person;

(v) the driver of the pursued vehicle is a child, unless the reason for the pursuit and the circumstances are so serious it is necessary that the child be immediately detained;

(vi) directed by the pursuit controller that:

(a) Polair or other Service tasked air asset is in the vicinity of the pursuit and has commenced electronic surveillance of the pursued vehicle; and

(b) the ground-based pursuit is to be abandoned,

(see s. 15.5.10: 'Use of Polair or other Service tasked air assets during a pursuit or pre-emptive use of force action' of this chapter); or

(vii) the pursued vehicle crosses the State border, unless:

(a) the pursuit controller has given prior authority to cross the border;

(b) the driver of the Service vehicle is a special constable for that State; and

(c) the public interest or potential for loss of life or property is so great that the pursuit should continue; and

(viii) a direction to abandon the pursuit is given by a pursuit controller after consideration of the factors in ss. 15.5.3: 'Justification for pursuit' and 15.5.4 of this chapter.

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The officer who decides to give such a direction is to ensure the direction is immediately communicated to all officers involved.

When a pursuit is abandoned, all officers involved are to:

(i) turn off flashing warning lights and siren;

(ii) pull over and stop the Service vehicle in the first available safe position;

(iii) advise the pursuit controller:

(a) they have abandoned the pursuit;

(b) their reasons for abandoning the pursuit, if no direction to abandon was made; and

(c) their location and odometer reading of the Service vehicle;

(iv) conduct a safety check of the Service vehicle. This includes:

(a) leaving the engine running to continue engine cooling;

(b) where the Service vehicle's brakes were used extensively during the pursuit, leaving the vehicle stationary for a sufficient period of time to allow the brakes to cool down; and

(c) visually inspecting:

- underneath the engine bay for excessive coolant loss;
- the tyres and rims of the vehicle for obvious damage; and
- the body of the vehicle, if contact with another vehicle or object occurred during the pursuit; and

(v) make notes of the circumstances of the abandoned pursuit to assist with the subsequent investigation of the evade police offence and any other offences involved (see s. 15.5.15: 'Investigation of offences committed during pursuits' of this chapter).

Once the required information has been provided to the Pursuit Controller, the safety check of the Service vehicle conducted and relevant notes made concerning the incident, the units involved may resume normal patrols or other (pre-pursuit) duties.

15.5.12 Resumption of a pursuit

ORDER

An abandoned pursuit is not to be resumed without the prior approval of a pursuit controller.

Unless the reasons for abandoning the original pursuit have significantly changed, resumption of a pursuit is not to occur. Where a pursuit is resumed, the same considerations outlined in s. 15.5.4: 'Risk assessment for Service response to VOI' of this chapter apply.

Officers who reacquire a VOI previously involved in a pursuit are to advise the relevant PCC of the VOI location, current driving behaviour and any other relevant information to assist in determining whether a pursuit should be resumed.

A pursuit controller who authorises the resumption of a pursuit is to:

(i) conduct a risk assessment (see s. 15.5.4 of this chapter);

(ii) broadcast over the Service radio that the pursuit is now under their command and control; and

(iii) develop and communicate a clear verbalised tactical plan via the Service radio outlining the aim and appropriate allocation of policing resources to resolve the incident (see ss. 14.26: 'Use of force options for intercepting offenders in vehicles' and 14.30: 'Use of tyre deflation devices' of this Manual, and 15.6: 'Use of force against a mobile vehicle or vessel' of this chapter, as appropriate.

15.5.13 Conclusion of a pursuit

As soon as possible at the conclusion of a pursuit, the pursuit controller is to contact the officers involved in the pursuit to:

(i) ensure officer wellbeing (see Safety and Wellbeing SharePoint page);

(ii) discuss the reasons and conduct of the pursuit and provide basic feedback;

(iii) establish whether there were any failures or deficiencies in procedures, equipment or tactics; and

(iv) provide assistance in the investigation of pursuit related offences (see s. 15.5.15: 'Investigation of offences committed during pursuits' of this chapter).

If conducted, a reference to this debrief should be recorded on the significant event message (see s. 15.7: 'Mandatory reporting of pursuits' of this chapter).

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If the pursuit results in damage to property, injury or death, the pursuit controller is to advise the relevant commissioned officer who is to ensure the matter is properly investigated. See s. 5.13: 'Investigation of traffic crashes involving Service vehicles' of the TM and s. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (police related incidents)' of this Manual.

ORDER

At the conclusion of a pursuit, if not already completed, officers are to conduct a safety check of all Service vehicles involved in the pursuit (see s. 15.5.11: 'Abandoning a pursuit' of this chapter).

15.5.14 Support to officers for pursuit decision making

The Service will support officers who:

(i) abandon a pursuit upon identifying unjustifiable; and

(ii) conduct an authorised and justified pursuit after applying a continual risk assessment in compliance with Service policy.

Any decision to continue or abandon a pursuit is to be made in accordance with ss. 15.5.1: 'Pursuit policy principles', 15.5.3: 'Justification for a pursuit' and 15.5.4: 'Risk assessment for Service response to VOI' of this chapter.

In circumstances where a pursuit may be justified, an officer will not be criticised or disciplined for a decision not to engage in a pursuit, including where the identity of an offender is unknown due to the pursuit being abandoned and the offender may escape apprehension.

15.5.15 Investigation of offences committed during pursuits

At the conclusion of any pursuit, the senior officer in the Service vehicle who commenced the pursuit is to ensure that prior to the end of the shift:

(i) an investigation is commenced (see s. 15.8: 'Evading police officers and type 1 vehicle related offences' of this chapter); and

(ii) a Police Pursuit QPRIME occurrence is created which is to include the initial evasion offence and any other offences detected, including the original offence which led to the pursuit.

The information to be recorded in QPRIME includes:

(i) in the 'Offence Location Details'—the location where the initial direction to stop was given;

(ii) in the 'Modus Operandi Details':

(a) the reason for the attempted interception (e.g. a traffic infringement or random breath test);

(b) how the direction to stop was given (e.g. by positioning the Service vehicle to the rear of the vehicle, the use of warning lights and siren);

(c) descriptions of additional directions to stop, if any (e.g. by hand signals or loudspeaker);

(d) the overt actions of the driver to evade police;

(e) the times the pursuit commenced and finished;

(f) the locations where the pursuit commenced and finished;

(g) reason for the attempted interception that led to the pursuit (see 'Pursuable matters' in s. 15.5.3: 'Justification for pursuit' of this chapter);

(h) traffic conditions;

(i) speeds attained;

(j) damage to any property;

(k) injuries sustained to any person;

(l) the reason for abandoning the pursuit, if abandoned;

(m) the deployment of a tyre deflation device or any other use of force option;

(n) the type of Service vehicle involved (e.g. motorcycle, sedan, four wheel drive) and whether marked or unmarked; and

(o) description of the offending vehicle, driver and any other occupants: and

(iii) in the 'Officer's Report'—the details of the officers in the Service vehicle.

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15.6 Use of force against a mobile vehicle or vessel

15.6.1 Use of tyre deflation devices during a pursuit

For the use of tyre deflation devices during a pursuit see s. 14.30: 'Use of tyre deflation devices' of this Manual and the current Tyre Deflation Device Good Practice Guide available on the Driving Skills SharePoint page on the Service Intranet.

Where a pursued vehicle has been the subject of a successful TDD deployment, a pursuit controller is to assess if the pursuit should continue based on a risk assessment (see s. 15.5.4: 'Risk assessment for Service response to VOI' of this chapter).

15.6.2 Use of Service vehicles to employ boxing in techniques against a mobile VOI

ORDER

Officers are not to attempt to employ boxing in techniques against a mobile VOI unless:

(i) they have successfully completed the current online learning product QC1979: 'Boxing in Techniques' or any other equivalent training as determined by the Chief OST Instructor;

(ii) prior approval has been obtained from a pursuit controller or supervisor;

(iii) emergency circumstances exist (see 'Definitions' of this chapter);

(iv) a TDD has been successfully deployed (see ss. 14.30: 'Use of tyre deflation devices' and 15.6.1: 'Use of tyre deflation devices during a pursuit' of this Manual and current Tyre Deflation Device Good Practice Guide available on the Driving Skills SharePoint page on the Service Intranet);

(v) multiple tyres on the VOI are deflated, or the VOI has significant mechanical issues/damage; greatly impacting both its speed and manoeuvrability; and

(vi) the driver of the VOI has not stopped within a reasonable time, is continuing to drive the vehicle on the deflated tyres or wheel rims and is presenting a significant community safety risk.

Interception techniques which are intended to cause the driver of the pursued vehicle to lose control are prohibited (e.g. Pursuit Interception Technique (PIT) manoeuvre).

This section does not apply to SERT involved in an approved tactical action.

Emergency warning devices

Emergency warning devices serve the purpose of warning other road users of police activity and involved officers are to activate their flashing warning lights and siren when employing authorised boxing in techniques against a mobile VOI.

BWC activation

ORDER

Officers who receive pursuit controller or supervisor authorisation to employ boxing in techniques against a mobile VOI, including passengers of Service vehicles, are to immediately activate their BWC irrespective of whether their Service vehicle has functioning in-vehicle camera (see s. 4.5: 'In-vehicle cameras' of the DERIE Manual).

All officers may have to explain their decision making and risk assessment in any subsequent investigation, inquest or inquiry.

15.6.3 QPRIME Use of Force Report

If a Service vehicle is used to employ boxing in techniques against a mobile VOI, the officer responsible for the UOF is to create a QPRIME occurrence within 24 hours of the incident. If the officer is incapacitated, their supervisor is to ensure the relevant QPRIME occurrence is created (see s.14.3.9: 'Use of force reporting' of this Manual).

Additional reporting requirements

A pursuit controller or supervisor who authorises the use of boxing in techniques against a mobile VOI is to enter a record onto the SEMS.

In those instances the following SEMS category is to be used: 'Boxing in Techniques—mobile'

The record on SEM is to include:

(i) the name of the pursuit controller or supervisor who authorised the use of boxing in techniques;

(ii) the nature of the emergency circumstance and factors considered to make the authorisation;

(iii) if boxing in techniques are employed, the result of the UOF;

(iv) the name of the officers involved in the UOF; and

(v) the nature of any injuries to any person or damage to any vehicles and other property, if any.

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In most instances a SEM entry for the use of boxing in techniques against a mobile VOI will also involve the SEMS category 'Pursuit' (see s. 1.18.1: 'Significant event messaging system (SEMS)' of this Manual).

15.6.4 Service vessels involved in marine pursuits or marine operations

For the purpose of this section, officers authorised and trained in a use of force against vessels, may utilise the following use of force options during marine operations:

(i) herding—means where a police vessel purposely manoeuvres towards another vessel (no physical contact) in an attempt to move it away from the protected asset or towards an area to purposefully contain or incapacitate the vessel in due regard to the nature of the navigable waters, and constraints of the vessel;

(ii) pushing—means a manoeuvre where a police vessel purposely manoeuvres towards another vessel with physical contact in an attempt to force it away from the protected asset or towards an area to purposefully contain or incapacitate the vessel in due regard to the nature of the navigable waters, and vessel constraints; and

(iii) removal of safety lanyards (engine kill switch)—means removing the safety lanyard to a vessel whist that vessel is underway and making way, in an attempt to shut down the engine.

All officers may have to explain their decision making and risk assessment in any subsequent investigation, inquest or inquiry.

15.7 Mandatory reporting of police pursuits

Significant Event Message

Before the end of the shift during which the pursuit occurred, the senior officer in the primary unit is to provide relevant information concerning the pursuit to the RDO, DDO or shift supervisor, for inclusion within a significant event message.

The RDO, DDO or shift supervisor advised is to ensure a significant event message is completed in relation to the pursuit, in accordance with the provisions of ss. 1.4.6: 'Responsibilities of regional duty officer, district duty officer, and shift supervisor' and 1.18.1: 'Significant Event Messaging System' of this Manual.

15.8 Evading police officers and type 1 vehicle related offences

An evasion offence is committed when the driver of a motor vehicle fails to comply with a lawful direction to stop by an officer in a Service vehicle as soon as reasonably practicable (see Chapter 22: 'Provisions about type 1 vehicle related offences' and Schedule 6: 'Dictionary' of the PPRA).

ORDER

Officers are to ensure the driver of a motor vehicle is given a direction to stop the motor vehicle pursuant to s. 748: 'Giving a direction for ch 22' of the PPRA (see s. 15.4.3: 'Intercepting a vehicle' of this chapter). Where a driver fails to comply with a direction to stop, the intercepting officer is to ensure the information from s. 15.4.4: 'Abandoning an attempted interception' of this chapter is recorded in the relevant QPRIME occurrence.

15.8.1 Type 1 vehicle related offences and notices

An evasion offence and an offence of wilfully causing a motor vehicle to lose traction with the road (see s. 85A of the TO(RUM)A) are type 1 vehicle related offences (see s. 69A: 'Meaning of type 1 and type 2 vehicle related offences' of the PPRA).

The following offences are also type 1 vehicle related offences when committed in circumstances that involve a speed trial, race between motor vehicle or burn out:

(i) Dangerous operation of a vehicle (see s. 328A of the CC);

(ii) Careless driving (see s. 83 of the TO(RUM)A);

(iii) Racing and speed trials on roads (see s. 85 of the TO(RUM)A); and

(iv) wilfully starting or driving a motor vehicle in a way that makes unnecessary noise or smoke.

Issuing type 1 vehicle related offence notice

Officers investigating a type 1 vehicle related offence may issue a QP 0685: 'Type 1 Vehicle Related Offence Notice' to the owner or nominated person of the vehicle involved in the offence when the owner or nominated person does not state who was using the vehicle at the time of the offence (see s. 755: 'When type 1 vehicle related offence notice may be given to owner of motor vehicle involved in offence' of the PPRA). The QP 0685 requires the owner, or nominated person, within 14 business days, to give a declaration to an officer named in the notice or the OIC of a stated station or establishment.

For the definition of 'nominated person' and 'owner' see Schedule 6 of the PPRA.

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Details of a motor vehicle's registered operator(s) can be obtained by:

(i) conducting a QPRIME external search for Queensland registered vehicles; or

(ii) contacting a PCC or the Police Information Centre, for motor vehicles registered in another state or a territory.

Where a motor vehicle is registered to:

(i) an owner or nominated person as an individual, the officer is to:

(a) give the QP 0685 personally; and

(b) explain what the QP 0685 requires and the consequences of not complying with the notice; or

(ii) a company, the officer should, whenever practicable:

(a) give the QP 0685 to an executive officer of the company; and

(b) explain what the QP 0685 requires and the consequences of not complying with the notice.

Where a vehicle is registered to a company and personal service of the QP 0685 cannot be achieved, service can be made in accordance with the provisions of s. 39: 'Service of documents' of the *Acts Interpretation Act*.

15.8.2 Impounding and forfeiture of motor vehicles for evasion offences

An evasion offence is a prescribed type 1 vehicle related offence under Chapter 4: 'Motor vehicle impounding and immobilisation powers for prescribed offences and motor bike noise direction offences' of the PPRA.

Section 752: 'Interaction between ch 4 and this chapter' of the PPRA allows officers to use the most appropriate sections of:

(i) Chapter 4; or

(ii) Chapter 22: 'Provisions about evading police officers',

of the Act when impounding or immobilising a vehicle or making an application for an impounding or forfeiture order.

When a proceeding is commenced for an evasion offence and the vehicle:

(i) can be impounded or seized at the time the offender is charged (see SMD), officers should consider impounding or forfeiting the motor vehicle under Chapter 4 of the PPRA (see ss. 16.7: 'Impounding motor vehicles for type 1 vehicle related offences' and 16.16.2: 'Forfeiting motor vehicles for type 1 vehicle related offences' of the TM); or

(ii) is not impounded or seized at the time offender is charged, officers should consider obtaining a court order to impound or forfeit the vehicle under the provisions of Part 3: 'Obtaining impounding and forfeiture orders' and Part 4: 'Deciding applications' of Chapter 22 of the PPRA (see s. 16.20: 'Obtaining a court order to impound or forfeit a motor vehicle for evasion offences' of the TM).

When a vehicle has been impounded or immobilised under either section, the disposal process should be managed under Chapter 4 of the PPRA as contained in Chapter 16: 'Impounding motor vehicles' of the TM.

OPM Issue 113 Public Edition

15.9 Review of police driving

Where required, pursuits and urgent duty driving matters are to be reviewed in accordance with s. 1.17: 'Significant Event Reviews' of this Manual.

15.10 Traffic breaches committed by drivers of police vehicles

The following policy is to be adopted in relation to traffic breaches committed by drivers of Service vehicles.

15.10.1 Officer detected breaches

Interception of Service vehicles

Whenever a driver of a Service vehicle is directed by an officer to stop, that driver is to comply with the direction, unless the Service vehicle is proceeding under a code 1 or code 2 priority or is otherwise performing urgent duty driving, in which case the driver is to supply their name and job details at the first reasonable opportunity.

The driver is to be called upon to explain their manner of driving, and if the driver offers:

(i) no reasonable excuse or exculpation, the officer detecting the breach is to report the incident to their OIC for referral to the district officer, commander or director prior to the end of their shift; or

(ii) a reasonable excuse or grounds for exculpation, the officer detecting the breach is to immediately report the incident to their shift supervisor, DDO or RDO to confirm that such a reasonable excuse or exculpation exists and if so, no further action is to be taken.

District investigation

On receipt of a report of an alleged traffic breach, the district officer, commander or director is to nominate an officer to be responsible for identifying the driver of the vehicle at the time the offence was committed; and investigating the alleged traffic breach.

Once identified, the driver is to be called upon to:

(i) accept enforcement action of the alleged offence;

(ii) make a written submission for exculpation within 28 days; or

(iii) make any other written submission, within 28 days, deemed necessary in respect to s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual. If the driver does not make a written submission within 28 days it is to be deemed the driver has accepted enforcement action.

On receipt of the driver's response and/or submission, the nominated officer will:

(i) make all reasonable inquiries to check the probity of the driver's submission;

(ii) submit a report with firm recommendations as to whether enforcement action should be taken against the driver;

(iii) determine whether the matter should be dealt with as a discipline or management issue; and

(iv) report any grounds for disciplinary action (see Recording complaints and favourable comments of the Ethical Standards Command Policy and Guidelines SharePoint page on the Service Intranet).

15.10.2 Camera detected breaches

Road Policing Group

The OIC, Road Policing Group (RPG), Emergency Response and Coordination Command:

(i) accepts service of camera detected infringement notices in relation to Service vehicles on behalf of the Commissioner of Police; and

(ii) is to ensure that the issuing agency is notified of the RPG Service vehicles' business email address for service of notices.

On receipt of an infringement notice from an issuing agency showing a Service vehicle committing an offence, the OIC, RPG is to arrange for the RPG to:

(i) create a QPRIME occurrence with supporting documentation (i.e. the infringement notice);

(ii) create and send a task to forward the infringement notice to the district officer, commander or director who has responsibility for the subject vehicle; and

(iii) on receipt of the district officer's, commander's or director's recommendation, provide information to the Queensland Revenue Office to inform its decision on whether the infringement notice should be issued or waived, in the form of:

(a) a statutory declaration advising of an exemption from the offence under s. 144: 'Act does not apply to police officer in course of duty' of the TO(RUM)A or s. 305: 'Exemption for drivers of police vehicles' of the Transport Operations (Road Use Management—Road Rules) Regulation (TO(RUM—RR)R); or

(b) a statutory declaration nominating the driver in charge of the vehicle at the time of the detection within the legislated timeframes under s. 114: 'Offences detected by photographic detection device' of the TO(RUM)A.

Investigation

On receipt of an infringement notice from the RPG, the district officer, commander or director is to nominate an officer to complete an investigation in accordance with s. 15.10.1: 'Officer detected breaches' of this chapter.

Recommendation

On receipt of the nominated officer's report and the driver's response or submission, the district officer, commander or director will:

(i) consult with Legal Division and any other area deemed necessary;

(ii) decide whether the infringement notice should be issued against the driver;

(iii) ensure completion of the statutory declaration provided with the infringement notice issued to the Commissioner in the appropriate manner; and

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(iv) return the infringement notice to the RPG with a recommendation (and reasons for the decision) as to whether the infringement notice should be issued against the driver.

A statutory declaration as described at (iii) may be completed by the driver or by the nominated officer within the legislated timeframes under s. 114 of the TO(RUM)A.

A recommendation not to proceed with enforcement action is appropriate only if investigations reveal the detection occurred while the driver was exercising a power or performing a function in the course of duty in accordance with s. 144 of the TO(RUM)A and s. 305 of the TO(RUM—RR)R. It is not the intention to penalise officers performing their duties as would be expected and required by the community; however, officers are not to receive favourable treatment due to their position.

Members are to record the investigation in accordance with the QPRIME User Guide and include a completed QP 1199: 'Report of a Camera Detected Offence'.

15.10.3 Auto Exculpation of Camera detected breaches

If the camera detected infringement meets the criteria for auto exculpation, the OIC RPG shall auto exculpate the infringement.

ORDER

Mobile phone infringements and seat belts infringements are not to be auto exculpated by RPG.

Auto Exculpation criteria

Criteria applies to speed camera infringements and red light camera infringements (see s. 15.3.4: 'Proceeding against traffic light signals' of this chapter):

(i) speed detected is up to and including 40km/hr over the posted speed limit;

(ii) speed detection is not within a posted school zone during school zone times; and

(iii) visible flashing warning lights and/or green number plate light visible in the image or associated video file (where applicable).

If a speed camera or red light camera infringement is auto exculpated by the RPG there is no requirement for a statutory declaration or QP 1199: 'Report of a Camera Detected Offence' to be completed.

If the OIC RPG auto exculpates a speed or red light camera infringement the relevant QPRIME occurrence is to be updated with the following information:

(i) the summary updated to reflect the infringement meets the auto exculpation criteria;

(ii) the concluded summary to be updated that the infringement has been auto exculpated; and

(iii) the occurrence finalised and concluded.

Audit of auto exculpated camera detected offences

ORDER

Each district, division and command are to audit 10% of auto exculpated camera detected infringements each 12-month period and provide advice to the relevant district officer, commander or director. See QPRIME Audit User Guide.

15.11 Operation of specialised police vehicles

The operation of a number of specialised Service vehicles are contained in this section.

For policy in relation to the operation of:

(i) speed camera vehicles, see s. 9.4.4: 'Management of speed camera systems and vehicles' of the TM;

(ii) Service vehicles fitted with ANPR systems, see s. 9.5.1: 'Use of automatic number plate recognition system' of the TM;

(iii) wide load escort Service vehicles, see s. 12.14.5: 'Use of police wide load escort vehicles' of the Traffic Manual; and

(iv) high-powered Service vehicles, see s. 15.3.5: 'Use of high-powered vehicles for urgent duty driving' of this chapter.

15.11.1 Service motorcycles

For the purpose of this section:

Road motorcycle

means marked or unmarked motorcycles that are designed primarily for use on roads.

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The term does not include trail bikes, quad bikes or utility off-road vehicles (see s. 15.11.2: 'Service trail bikes, quad bikes and utility off-road vehicles' of this chapter).

Role of road motorcycles

The roles of road motorcycles maintained by the Service are, in order of priority:

(i) use in traffic enforcement;

(ii) use in road safety programs, particularly as part of a general deterrence strategy;

(iii) use as first response to incidents in situations where the mobility of a road motorcycle provides a superior response to that of other Service vehicles such as management of traffic:

(a) around road incidents;

(b) in the vicinity of major events; and

(c) on major roads by providing a quick response to incidents causing traffic congestion; and

(iv) participation in ceremonial escorts.

Only in exceptional circumstances should road motorcycles be used in pursuits due to communication difficulties and the risk to the safety of officers see s. 15.5.9: 'Operational considerations' of this chapter.

OIC of regions and commands that operate road motorcycles are to ensure that these vehicles are deployed in a way that maximises their ability to perform their roles.

OIC of stations that operate road motorcycles and officers who perform operational duties on Service road motorcycles should ensure that the motorcycle is used in a way that maximises the visibility of the motorcycle as a tool for general deterrence of poor road user behaviour.

Deployment of officers riding motorcycles generally

When deploying officers on motorcycles to incidents, members are to comply with the provisions of s. 14.24.9: 'Single officer patrols' of this Manual and also consider the fact that officers riding motorcycles are not generally in possession of protective body armour.

Authority to ride Service motorcycles

Officers are not to ride Service road motorcycles on operational duties unless they have successfully completed the QPS Road Motorcycle Course and this includes being granted recognition of prior learning for the course.

Officers approved to ride Service road motorcycles on operational duties should successfully complete a motorcycle requalification course every 2 years or the first available opportunity.

Officers who have been absent from riding a Service road motorcycle for a period of 12 months or more should successfully complete a motorcycle requalification course prior to being approved to ride a Service road motorcycle operationally.

Members who have not successfully completed the QPS Road Motorcycle Course, but who hold an appropriate driver licence may ride Service motorcycles subject to any conditions or restrictions imposed by their OIC, but they are not to engage in urgent duty driving. Examples of members riding Service motorcycles under these circumstances include transporting a Service road motorcycle to a Service Road Motorcycle Course and members delivering Service motorcycles to places for display or repair.

Wearing of jackets

ORDER

Officers who perform operational duties on Service road motorcycles are to wear a Service-issued motorcycle jacket whilst riding the motorcycle.

15.11.2 Service trail bikes, quad bikes and utility off-road vehicles

Definitions

For the purposes of this section:

approved helmet

means a helmet that complies with the AS 1698, UNECE 22.05, or NZS8600:2002 standards (see 'Helmets for quad bikes and side by side vehicles', available from the Workplace Health and Safety Queensland website).

quad bike

means a 4-wheeled motorcycle designed primarily for off-road use.

OPM Issue 113 Public Edition

trail bike

means a motorcycle that is designed primarily for off-road use.

utility off-road vehicle

means an off-road capable vehicle with seating for two or more occupants who sit side by side.

The purpose of Service trail bikes, quad bikes and utility off-road vehicles is to enable effective policing services in situations where it is impracticable to utilise conventional vehicles. When purchasing quad bikes, trail bikes and utility off-road vehicles, members should take into account the Managing Risks of Plant in the Workplace Code of Practice 2021 and the Rural Plant Code of Practice 2024.

In accordance with the 'Safe Movement Guideline: Conditionally registering a vehicle in Queensland' drivers and passengers of utility off-road vehicles and quad bikes with factory fitted seat belts and roll over protection system are not required to wear an approved helmet when the vehicle is operating on a road or road related area (see also s. 270: 'Wearing of motorbike helmets' of the Transport Operations (Road Use Management—Road Rules) Regulation).

Officers are not to operate Service trail bikes, quad bikes or utility off-road vehicles unless:

(i) they hold a current Queensland driver licence for that class of motorcycle, quad bike or utility off-road vehicle; and

(ii) they have successfully completed the relevant Service course for that class of vehicle; or

(iii) with the exception of utility off-road vehicles and quad bikes, they have district officer approval after consideration regarding the skill and expertise of the rider; or

(iv) an emergency circumstance exists.

Staff members are permitted as part of a Service approved driver training program to operate Service vehicles if they meet the following:

(i) possess a valid Queensland drivers' licence for the vehicle class; and

(ii) have successfully completed the relevant Service course for that vehicle class.

OIC granting operator approval are to satisfy workplace health and safety obligations in relation to the skills and proficiency of the applicant officer.

An officer seeking approval is to provide a report detailing their operating skill and experience, as well as their knowledge of the operating principles of the class of trail bike, quad bike or utility off-road vehicle in order for the OIC to make an informed decision.

Approval is only relevant whilst the officer is under the command of the approving OIC and does not provide a formal Service qualification.

In situations where an officer does not hold a current Queensland driver licence, see s. 15.2.4: 'Driving of vehicles without a licence' of this chapter.

Officers should consult the manufacturer's recommendations to determine the protective equipment necessary for the activity to be conducted. As a minimum, the following protective clothing should be worn whilst operating Service trail bikes, quad bikes and utility off-road vehicles:

(i) knee and elbow pads;

(ii) chest and back protection;

(iii) safety glasses or goggles complying with AS 1609;

(iv) ankle support boots; and

(v) gloves,

as appropriate for the physical environment the officer is operating in e.g. an officer riding a trail bike in thick scrub should be wearing all the listed protective clothing, a patrol of parkland in a utility off-road vehicle, would not require this.

If the minimum protective equipment is not suitable for the policing circumstance or due to specific environmental or tactical reasons, the risk assessment outcome is to be recorded.

OIC are to ensure Service trail bikes, quad bikes and utility off-road vehicles are properly maintained and used in accordance with the manufacturer's recommendations. Serviceable protective equipment is to be provided to operators. The purchase of protective equipment is a regional responsibility.

ORDER

Officers:

(i) operating a trail bike;

(ii) operating a quad bike; or

OPM Issue 113 Public Edition

(iii) travelling in a utility off-road vehicle which does not have factory seat belts and roll over protection system fitted,

are to wear an approved helmet whilst using the vehicle.

When a utility off-road vehicle is being used in off-road areas where the risk of the vehicle overturning is increased (e.g. steep slopes or rough terrain), officers travelling in the vehicle are to wear an approved helmet.

Helmets meeting the NZS8600:2002: 'ATV helmet' standard are not to be used when operating:

(i) a trail bike or quad bike under any circumstances; or

(ii) a utility off-road vehicle in rough terrain or at high speed.

Operators are to conduct safety and service inspections of the trail bikes, quad bikes and utility off-road vehicles prior to operation.

Seatbelts are to be worn if fitted.

OPM Issue 113 Public Edition

Chapter 16—Custody

16.1 Introduction 1274

16.1.1 Duty of care 1274
16.1.2 Holding cells at a police station 1275

16.2 References to legislation 1275

16.3 Definitions 1275

16.4 Responsibilities of officers 1276

16.4.1 Responsibilities of arresting officer 1276
16.4.2 Responsibilities of watch-house manager 1276
16.4.3 Duties of officers 1276
16.4.4 Guarding of persons in custody 1277
16.4.5 Arrest of persons who have others in their care 1277

16.5 Arrest by warrant 1278

16.6 Discontinuing arrest 1278

16.6.1 General rule 1278
16.6.2 Adults 1278
16.6.3 Intoxication 1279
16.6.4 Children 1280
16.6.5 Limit on re-arrest 1281

16.7 Foreign nationals 1281

16.7.1 Incidents involving foreign nationals 1281
16.7.2 Information to be forwarded to the officer in charge 1281

16.8 QPRIME custody, search and property reports 1282

16.8.1 Introduction 1282
16.8.2 Exceptions to making entries in QPRIME custody, search and property reports 1282
16.8.3 Accessing QPRIME custody, search and property reports 1284
16.8.4 Maintaining QPRIME custody and search reports 1284
16.8.5 Querying QPRIME custody, search, property and occurrence reports 1285
16.8.6 Inquiries as to the location of a person suspected of being in custody 1285
16.8.7 Notification to the Aboriginal and Torres Strait Islander Legal Service 1286
16.8.8 Transfer of prisoners from Corrective Services 1287

16.9 Lodging a prisoner in a watch-house 1287

16.9.1 Prisoner's health prior to acceptance in a watch-house 1287
16.9.2 Responsibilities of arresting officer when lodging a prisoner in a watch-house 1288
16.9.3 Responsibilities of officer relinquishing custody of a prisoner 1289
16.9.4 Responsibilities of receiving officer and prescribed police officer accepting a prisoner into a watch-house 1289
16.9.5 Determining the frequency of prisoner inspections 1291

16.10 Search of persons 1291

16.10.1 General requirements concerning searches of persons 1292
16.10.2 Unclothed searches of persons 1297
16.10.3 Searches of Corrective Services prisoners and youths from Youth Detention Centres 1301
16.10.4 Deleted 1301
16.10.5 Property taken possession of by police after search of a person 1301

16.11 Property of prisoners 1302

16.12 Management of persons in watch-houses 1302

OPM Issue 113 Public Edition

16.12.1 Segregation of prisoners 1303
16.12.2 Transfer of prisoners 1304
16.12.3 Restraining devices 1304
16.12.4 Violent detention cells 1304
16.12.5 Management of violent prisoners and prisoners considered to be security risks 1305
16.12.6 Smoking by prisoners in watch-houses 1305
16.12.7 Presence or conduct of prisoners in court cell 1306
16.12.8 Prisoners and hanging points 1306
16.12.9 Leaving prisoners unattended 1306
16.12.10 Requests by prisoners or legal representatives for attendance of doctor at watch-house 1307

16.13 Healthcare of persons in custody 1308

16.13.1 Assessment of prisoners 1308
16.13.2 Person in custody's medical condition 1312
16.13.3 Prisoner/watch-house inspection 1313
16.13.4 Provision of medication 1315

16.14 Call-out procedures for Government Medical Officers 1318

16.14.1 Generally 1319
16.14.2 Watch-house 1319

16.15 Medical information regarding a prisoner 1319

16.15.1 Medical transfer of a prisoner or person under arrest 1320
16.15.2 Removing a prisoner at a watch-house, suffering from a mental illness, to an authorised mental health service for assessment 1323

16.16 Serious illness, serious injury, attempted suicide or self-harm in custody 1324

16.16.1 Additional first response procedures 1324
16.16.2 Additional responsibilities of investigating officers 1324

16.17 Children 1325

16.17.1 Considerations for the custody of children 1325
16.17.2 Arrest of children 1325
16.17.3 Care of children in custody 1327
16.17.4 Custody of children 1328
16.17.5 Custody of children in watch-houses 1328
16.17.6 Transportation of a child to court 1329
16.17.7 Child breaching bail conditions 1330
16.17.8 Application for removal of child from custody 1332
16.17.9 Appearance in court of violent and potentially violent children 1332

16.18 Transfer of prisoners 1332

16.18.1 Transfer of prisoners 1332

16.19 Transfer and release procedures 1333

16.19.1 Transfer of sentenced prisoners 1333
16.19.2 Development of release procedures 1334
16.19.3 Release of sentenced prisoners 1334
16.19.4 Release of prisoners detained by warrants 1335
16.19.5 Deleted 1335
16.19.6 Responsibilities of releasing police officers releasing respondents taken into custody under the Domestic and Family Violence Protection Act 1335
16.19.7 Release of persons after expiration of detention period 1335
16.19.8 Adult prisoners held in watch-house awaiting transfer to Corrective Services 1336
16.19.9 Fine option orders 1337
16.19.10 Children held in watch-houses awaiting transfer to Youth Detention Centres 1337
16.19.11 Temporary transfer of child to DYJVS custody 1337

16.20 Bail 1342

OPM Issue 113 Public Edition

16.20.1 Arresting officer's responsibilities 1342
16.20.2 Prescribed police officer's (PPO) responsibilities 1342
16.20.3 Court ordered bail 1347
16.20.4 Breach of bail conditions 1348
16.20.5 Electronic bail compliance, monitoring and recording 1349

16.21 Administration of a watch-house 1349

16.21.1 Responsibilities of watch-house managers at change of shifts 1350
16.21.2 Watch-house maintenance 1350
16.21.3 Watch-house training 1351
16.21.4 Emergency plans for the evacuation of all persons from a watch-house 1352
16.21.5 QPRIME Custody Report, QPRIME Custody Report (Full), Confidential Prisoner Medication Register and Medical Record Sheet (QP 0462) and Watch-house Inspection Register entries 1352
16.21.6 Updating operational information in QPRIME 1353
16.21.7 Prisoners registered on the opioid treatment program or on prescribed opioid medication 1354
16.21.8 Personal duress alarms in watch-houses 1356
16.21.9 Communication with and by prisoners 1357
16.21.10 Aboriginal and Torres Strait Islander Legal Service seeking information and interviews 1358
16.21.11 Arrangements for prisoners to attend court including a change of clothes, shaving and showering 1358
16.21.12 Meals for prisoners 1358
16.21.13 Deleted 1359
16.21.14 Tendering for the supply of meals for prisoners 1359
16.21.15 Sanitation and exercise 1359
16.21.16 Deleted 1359
16.21.17 Assistance provided to other agencies 1359
16.21.18 Expenses for deportees 1359
16.21.19 Use of watch-houses for private accommodation prohibited 1360
16.21.20 Prisoner breastfeeding child in watch-house 1360
16.21.21 Watch-house officers 1360

16.22 Cell visitors scheme 1362

16.22.1 Authorising cell visitors 1362
16.22.2 Procedure to be adopted when allowing entry to authorised cell visitors 1362

16.23 Deaths in police custody 1363

16.23.1 Investigation of deaths in police custody 1363
16.23.2 Additional first response procedures for deaths in police custody 1363
16.23.3 Additional responsibilities of officers investigating deaths in police custody 1364
16.23.4 Deaths in police custody (investigation file) 1365
16.23.5 Australian Institute of Criminology and Cultural Engagement Unit to be notified 1365
16.23.6 Coroner's findings and response to Coroner's findings 1365

16.24 Electronic monitoring (bail) 1365

16.24.1 Court ordered bail condition to wear an electronic monitoring device 1365
16.24.2 Action on granting bail with an electronic monitoring condition 1366
16.24.3 First response officers 1366
16.24.4 Electronic monitoring device alerts 1366
16.24.5 Police communications centre responsibilities when an alert has been generated and imminent risk to another person 1366
16.24.6 Defendant held in a watch-house wearing an electronic monitoring device 1367
16.24.7 Electronic monitoring device removal 1367
16.24.8 Actions on court varied bail 1367
16.24.9 Actions on electronic monitoring device fault 1367
16.24.10 Officers requiring electronic monitoring data for court or tracking purposes 1368
16.24.11 Travel advice from a defendant wearing an electronic monitoring Device 1368

Appendix 16.1 The assessment of persons in police custody 1370

Appendix 16.2 Rights and responsibilities of children whilst in custody in a watch-house 1375

Appendix 16.3 Suggested format for reports on deaths in custody or in police company 1376

OPM Issue 113 Public Edition

Appendix 16.4 Deleted 1378

Appendix 16.5 Deleted 1378

Appendix 16.6 Example form: Australian Institute of Criminology 1379

Appendix 16.7 Deleted 1384

Appendix 16.8 Watch-houses where children are not to be kept in custody overnight 1385

Appendix 16.9 Guidelines for conducting personal searches 1386

Appendix 16.10 Drug and alcohol intoxication, overdose and withdrawal 1390

Appendix 16.11 Deleted 1392

Appendix 16.12 MOU—Coroner reporting timeframe 1393

Appendix 16.13 Release checklist 1397

OPM Issue 113
Public Edition

16.1 Introduction

The purpose of this chapter is to:

(i) reinforce the legal obligations of police officers and watch-house officers to care for the health and safety of persons in their custody;

(ii) set uniform minimum standards of custodial care throughout the State;

(iii) consolidate policies, orders and procedures for the performance of duties; and

(iv) allow additional station/establishment instruction where necessary.

POLICY

Holding cells at police stations are designed to hold prisoners in custody for a short time, whilst watch-houses are primarily designed to hold persons overnight or for 24 hours or longer. Nevertheless, both these facilities are for the temporary holding of prisoners before prisoners are released or transferred to a corrective services facility or detention centre. Therefore, prisoners are to be held in police custody for the minimum length of time necessary.

To ensure policy is complied with releasing a person after the expiration of a detention period (including an extension of that period), discontinuing arrest procedures, bail requirements or the transfer of prisoners are to be undertaken as soon as practicable, subject to any necessary legal requirements.

ORDER

Police officers and watch-house officers who have custody of persons are to ensure that persons are treated with dignity and that they are provided with the necessaries of life.

16.1.1 Duty of care

Police officers and watch-house officers have a duty of care to those persons in their custody, which is recognised in both criminal and civil law. Each is derived from notions of common humanity.

Section 30: 'Humane treatment when deprived of liberty' of the *Human Rights Act* which provides the right to humane treatment whilst deprived of liberty and requires that:

(i) all persons deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person;

(ii) an accused person who is detained or a person detained without charge must be segregated from persons who have been convicted of offences, unless reasonably necessary; and

(iii) an accused person who is detained or a person detained without charge must be treated in a way that is appropriate for a person who has not been convicted.

OPM Issue 113 Public Edition

Chapter 27 of the Criminal Code provides for duties relating to the preservation of human life.

Section 285 of the Code imposes duties to provide the necessaries of life. Section 285 imposes the same duty on one having charge of another who is unable by reason of that person's detention to provide themselves with the necessaries of life, as it does on a parent in relation to that parent's child. Therefore, the people to whom necessaries are being provided are the persons who are being detained.

Additionally, various provisions of the PPRA place an onus on police officers and watch-house officers regarding the responsibility to those persons in their custody. In particular, Chapter 16 contains specific responsibilities regarding searches of persons in custody.

A failure to discharge a duty that is imposed by these provisions of the Code or by the PPRA and which results in some detriment to another person may make the person upon whom that duty is imposed liable for the result.

Use of body worn cameras in watch-houses

For the purpose of this section officers includes:

(i) watch-house officers and police officers rostered for duties at a watch-house or other places of custody such as holding cells;

(ii) RDOs and DDOs conducting inspections of a watch-house or other places of custody;

(iii) other officers lodging prisoners or visiting a watch-house or other places of custody; and

(iv) any of the above members involved in the movement of persons in custody into or out of the watch-house or place of custody, but does not include within the precincts of a court, except when authorised by a Court Practice Direction (see s. 4.4: 'Body worn cameras' of the DERIE).

ORDER

Officers are to at all times whilst performing duties at a watch-house or other places of custody:

(i) wear and use a body worn camera (BWC);

(ii) turn the BWC on (buffering mode) at the commencement of their shift;

(iii) commence a recording as soon as practicable after the member reasonably believes they may:

(a) exercise a power under legislation;

(b) apply a use of force (see s. 14.3.2: 'Situational Use of Force Model (2016)' of this Manual); or

(c) have any interaction with a prisoner, including:

- the issuing of medication;
- searching; and
- conducting cell checks.

Officers activating a BWC for an unclothed search are to:

(i) comply with section 'Video recording of unclothed searches' of s. 16.10.2: 'Unclothed searches of persons' of this chapter; and

(ii) categorise the recording as an 'unclothed search' as soon as reasonably practical.

OICs of stations and establishments that contain watch-houses and other places of custody are to ensure all police officers and watch-house officers performing duties under their control:

(i) are issued and trained in the use of a BWC;

(ii) wear a BWC whilst performing duties;

(iii) turn the BWC on (buffering mode) at the commencement of their shift; and

(iv) commence a recording as soon as practicable after an officer reasonably believes they may:

(a) exercise a power under legislation;

(b) apply a use of force (see s. 14.3.2: 'Situational Use of Force Model (2016)' of this Manual); or

(c) have any interaction with a prisoner, including:

- the issuing of medication;
- searching; and
- conducting cell checks.

OPM Issue 113 Public Edition

16.1.2 Holding cells at a police station

POLICY

Holding cells at a police station are intended to hold prisoners in custody for short periods pending release (e.g. release on bail, notice to appear, domestic violence release conditions) or transfer to a watch-house.

For the processing, acceptance and management of persons held in holding cells at a police station, the relevant provisions of this chapter that apply to watch-houses, are to apply to holding cells.

All the duties and responsibilities imposed on watch-house managers in this chapter are to be taken to be imposed on the officer in charge of holding cells at a police station. Where reference is made in this Manual to watch-house manager, in relation to holding cells at a police station the term means the police officer for the time being in charge of the holding cells. It is the responsibility of the officer in charge of the station or establishment to ensure an officer is nominated each shift to perform duties as the officer in charge of the holding cell(s).

16.2 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 on the Service Intranet.

16.3 Definitions

See SMD.

16.4 Responsibilities of officers

16.4.1 Responsibilities of arresting officer

When instituting proceedings, officers are to comply with s. 3.5: 'The institution of proceedings' of this Manual.

Following the arrest of an offender, the arresting officer is to query QPRIME (including the ACIC databases (previously CrimTrac)), as soon as practicable, to establish if:

(i) the person is wanted for questioning for an offence;

(ii) the person is wanted on warrant; or

(iii) there is any other relevant information.

Officers are to conduct checks on the National Criminal Intelligence System (NCIS) database to establish if the person is wanted in another state or territory (see s. 7.2.2: 'ACIC databases (systems for the national exchange of police information)' of the MSM).

The arresting officer is to:

(i) where the person is wanted for questioning for any matter, or warrants or outstanding summonses for execution or service, ensure that all matters are finalised at the time if practicable;

(ii) where the person has previously been confined in a secure hospital unit, make inquiries to determine if the person is on leave from that hospital and if it is expected that the leave will be revoked. The officer is to advise the receiving officer and update the relevant QPRIME occurrence (see also s. 6.6: 'Mental ill-health' of this Manual);

(iii) where the person is charged, advise the receiving officer if the person is recorded as being wanted for questioning and the proposed course of action;

(iv) attempt to verify the name and address of the person;

(v) advise the receiving officer of the verification of the person's name and address;

(vi) provide the receiving officer and prescribed police officer with any further information about the person which will assist in the consideration of bail;

(vii) provide information to the receiving officer about the subject person's custodial needs, including warnings etc.; and

(viii) enter all relevant bail information, including flags and warnings, into the 'Bail App' and QPRIME.

16.4.2 Responsibilities of watch-house manager

Following the refusal of bail or being sentenced to imprisonment where the prisoner was not in police custody prior to the refusal of bail or imprisonment, the watch-house manager is to ensure QPRIME (including ACIC databases (previously CrimTrac)) is queried, as soon as practicable, to establish if:

(i) the subject person is wanted for questioning regarding an offence;

(ii) the subject person is wanted on warrant; or

(iii) there is any other information that will assist with the management of the person.

Officers are to conduct checks on the National Criminal Intelligence System (NCIS) database through QPRIME to establish if a subject person is wanted in another state or territory (see s. 7.2.2: 'ACIC databases (systems for the national exchange of police information)' of the MSM).

The watch-house manager is to:

(i) where the subject person is wanted for questioning or subject of a warrant or summons, ensure these matters are referred to an officer for finalisation;

(ii) where the subject person has previously been confined in a security hospital, determine if the subject person is on leave from that hospital and whether it is expected that the leave will be revoked. A notation is also to be made in the relevant QPRIME occurrence. See also s. 6.6: 'Mental ill-health' of this Manual;

(iii) ensure watch-house staff are aware of any QPRIME warnings or flags to assist in assessing custodial needs, including security risks; and

(iv) verify the name and address of the person.

16.4.3 Duties of officers

In some establishments, the duties of an officer may include several areas of responsibility including watch-house manager, arresting officer, receiving officer and prisoner inspection officer. It is not necessary to have a separate officer

OPM Issue 113 Public Edition

for each duty, however, if the ability exists for the duties to be separated, those duties are to be performed by separate officers. Where practicable, the receiving officer is not to also be the arresting officer.

For example, it may not be practicable to separate roles, such as officers working remotely where the second officer is sick.

The OIC of a station or establishment in conjunction and consultation with the OIC Watch-house (if applicable) is to develop an instruction to address circumstances where it is not reasonably practicable to separate the areas of responsibility including watch-house manager, arresting officer, receiving officer and prisoner inspection officer.

Officers acting in several capacities are to ensure compliance with:

(i) Chapter 16: 'Custody' of the OPM, such as:

(a) s. 16.4.1: 'Responsibilities of arresting officer';

(b) s. 16.20.1 'Arresting officer's responsibilities';

(c) s. 16.20.2 'Prescribed police officers (PPO) responsibilities'; and

(ii) other Service policies, such as:

(a) the 'Standard of Professional Practice';

(b) the 'Integrity Framework',

available on the Ethical Standards Command webpage on the Service Intranet.

16.4.4 Guarding of persons in custody

When an officer or watch-house officer is required to tend or guard a person in custody, responsibility for duty of care of the person rests with that officer or watch-house officer. Where more than one officer or watch-house officer is required to tend or guard a person, the senior officer or senior watch-house officer is the responsible officer.

Staff members, and police liaison officers (PLOs), except for watch-house officers, are not to tend or guard persons in custody unless a PLO with the appropriate physical presence and communication skills may be able to prevent or reduce violent behaviour.

Officers in charge are to ensure staff members and PLOs, except for watch-house officers, do not tend or guard persons in custody unless a PLO with the appropriate physical presence and communication skills may be able to prevent or reduce violent behaviour. This includes ensuring staff members and PLOs are not placed in a position where they may be required to do so.

See also s. 16.21.21: 'Watch-house officers' of this chapter.

ORDER

Volunteers in Policing (VIPs) and authorised cell visitors are not to be required or placed in a position where they may be required to tend or guard persons in custody.

16.4.5 Arrest of persons who have others in their care

Officers who take persons into custody have a duty of care to those persons while they are in police custody (see s. 16.1.1: 'Duty of care' of this chapter). This duty of care may extend to persons who are being cared for by the arrested person.

Officers taking persons into custody who are caring for other persons, are to ensure that appropriate arrangements are made for the care of the person while the arrested person is in police custody.

Appropriate arrangements for persons being cared for by an arrested person may include:

(i) allowing the person in custody to make arrangements for the care of dependent children or other persons (see s. 16.21.9(i): 'Communication with and by prisoners' of this chapter);

(ii) arranging for a suitable person to assume custody and care for a child or elderly person while the arrested person remains in custody;

(iii) where appropriate, in the case of children, contacting the Department of Children, Youth Justice and Multicultural Affairs or the Child Safety After Hours Service Centre outside business hours (see SMCD); or

(iv) where the person arrested is the driver of a motor vehicle, allowing that person to make arrangements for the care and safety of any vehicle occupants.

See also s. 14.28.1: 'Rendering assistance to stranded motorists and passengers' of this Manual.

OPM Issue 113 Public Edition

16.5 Arrest by warrant

Watch-house managers are not to accept a person who has been arrested by warrant unless the reporting officer can show:

(i) an applicable executed warrant report in QPRIME;

(ii) the printed executed QPRIME warrant report;

(iii) an executed certified copy of a paper warrant; or

(iv) an executed paper warrant.

The exception is where a person is lodged at the watch-house by virtue of a warrant executed under the provisions of the *Service and Execution of Process Act* (Cwlth), where a copy of the paper warrant is sufficient.

16.6 Discontinuing arrest

Chapter 14, Part 4: 'Discontinuing arrest' ss. 376, 377, 378A–381 of the PPRA contains a number of provisions regarding situations where officers may release a person who has been arrested.

For circumstances where a prescribed police officer may release a person who has been arrested and delivered into custody at a police station, police establishment or watch-house, see s. 394: 'Duty of police officer receiving custody of person for offence' of the PPRA. See also s. 16.9.4: 'Responsibilities of receiving officer and prescribed police officer accepting a prisoner into a watch-house' and s. 16.20: 'Bail' of this chapter.

ORDER

In any case where a person has been arrested and subsequently charged that person is not to be released from custody unless:

(i) granted bail for the relevant offence(s) by the prescribed police officer (see s. 16.20: 'Bail' of this chapter);

(ii) in the case of a child, served with a release notice (see s. 5.10: 'Releasing children from custody' of this Manual);

(iii) under the order of a court;

(iv) issued and served with a notice to appear (see s. 3.5.3: 'Proceedings by way of notice to appear' of this Manual);

(v) in the case of a child—served with a notice to appear under the *Youth Justice Act* (see s. 5.9.2: 'Proceedings against a child by notice to appear' of this Manual); or

(vi) the charge(s) is otherwise appropriately finalised.

In any case where a person has been arrested, any charge of an offence for which the arrested person is released is discontinued because of s. 375: 'Effect of release under pt 4' of the PPRA when the offence:

(i) is a minor drugs offence, and the arrest has been discontinued under Division 5: 'Additional case—minor drugs offence' outlined in ss. 378A–379AB of the PPRA;

(ii) is a graffiti offence committed by a child, and arrest has been discontinued under s. 379A: 'Additional case when arrest for graffiti offence may be discontinued' of the PPRA; and

(iii) has been committed by a child, and it is appropriate to discontinue the arrest, as outlined in s. 380: 'When arrest of child may be discontinued' of the PPRA.

In all cases where a person has been arrested and subsequently released without being charged the arresting officer is to comply with the provisions of s. 16.8: 'QPRIME custody, search and property reports' of this Manual.

16.6.1 General rule

Section 376: 'When arrest may be discontinued—general rule' of the PPRA specifies situations where a police officer must release an arrested person if the person is no longer reasonably suspected of committing the offence for which the person was arrested.

16.6.2 Adults

Section 377: 'Additional case when arrest of adult may be discontinued' of the PPRA outlines situations where police have a duty to release an adult who has been arrested. These situations include where it is more appropriate to serve an arrested person with an infringement notice, notice to appear or summons for the offence (see s. 377(2) of the PPRA).

Section 377(4) specifies a police officer must release a person at the earliest reasonable opportunity if:

OPM Issue 113 Public Edition

(i) the police officer reasonably considers it is more appropriate for the arrested person to be dealt with other than by charging the person with an offence; and

(ii) the person and any victim of the offence agree to the person being dealt with in that way.

Examples of situations where the arrest of an adult may be discontinued include where a person:

(i) arrested for a minor assault involving pushing a person during a heated argument with a neighbour may agree to attend alternative dispute resolution; and

(ii) may be released under a scheme developed by the Commissioner for cautioning elderly first offenders.

See also ss. 3.5.3: 'Proceedings by way of notice to appear'; 3.5.4: 'Proceedings by way of complaint and summons'; 13.15: 'Issue of infringement notices generally' and 16.9.4: 'Responsibilities of receiving officer and prescribed police officer accepting a prisoner into a watch-house' of this Manual as appropriate.

16.6.3 Intoxication

Detaining intoxicated persons

Officers may detain a person in a public place if the officer is satisfied the person is intoxicated and it is necessary to detain the person because:

(i) their behaviour is:

(a) disorderly, offensive, threatening or violent; and

(b) is likely to interfere with the peaceful passage through or enjoyment of the public place by a member of the public;

(ii) the person is behaving in a manner that is likely to risk the life, health or safety of any person, including the intoxicated person to be detained; or

(iii) the person is incapable of preserving their own life, health or safety,

as outlined in s. 53BP(2) and (3): 'Detaining intoxicated persons' of the PPRA.

ORDER

When a person is detained for being intoxicated in a public place, the person is to be taken to a place of safety, at the earliest reasonable opportunity and released if able to do so.

A 'place of safety' is defined in s. 792B: 'Meaning of place of safety' of the PPRA, this section defines a place of safety for a person who is intoxicated or who has ingested or inhaled a potentially harmful thing.

A 'place of safety' is:

(i) a place, other than a police station or watch-house, that the person can recover safely from the effects of being intoxicated or from the potentially harmful thing, and a place:

(a) other than a hospital, which provides care for persons who are intoxicated or who have ingested or inhaled the potentially harmful thing;

(b) where the person is living, whether on a temporary or permanent basis; or

(c) where a relative or friend of the person is living, whether on a temporary or permanent basis;

(ii) a vehicle, other than a police vehicle, if the vehicle is used to safely transport the person to a place mentioned in above section (i); and

(iii) a hospital, if the person requires medical attention only available at a hospital.

It is important to note, that it is not a place of safety if there is a risk of an act of domestic violence being committed by, or against, the person while at the place.

To remove any doubt, there is no requirement for the person who is released at a place of safety to remain at that place.

Transporting detained persons to a place of safety

If an officer has detained a person under s. 53BP of the PPRA, the officer can transport the detained intoxicated person to a place of safety as outlined in s. 53BQ: 'Transporting detained persons' of the PPRA.

An officer may transport the detained person to, and release the person at, a place of safety if the following apply:

(i) the place of safety contains a person who is apparently in charge of the place, and the person apparently in charge of the place agrees, verbally or in writing, to provide care for the person at the place; and

(ii) the officer is satisfied the person's behaviour or presence does not pose a risk of harm to any person at the place, including, for example, harm caused by domestic violence.

OPM Issue 113 Public Edition

Transporting detained person to a police station or watch-house

If an officer has detained an intoxicated person under s. 53BP of the PPRA, and a place of safety cannot be located, the following transport procedures apply.

If after making reasonable enquiries an officer is unable to:

(i) find a place of safety located within a reasonable distance from where the person is detained; or

(ii) transport and release the detained person to someone who can care for the person and there is no risk of harm posed as outlined above.

In these circumstances the officer may:

(i) transport the person to a police station or watch-house; and

(ii) continue to detain the person at the police station or watch-house, for no more than 8 hours, until they can be released, as outlined in s. 53BQ of the PPRA.

Officers are to monitor the detained intoxicated person as outlined in s. 16.13: 'Healthcare of persons in custody' subsection 'Preventing illness or death from alcohol or drug intoxication, overdose or withdrawal' of this chapter.

Releasing detained intoxicated persons

If an intoxicated person has been detained, officers are to release the detained person at a place of safety or whichever of the following situations comes first:

(i) the officer is satisfied the person is no longer intoxicated; or

(ii) eight hours has elapsed after the person was first detained for this purpose.

Additionally, the officer may also choose to release the person from detention if the officer is satisfied that it is appropriate to do so in the circumstances, as outlined in s. 53BP(2) and (3) of the PPRA.

Prior to releasing a detained person at a place of safety, the officer is to ensure the person apparently in charge of the place of safety signs a Form 44: 'Place of safety undertaking (Intoxication Detention)' to provide care for the person (available in QPRIME).

Anything taken from the detained person is to be given:

(i) if the place of safety is the person's home, to a person at the home who is an adult member of the person's family;

(ii) if the place of safety is the home of a friend or relative, to the friend or relative, for safe keeping while the person is at the place; or

(iii) otherwise, to the person apparently in charge of the place of safety, for safe keeping while the person is at the place.

The officer who takes and releases the detained person at a place of safety is to:

(i) complete the QPRIME custody entry as appropriate;

(ii) pass any relevant information regarding the detained person onto the person at the place of safety; and

(iii) complete and scan the Form 44 into the relevant QPRIME occurrence.

Signed copies of the Form 44 should be filed at the detaining officer's station or establishment.

OIC of stations or establishments should maintain a list of places of safety including information such as:

(i) its capacity;

(ii) hours of operation;

(iii) the type of persons able to be taken there; and

(iv) the notification process (i.e. whether it is necessary to call prior to attending).

Officers dealing with intoxicated persons are to consider information outlined in Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this chapter.

16.6.4 Children

Section 380: 'Additional case when arrest of child may be discontinued' of the PPRA outlines situations where police must release a child who has been arrested. Refer to s. 5.9.4: 'Taking a child into custody' of this Manual for procedures regarding this issue.

OPM Issue 113 Public Edition

16.6.5 Limit on re-arrest

Section 381: 'Limit on re-arrest' of the PPRA restricts the re-arrest of a person, who has been released after being arrested for an offence. A police officer must form a reasonable suspicion, because of new evidence, that the person is responsible for the offence.

16.7 Foreign nationals

For consular and diplomatic immunity and unlawful non-citizens refer to Chapter 11: 'Federal Issues' of this Manual.

ORDER

The watch-house manager is to, where practicable, permit consular officers to visit their nationals, unless the national concerned expressly opposes that action or the national concerned is detained under the authority of a Commonwealth or State preventative detention order. For access by Chinese, Vietnamese and Indonesian consular officials to their foreign nationals, officers are to:

(i) obtain consent from the detained foreign national to contact their consular officials; and

(ii) refer to the 'Detention or death of a foreign national in Australia' webpage, published on the Department of Foreign Affairs and Trade website for specific notification requirements.

Where the foreign national concerned is detained under the authority of a:

(i) Commonwealth preventative detention order, the detainee is not allowed any contact with other persons other than relevant police officers unless contact is authorised by the senior Australian Federal Police member, Crime Command representative or case officer (see s. 17.3.26: 'Terrorist emergency' of this Manual); or

(ii) State preventative detention order, the detainee is not allowed any contact with other persons unless contact is approved by the senior police officer (see s. 17.3.26: 'Terrorist emergency' of this Manual).

The only exception to this is contact between the detainee and any person providing urgent and necessary medical treatment.

16.7.1 Incidents involving foreign nationals

ORDER

The provisions of this section are in addition to the requirements of ss. 434: 'Right of visiting foreign national to communicate with embassy etc.' and 441: 'When sections 418–422, 432 and 434 do not apply' of the PPRA and s. 32: 'Right of visiting foreign national to communicate with embassy or consular office' of the Responsibilities Code.

Foreign national taken into custody

An officer who takes a foreign national into custody is to refer to the 'Detention or death of a foreign national in Australia' webpage, published on the Department of Foreign Affairs and Trade website, unless the foreign national is being held under a Commonwealth or State Preventative Detention Order (see s. 17.3.26: 'Terrorist emergency' of this Manual). Where the person involved in an incident under this section is an international homestay school student, see s. 5.12.4: 'International homestay school students' of this Manual.

16.7.2 Information to be forwarded to the officer in charge

In addition to immediately notifying the relevant consulate in accordance with the 'Detention or death of a foreign national in Australia' webpage, published on the Department of Foreign Affairs and Trade website, police officers and watch-house officers are to, where a foreign national has:

(i) expressed a wish to obtain the assistance of their consulate; or

(ii) in the case of a Chinese, Vietnamese or Indonesian foreign national, remained silent when asked if he or she wanted their consulate notified of their arrest/detention; or

(iii) in the case of an Indonesian foreign national, stated they do not want their consulate notified of their arrest/detention;

forward a Work Request Task through QPRIME to the OIC of the station or establishment.

Where the prisoner, who is foreign national, has expressed a wish to obtain the assistance of their consulate, the relevant Work Request Task is to include:

(i) the name, address and nationality of the prisoner and whether such prisoner is an overseas student;

(ii) a brief description of the offence;

(iii) the time, date and place the prisoner is required to appear in court;

(iv) details of the prisoner's passport, including the number, date and place of issue;

OPM Issue 113 Public Edition

(v) the date, place and means of the prisoner's arrival in Australia;

(vi) the location at which the prisoner is detained or any bail conditions; and

(vii) whether the prisoner requires the assistance of an interpreter.

Where the prisoner is:

(i) a Chinese, Vietnamese or Indonesian foreign national and remained silent when asked if they wanted their consulate notified of their arrest/detention; or

(ii) in the case of an Indonesian foreign national who has advised that they do not want their consulate notified of their arrest/detention,

the Work Request Task is not to contain the prisoner's personal information.

The OIC of a station or establishment is to pass on the information to the relevant embassy. The OIC, Police Communications Centre, Brisbane, is to assist in providing contact information for foreign embassies.

16.8 QPRIME custody, search and property reports

16.8.1 Introduction

The various custody, search and property reports available in QPRIME are designed to:

(i) assist in locating persons:

(a) in the company of an officer for the purpose of being questioned about his or her involvement in the commission of an indictable offence; or

(b) in custody (for definition see SMD);

by recording details of such persons; and

(ii) record details of searches of persons, vehicles and places (enforcement acts) see s. 2.1.2: 'Registers required to be kept' of this Manual.

The information in the QPRIME custody, search and property reports are also used to provide security risk information relating to persons held in custody by police (also see ss. 1.6.11 and 16.21.6 both titled 'Updating operational information in QPRIME' of this Manual) and for statistical purposes.

ORDER

In addition to the requirements of s. 2.1.2: 'Registers required to be kept' of this Manual, police officers and watch-house officers are to be aware of and, if applicable, comply with the provisions of s. 415: 'When does this part apply to a person', s. 637: 'Supplying police officers details' and s. 671: 'Who must record information relating to covert search warrants in register' of the PPRA, and Part 7, Division 2: 'Register of enforcement acts' of the Responsibilities Code when making entries in QPRIME custody, search and property reports.

OPM Issue 113 Public Edition

16.8.2 Exceptions to making entries in QPRIME custody, search and property reports

Chapter 21, Part 2: 'Registers' of the PPRA and Part 7: 'Responsibilities relating to registers' of the Responsibilities Code (RC) requires a register entry to be made for any enforcement act as defined in Schedule 6: 'Dictionary' of the PPRA.

Breath and saliva test/analysis

For the purposes of this chapter, a person is not deemed to be in custody if the person is being detained pursuant to the provisions of the TO(RUM)A for the purpose of either a breath or saliva test or a breath or saliva analysis, unless the detention results in the arrest of the person. In this case the arrest and the original detention are required to be entered into QPRIME.

In cases where:

(i) a person is detained for the purpose of a breath or saliva test or breath or saliva analysis pursuant to the provisions of the TO(RUM)A and such detention results in the arrest of the person detained; and

(ii) no facility for making the required entry into the QPRIME custody, search or property report exists at the place where the person is charged;

the responsible officer is to ensure that the required entry into the QPRIME custody, search or property report, is made as soon as practicable after processing the person concerned but in any event not later than two days from the time of arrest.

Mental Health

For the purpose of this chapter, a person is not deemed to be in custody if the person is transported to a mental health service for voluntary assessment/treatment. A person who is transported for voluntary assessment/treatment is not required to be entered into any QPRIME custody or search report.

Chemical, biological and radiological emergency declaration

Section 27: 'Power to require name and address' of the *Public Safety Preservation Act* (PSPA) does not require an entry to be made in any QPRIME custody or search report unless the power to require name and address is also exercised together with the detention power. Where a person is detained pursuant to s. 32: 'Power to detain' of the PSPA, a QPRIME custody or search report entry is required.

Section 31: 'Power to give particular directions' of the PSPA does not require an entry to be made in any QPRIME custody or search report. Giving a person a direction under s. 31(1) of the PSPA is not an enforcement act for the purposes of the PPRA. See also s. 17.3.18: 'Chemical, biological and radiological emergencies' of this Manual.

Exercise of extraordinary emergency powers

Section 8AZA: 'Power to control movement of persons'; s. 8AZB: 'Power to search a person without a warrant' and s. 8AZE 'Power to require access information' of the PSPA, exempts acts in certain circumstances from being an enforcement act for the purposes of the PPRA.

Any direction given to a person in compliance with s. 8AZA of the PSPA is not an enforcement act for the purposes of the PPRA and therefore entries are not required to be made for persons subject to such directions in any QPRIME custody or search report. Directions which may be made under this provision to a person who is in the authorisation area include:

(i) not to enter a stated place in the authorisation area;

(ii) to go to a stated place in the authorisation area (i.e. move people from place to place within the area); and

(iii) to stay at or in a stated place in the declared area (i.e. prevent persons from leaving).

In compliance with s. 8AZB of the PSPA, any person who is in an authorisation area, may be stopped, detained, searched. Also, an emergency situation officer may search anything in the person's possession (e.g. laptop or mobile phone) and have relevant property seized if the officer reasonably suspects it may provide evidence of the commission of an offence or the person may use the thing to cause harm to themselves or another person. However, most of these actions do not constitute an enforcement act for the purposes of the PPRA and no QPRIME custody, search or property report entry is required to be made. The exceptions to this are where a search of the person involves the removal of the person's clothing, other than outer clothing (i.e. an unclothed search). These acts require a QPRIME custody, search or property report entry to be made. All unclothed searches made under the provisions of this section are also to be made in strict compliance with ss. 16.10.1: 'General requirements concerning searches of persons' and 16.10.2: 'Unclothed searches of persons' of this Manual.

When a storage device (e.g. a computer or smart phone) is being searched or has been seized under s. 8AZB of the PSPA and information stored on the device can only be read or accessed by using access information (e.g. a fingerprint that is necessary to access information protected by a fingerprint lock) and the officer reasonably suspects that a person knows, has or is able to provide the access information s. 8AZE gives power to require the person to provide the access information and any other information or help necessary to access or read information stored on the storage device. If the person does not comply with the requirement the storage device may be seized, the seizure is not an enforcement act under the PPRA, however the provisions of Chapter 20: 'Other standard safeguards' of the PPRA apply.

Terrorist emergency declaration

Section 8M: 'Power to control movement of persons' and s. 8N: 'Power to search a person without a warrant' of the PSPA, exempts acts in certain circumstances from being an enforcement act for the purposes of the PPRA.

Any direction given to a person in compliance with s. 8M of the PSPA is not an enforcement act for the purposes of the PPRA and therefore entries are not required to be made for persons subject to such directions in any QPRIME custody or search report. Directions which may be made under this provision to a person who is in a declared area or who is suspected is about to enter the declared area include:

(i) not to enter the declared area;

(ii) to go to a stated place in the declared area (i.e. move people from place to place within the area);

(iii) to temporarily stay at or in a stated place in the declared area (i.e. prevent persons from leaving); or

(iv) not to enter a stated place in the declared area.

In compliance with s. 8N of the PSPA, any person who is about to enter, is in or is suspected has just left a declared area, may be stopped, detained, searched and have relevant property seized. However, most of these actions do not constitute an enforcement act for the purposes of the PPRA and no QPRIME custody, search or property report entry is required to be made. The exceptions to this are where a search of the person involves the removal of the person's clothing, other than outer clothing (i.e. an unclothed search) or property is seized. These acts require a QPRIME custody,

OPM Issue 113 Public Edition

search or property report entry to be made. All unclothed searches made under the provisions of this section are also to be made in strict compliance with ss. 16.10.1: 'General requirements concerning searches of persons' and 16.10.2: 'Unclothed searches of persons' of this Manual.

Searches

The PPRA Schedule 6: 'Dictionary', definition of 'enforcement act' makes a number exceptions to what is defined as an 'enforcement act'. Entries are not required to be made in any QPRIME custody or search report for:

(i) the search of a person, vehicle or premise by using a drug, or firearms and explosives detection dog to carry out drug or explosive detection respectively under Chapter 2, Part 3: 'Use of detection dogs without warrant' of the PPRA;

(ii) the search of a vehicle at a roadblock; or

(iii) the search of premises that is a vehicle or a public place.

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

Other exceptions

Some investigations may be compromised if relevant information obtained and placed in the register is accessed by other members of the Service.

The following circumstances that involve enforcements acts are not exempt from being recorded in a QPRIME custody, search, property or occurrence report, however such entries are to be made in the appropriate QPRIME custody, search, property or occurrence report but are to have an Access Control List (ACL) applied to the entry or relevant parts of the entry (i.e. person report) as soon as practicable to restrict viewing and access to the entries.

These circumstances include enforcement acts in relation to:

(i) persons detained on a preventative detention order pursuant to Division 105: 'Preventative detention orders' of the *Criminal Code Act* (Cwlth) or the *Terrorism (Preventative Detention) Act*; and

(ii) investigations being made against a member of the Service.

In these circumstances, officers are to comply with the relevant subsections of s. 2.1.2: 'Registers required to be kept' of this Manual in relation to making entries on a QPRIME custody, search, property or occurrence report.

OPM Issue 113 Public Edition

16.8.3 Accessing QPRIME custody, search and property reports

PROCEDURE

There are a number of reports available in QPRIME which are required to be completed when persons are in custody, searched by police, vehicles or places are searched by police, property is seized, persons are fingerprinted, photographed or DNA samples taken or persons are transported. These fields and reports include:

(i) Custody Report;

(ii) Custody Report (Full);

(iii) Detention Log;

(iv) Interview Report;

(v) Location Search Report;

(vi) Person Stop/Search Report;

(vii) Vehicle Search Report;

(viii) QP 0760: 'Property Receipt' (QPRIME);

(ix) QPRIME Property Evidence Report; and

(x) Identification (Ident)/Fingerprint Report.

Officers are to refer to the QPRIME User Guide for assistance to access these reports.

16.8.4 Maintaining QPRIME custody and search reports

When a change in status occurs to a person who is recorded in any QPRIME custody and search report, this change is to be recorded accurately and appropriately in the relevant report.

The responsible officer is to ensure the appropriate QPRIME custody and search report is maintained until the person is:

(i) no longer in the company of an officer for the purpose of being questioned about his or her involvement in the commission of an indictable offence;

(ii) released from custody; or

(iii) transferred into the custody or company of another person or organisation.

The relevant QPRIME custody report is to be finalised after a person is transferred into the custody of another person or organisation (e.g. Queensland Health, Corrective Services, a diversionary centre).

As soon as practicable, details of the prisoner's transfer are to be entered into the appropriate QPRIME custody and search report by the responsible officer immediately after the actual transfer of the prisoner. Where possible, contact should be made with the relevant watch-house immediately after the transfer to finalise the relevant QPRIME custody reports.

Re-entry into custody

Where a prisoner is returned into custody after being released under this section, the responsible officer is to ensure that a new custody report record and search report is entered into QPRIME. A previously finalised custody report record is not to be re-activated and used for this purpose.

Where a prisoner provides an incorrect name which is entered into QPRIME, the report is to be modified by entering the correct name, followed by the word 'alias' and the name initially provided by the prisoner.

OICs are to ensure regular audits of the QPRIME custody records linked to their unit are conducted at least monthly to ensure compliance with the requirements of this section.

16.8.5 Querying QPRIME custody, search, property and occurrence reports

POLICY

General statistics available from QPRIME are to be used for official purposes and may not be used for any other purpose other than with the permission of the Commissioner.

QPRIME is accessible to all officers for statistical or query purposes.

16.8.6 Inquiries as to the location of a person suspected of being in custody

Police or watch-house officers receiving inquiries to the whereabouts of a person suspected of being in custody are to comply with the provisions of ss. 432: 'Provision of information relating to a relevant person' of the PPRA and 30: 'Verifying identify of persons requesting information relating to relevant persons' of the Responsibilities Code.

This requirement does not apply if:

(i) the person in custody refuses to agree to giving the information and the refusal is in writing or electronically recorded. Any refusal to agree to the giving of information is to be recorded in the relevant:

(a) QPRIME custody report; or

(b) custody report (Full) in the detention log, under general detention.

(ii) the police or watch-house officer reasonably suspects the person asking for the information is not a relative, friend or lawyer of the person in custody; or

(iii) the provisions of s. 441: 'When sections 418–422, 432 and 434 do not apply' of the PPRA apply.

Staff members are to advise a police or watch-house officer whenever they receive an inquiry as to the location of a person suspected of being in custody.

Person not in custody or no longer in custody

Where the person subject of the inquiry is not recorded in QPRIME or is recorded but is no longer in custody, police or watch-house officers are to advise the inquirer that the person subject of the inquiry is not recorded as being in custody.

Where the person subject of the inquiry is recorded as being in custody, police or watch-house officers are to:

(i) check the QPRIME custody report or custody report (Full) detention log, under general detention to determine if an objection to giving information has been recorded;

(ii) check the QPRIME occurrence type to ensure it does not relate to:

(a) persons detained on a preventative detention order pursuant to Division 105: 'Preventative detention orders' of the *Criminal Code Act* (Cwlth) or the *Terrorism (Preventative Detention) Act*; or

(b) investigations being made against a member of the Service.

(iii) where practicable, inform the person subject of the inquiry of the request;

(iv) if there is no recorded objection to the release of relevant information or it does not relate to occurrence types in subsection (ii):

(a) inform the inquirer the person subject of the inquiry is in custody; and

(b) that person's current location;

OPM Issue 113 Public Edition

(v) if there is a recorded objection to the release of relevant information or it does relate to occurrence types in subsection (ii), confirm that the person subject of the inquiry is in custody only if:

(a) there are extraordinary or

(b) emergent circumstances which justify the release of the information; and

(vi) make an entry in the QPRIME custody report or custody report (Full) detention log, under general detention. The entry is to include:

(a) time and date of the inquiry;

(b) name of the inquirer;

(c) name and registered number of the officer; and

(d) whether or not any information was released.

Where a legal representative attends at a police station or establishment for the purpose of obtaining access to a suspect being interviewed, refer to s. 3.21: 'Legal representatives at interviews' of the DERIE Manual.

16.8.7 Notification to the Aboriginal and Torres Strait Islander Legal Service

The provisions of this section are also in addition to the following sections of the PPRA:

s. 414: 'Part applies only to indictable offences';

s. 415: 'When does this part apply to a person';

s. 418: 'Right to communicate with friend, relative or lawyer';

s. 419: 'Speaking to and presence of friend, relative or lawyer';

s. 420: 'Questioning of Aboriginal peoples and Torres Strait Islander peoples';

s. 421: 'Questioning of children';

s. 422: 'Questioning of persons with impaired capacity';

s. 423: 'Questioning of intoxicated persons'; and

s. 441: 'When sections 418–422, 432 and 434 do not apply'.

The provisions of this section are in addition to the requirements of s. 27: 'Questioning Aboriginal and Torres Strait Islander peoples' of the Responsibilities Code.

See s. 1: 'Recording of interviews and other matters' of the DERIE Manual.

The regional or district police cross cultural liaison officer in consultation with the local Aboriginal and Torres Strait Islander peoples, groups and organisations, and the Aboriginal and Torres Strait Islander Legal Service, is to develop a protocol for the supply of information to the Aboriginal and Torres Strait Islander Legal Service concerning situations where Aboriginal and Torres Strait Islander peoples have been arrested or are in custody.

The protocol is to cover the issues of:

(i) authorisation of identified members of a legal service to whom the information is to be released;

(ii) the location and frequency of the transfer of the information;

(iii) the method of transfer of information;

(iv) the identity of the member of the Service who is responsible for providing the information;

(v) any other local arrangements that are deemed necessary and appropriate; and

(vi) a system designed to assist Aboriginal and Torres Strait Islander peoples who are charged with an offence to transfer any relevant records of interview, statements and/or bail documents to the relevant Aboriginal and Torres Strait Islander Legal Service.

The involvement of police or watch-house officers in this process may include an offer to supply stamped self-addressed envelopes to the accused together with an explanatory note. The envelopes are to be supplied by the relevant legal service. Police officers and watch-house officers are not required to place the articles in the envelopes or to post the package but may assist if requested.

The information provided to the Aboriginal and Torres Strait Islander Legal Service is to include:

(i) identification details of the prisoner;

(ii) the nature of the charge(s);

(iii) the time, date and place of the court at which the prisoner is to appear; and

(iv) information on the health and wellbeing of the prisoner.

OPM Issue 113 Public Edition

See s. 16.21.9: 'Communication with and by prisoners' and s. 16.21.10: 'Aboriginal and Torres Strait Islander Legal Service seeking information and interviews' of this chapter.

16.8.8 Transfer of prisoners from Corrective Services

ORDER

When a prisoner is transferred from a correctional services facility/youth detention centre into police custody for any matter, including:

(i) a court appearance; or

(ii) an order of a magistrate under the provisions of ss. 399: 'Application for removal of person from lawful custody' and 401: 'When magistrate may make removal order' of the PPRA,

the prisoner's details are to be entered into QPRIME. Upon admission to a watch-house the prisoner is to be checked on the person record in QPRIME (see also s. 16.4.2: 'Responsibilities of watch-house manager' of this chapter).

Any other relevant information (e.g. health and security issues) from Queensland Corrective Services (QCS) transfer documentation is also to be included on the custody report (Full) in QPRIME and, where appropriate, as a flag or caution.

The responsible officer is to ensure the initial entry on the custody report (Full) in QPRIME is completed as soon as practicable.

Whilst in police custody the custody report (Full) in QPRIME is to be maintained in accordance with the provisions of s. 16.8.4: 'Maintaining QPRIME custody and search reports' of this chapter.

Where a QPRIME custody report is to be completed, the member is to complete the QPRIME Custody report 'Use of Force Tab' in accordance with the QPRIME User Guide (see s. 14.3.9: 'Use of force reporting' subsection 'QPRIME Custody report 'Use of force tab' to be completed' of this Manual).

16.9 Lodging a prisoner in a watch-house

16.9.1 Prisoner's health prior to acceptance in a watch-house

An officer is not to arrest a person who is:

(i) unconscious or apparently unconscious; or

(ii) in need of or apparently in need of urgent or immediate medical treatment;

but is to assist that person in obtaining professional healthcare advice/assistance as soon as reasonably practicable.

An officer lodging a person at a watch-house is to:

(i) ascertain if the prisoner has a medical condition that may require medication;

(ii) ascertain if the prisoner is affected by alcohol or drugs; and

(iii) where possible, obtain details of the prisoner's medication, as well as Medicare and health care cards.

A receiving officer is not to accept into custody a prisoner who is:

(i) unconscious or apparently unconscious;

(ii) unable to give a sensible verbal response; or

(iii) in need of or apparently in need of urgent or immediate medical treatment,

without obtaining professional healthcare advice as soon as practicable.

A watch-house manager is authorised to oversee and coordinate the processing of persons in custody in need of medical attention, provided that the watch-house manager seeks guidance from qualified healthcare professionals and assesses that the individual's well-being will not be compromised by their placement in a watch-house.

If medical care cannot be administered while in custody, the arresting officer is to arrange for reasonable assistance to be offered to obtain medical treatment to the individual once they are released from custody.

The preferred assessor of a person's fitness for custody when a degree of suspicion exists with regards to their health is the Queensland Ambulance Service (QAS). A call to QAS to attend and assess at the watch-house or a call to QAS Virtual Emergency Care (VEC) should be considered for all persons in need of medical attention. Other professional healthcare advice may be utilised if required. This advice may come from a nurse working within the watch-house or a doctor arranged by the watch-house manager. All available health information in relation to the person in custody is to be provided to the assessing health care provider.

Watch-house managers should not refer operational crews with violent or disorderly prisoners (where a degree of suspicion exists in relation to their health), to a hospital or other medical facility unless no other healthcare provider can be accessed at that watch-house.

OPM Issue 113 Public Edition

See s. 16.13.1: 'Assessment of prisoners' of this chapter.

ORDER

Where a decision is made by the receiving officer not to accept a prisoner due to that prisoner's state of health or need of medical treatment, as soon as practicable, that receiving officer is to:

(i) notify the arresting officer that the prisoner is not fit to be held in a watch-house due to the prisoner's medical condition as per the advice of a professional healthcare provider;

(ii) notify the watch-house manager;

(iii) where directed by the watch-house manager not to process the prisoner, record in the relevant place in the Custody Report (Full) or Custody Report, Detention Log in QPRIME, the:

(a) name of the arresting officer;

(b) name of the prisoner; and

(c) reason for the refusal to admit that prisoner to the watch-house; and

(iv) notify the regional duty officer or district duty officer or patrol group inspector by whatever means appropriate in the circumstances. This may include by:

(a) telephone;

(b) e-mail; or

(c) a Notification Task in QPRIME.

Where a receiving officer has notified the arresting officer that the prisoner will not be accepted due to the prisoner's medical condition, the arresting officer is to ensure that professional healthcare assistance is provided to that prisoner. Where a person has been taken into custody, the responsible officer is to:

(i) inspect and assess the prisoner as soon as practicable (see s. 16.13.1: 'Assessment of prisoners' of this chapter);

(ii) determine how frequently the prisoner needs to be inspected and assessed (the higher the risk, the more frequent the need for inspection and assessment) see s. 16.9.5: 'Determining the frequency of prisoner inspections' of this chapter;

(iii) arrange, where it is considered necessary, professional healthcare assistance for the prisoner; and

(iv) continue to inspect and assess the prisoner at regular intervals until the prisoner is transferred into the custody of another person, or released (see s. 16.13.3: 'Prisoner/watch-house inspection' of this chapter).

OPM Issue 113 Public Edition

16.9.2 Responsibilities of arresting officer when lodging a prisoner in a watch-house

ORDER

An arresting officer is responsible for the supervision of an arrested person until the person is transferred to another responsible officer or released from custody.

For the purpose of this section, arresting officer includes detaining officer for persons detained under Part 8: 'Power to detain particular intoxicated persons' of the PPRA (see SMD 'Arresting Officer').

Where the arresting officer is present at the watch-house and the prescribed police officer (PPO) has determined the arrest or detention should be discontinued, the PPO should explain the basis for their determination and request the arresting officer issue a notice to appear or infringement notice if applicable (see Chapter 14, Part 4: 'Discontinuing arrest' of the PPRA).

For persons detained for intoxication, refer to s. 16.6.3: 'Intoxication' of this Manual for releasing detaining intoxicated persons.

If the arresting officer is preferring a charge against an arrested person, they are to ensure:

(i) bench charge sheets are prepared, and copies are provided to the prisoner. An individual officer is to be nominated as the arresting officer for each individual charge preferred against a defendant;

(ii) a QP 0215: 'Bail affidavit' and QP 0215A: 'Bail affidavit annexure' is to be completed **unless otherwise directed** by the PPO; and

(iii) if bail is refused, and the PPO has not otherwise directed that a QP 0215 or QP 0215A are not required, the QP 0215 and QP 0215A are to be sworn or affirmed and attached to the Court Brief (QP9) and the receiving officer advised.

The arresting officer (other than when preferring a charge against a person) is to ensure the receiving officer is informed of the reason for arrest or detention of a person in custody including the relevant time and circumstances, and such information is noted in the Custody Report or Custody Report (Full) of QPRIME.

Officers that have detained a person for intoxication under Part 8 of the PPRA, that have not been able to transport a detained person to a place of safety as outlined in s. 16.6.3: 'Intoxication' of this Manual, are to inform the receiving officer the reasonable inquires the officer:

(i) made to locate a place of safety located within a reasonable distance from where the person is detained; and

(ii) the time the intoxicated person was detained.

The arresting officer is to:

(i) search the prisoner upon arrival at the watch-house. See s. 16.10: 'Search of persons' of this Manual;

(ii) immediately advise the receiving officer of the prisoner's details to enable the receiving officer to enter them on the relevant QPRIME whiteboard;

(iii) listen to the questions asked of the prisoner by the receiving officer, and the prisoner's replies;

(iv) ensure the details entered in the property tab of the QPRIME Custody Report (Full) correctly describe the property taken from the prisoner at the watch-house;

(v) check the details entered in the QPRIME Custody Report (Full) by the receiving officer;

(vi) provide a digital signature on the QPRIME Custody Report (Full) if the entries are a true record; and

(vii) when lodging a child in custody, include in the Custody Index details of the notification of:

(a) a parent of the child, including where a parent cannot be found after reasonable inquiries; and

(b) the chief executive, or a person who holds an office within the department nominated by the chief executive for the purpose.

See s. 5.9.6: 'Parent and other notification requirements' of this Manual.

Where the arresting officer considers the QPRIME Custody Report (Full) entry is not an accurate record, the officer is to bring the discrepancy to the notice of the receiving officer and have the record corrected.

Where the receiving officer fails to correct the entry or disagrees with the arresting officer, the arresting officer is to note the discrepancy in QPRIME. The Detention Log entry window wording is to reflect the discrepancy or disagreement when the arresting officer is completing the prisoner handover and providing a digital signature.

16.9.3 Responsibilities of officer relinquishing custody of a prisoner

PROCEDURE

An officer relinquishing custody of a prisoner is to advise the person receiving the prisoner of any:

(i) incident of which the officer is aware where the prisoner:

(a) was involved in, or threatened any violence;

(b) suffered any injury;

(c) was emotionally upset or disturbed;

(d) attempted or threatened self-harm; or

(e) received any medical attention which is to include the information contained in s. 16.13.2: 'Prisoner's medical condition' of this Manual;

(ii) known or suspected medical history/condition of the prisoner, including information in QPRIME relating to the prisoner (see ss. 16.4.1: 'Responsibilities of arresting officer' and 16.4.2: 'Responsibilities of watch-house manager' of this chapter); and

(iii) other information that may assist in providing appropriate treatment for the prisoner.

16.9.4 Responsibilities of receiving officer and prescribed police officer accepting a prisoner into a watch-house

ORDER

When a person in custody is taken to a watch-house, the receiving officer is responsible for ensuring that at the earliest reasonable opportunity:

(i) the prisoner is placed on the relevant QPRIME whiteboard; and

(ii) an assessment of the prisoner is conducted. See s. 16.13.1: 'Assessment of prisoners' of this chapter.

When a person is:

(i) arrested for an offence; or

(ii) detained for being intoxicated in a public place,

OPM Issue 113 Public Edition

and delivered into the custody of a prescribed police officer, and the person is not being detained under Chapter 15: 'Powers and responsibilities relating to particular investigations and questioning' of the PPRA, and it is not practicable to bring the person before a court promptly (if applicable), in accordance with s. 394: 'Duty of police officer receiving custody of person arrested for offence' of the Act, the prescribed police officer as soon as reasonably practicable is to:

(i) if arrested:

(a) decide whether or not to grant bail under the *Bail Act* (see s. 16.20: 'Bail' of this chapter);

(b) issue and serve a notice to appear on the person (see s. 3.5.3: 'Proceedings by way of notice to appear' of this Manual);

(c) for a minor drugs offence, decide whether to discontinue the arrest under Chapter 14, Part 4, Division 5: 'Additional case—minor drugs offence' of the PPRA;

(d) for a prescribed public nuisance offence (see ss. 6(1): 'Public nuisance' and 7(1): 'Urinating in a public place' of the *Summary Offences Act*), issue and serve on the person an infringement notice for the prescribed public nuisance offence and any associated offence (see s. 394(2)(e): 'Duty of police officer receiving custody of person arrested for offence' of the PPRA; or

(e) take the person before a court to be dealt with according to law; and

(ii) if detained for being intoxicated in a public place, and the person was not able to be transported and released at a place of safety, record in the QPRIME custody report:

(a) what reasonable enquiries the detaining officer has made to find a place of safety located within a reasonable distance from where the person was detained; and

(b) the time originally detained,

as outlined in s. 53BQ: 'Transporting detained persons' of the PPRA.

The detained person is to be released on the earlier of the following:

(i) the officer is satisfied the detained person is no longer intoxicated;

(ii) a period of 8 hours has elapsed after the person was first detained for this purpose, or

(iii) the officer may also choose to release the person from detention if the officer is satisfied that it is appropriate to do so in the circumstances.

As outlined in s. 53BP(2) and (3): 'Detaining intoxicated persons' of the PPRA.

If the arrested person is not to be released from custody, or the detained intoxicated person is being temporarily held in a watch-house:

(i) the receiving officer is to:

(a) arrange for the attendance of an interpreter, where considered necessary, to provide the opportunity for the prisoner to understand the process;

(b) search the prisoner if required;

(c) make the relevant entries as required in the QPRIME Custody Report or Custody Report (Full); and

(d) make a determination on a Care Plan. Frequency of prisoner inspection will be determined by the level of care plan selected. (see s. 16.9.5: 'Determining frequency of prisoner inspections' of this chapter); and

(ii) relevant prescribed officer is to be the officer who is recorded as authorising the detention of the prisoner within the QPRIME Custody Report (Full).

The prescribed officer prior to accepting a charge against a prisoner, is to ensure, if applicable, the arresting officer has considered releasing the prisoner under Chapter 14, Part 4: 'Discontinuing arrest' of the PPRA.

When the prescribing officer determines the arrest should be discontinued and the arresting officer is present, the prescribing officer should advise the arresting officer to issue a notice to appear or infringement notice as appropriate.

The receiving officer is to:

(i) where a prisoner has been accepted into custody at the watch-house, assess the prisoner to determine:

(a) if the prisoner is apparently in need of professional healthcare (see s. 16.13.1: 'Assessment of prisoners' of this chapter);

(b) whether the prisoner is to be confined alone or with other prisoners; and

(c) the frequency of prisoner inspections (see s. 16.9.5: 'Determining the frequency of prisoner inspections' of this chapter); and

(ii) record in the QPRIME Detention Log of the relevant Custody Report or Custody Report (Full), details of:

OPM Issue 113 Public Edition

(a) a prisoner's need for professional healthcare;

(b) the need to isolate a prisoner; or

(c) any increase in the frequency of prisoner inspections.

16.9.5 Determining the frequency of prisoner inspections

In watch-houses equipped with a **pod** or **wing** for housing prisoners, it is mandatory for these areas to be supervised continuously by an officer at all times, 24/7. Should a watch-house feature multiple pods or wings, each must have its own dedicated officer. If an officer needs to leave their post for any reason exceeding 10 minutes, a relief officer must take their place to ensure uninterrupted supervision.

In the case of watch-houses lacking designated pods or wings, prisoners are to be monitored constantly, 24/7, through CCTV. This monitoring is to be conducted by an officer who is solely assigned to this task, without any additional duties.

In determining the frequency of prisoner inspections, the police officer or watch-house officer assessing a prisoner is to ensure that:

(i) prisoners are to be physically inspected regularly at varying intervals (the intervals between inspections is to be no greater than one hour);

(ii) inspections are to be conducted on a basis consistent with the prisoner's risk assessment level;

(iii) a prisoner displaying suicidal tendencies is to be closely monitored until medical attention can be obtained;

(iv) officers are to continuously reassess the prisoner's mental and physical health and update the care plan as required; and

(v) prisoners are to be monitored by CCTV in between the physical inspections, in (i) to (iv) above, by an officer not assigned to any other duties.

The following levels of physical inspection frequency are to be considered the minimum standard times acceptable and are to be recorded in the QPRIME custody suite 'Level of Observation' field:

(i) Level 1: General—sixty minutes or less. This is for normal physical prisoner inspections;

(ii) Level 2: Intermittent—thirty minutes (where the member conducting the checks is to interact with the prisoner). Typically, this frequency of inspections related to a prisoner with a higher-than-normal risk, such as mental health or suspected of possessing contraband;

(iii) Level 3: Mandated—as a minimum thirty minutes for the first four hours, with the results of the three-stage assessment (open eyes/respond verbally/move limbs) recorded in the detention log. If affected by alcohol or drugs, refer to Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this chapter; and

(iv) Level 4: Constant—constant visual supervision in the case where a person in custody has known significant risk factors e.g. suicidal behaviour, actively attempting self-harm, severe intoxication (above 0.20) or exhibits signs or symptoms outlined in Appendix 16.10 of this chapter. Prisoners are to remain Level 4 until assessed by a healthcare professional and that written advice is provided to police and recorded in QPRIME. Prisoners can revert to Level 3 if not transported to hospital. However, if concerns remain that the prisoner be suicidal, they should remain Level 4 under constant visual supervision.

In instances where a prisoner is identified as high risk according to the criteria outlined in Appendix 16.10 of this chapter, which pertains to drug and alcohol intoxication, overdose, and withdrawal, the care plan must be escalated to Level 4. This level necessitates constant supervision of the prisoner to ensure their safety and well-being. Additionally, it is mandatory for the prisoner to undergo an assessment conducted by a qualified healthcare professional such as a nurse or a member of the QAS.

See also s. 16.13.3: 'Prisoner/watch-house inspection' of this chapter.

16.10 Search of persons

This section outlines the processes governing the searching of persons, and includes, in Appendix 16.9: 'Guidelines for conducting personal searches' of this chapter, guidelines for the conduct of such searches and is designed to ensure consistency with respect to search practices across the Service whilst also respecting the fundamental rights of members of the community who are subject to a personal search by police.

A police officer's or watch-house officer's approach to searching persons is to be based upon the following general principles:

(i) a person's physical integrity is a fundamental right that is to be respected even when the person is in custody;

(ii) being subjected to a personal search by a police officer or watch-house officer, in particular a search involving the removal of clothing, is a traumatic and degrading experience for most people;

OPM Issue 113 Public Edition

(iii) whilst the PPRA allows a police officer or watch-house officer to require someone to remove clothing when the person is being searched, and that circumstances which justify such a search may arise from time to time, searches involving the removal of clothing are not to be conducted as a matter of routine; and

(iv) searches that involve the removal of clothing which are not appropriately conducted may invite adverse criticism of the Service.

It is important to note the legislative and policy requirements of police officers and watch-house officers involved in the search of a person, contained both within the PPRA and this section, apply regardless of whether the search is conducted in a watch-house or elsewhere. Also, whether a person to be searched either has been detained for the purpose of the search or has consented to being searched.

Definitions

For the purposes of this section:

Frisk search

see Schedule 6: 'Dictionary' of the PPRA.

Pat-down search

includes a search of a person by or at the direction of a police officer or watch-house officer, that:

(i) involves the searching of the outer clothing of a person;

(ii) uses a grab, squeeze and/or pat technique over the outer clothing and all of the body except for the genitals and breast region;

(iii) involves the use of a metal detector (where available) waved over the entire body; and

(iv) may also involve one or more of the following:

(a) the removal or moving, and inspection of, one or more outer garments worn by the person being searched, including jackets, shoes, socks, belts, hats and other minor items, but does not involve the removal or moving of any clothing that would reveal underwear or expose bare skin normally expected to be covered by underwear;

(b) the removal and inspection of some or all articles from the clothing worn by the person being searched; and

(c) the opening and inspection of any other thing in the immediate possession of the person being searched, such as hand-bags, suitcases, backpacks and any other container.

See also Appendix 16.9: 'Guidelines for conducting personal searches', subsection 'Procedures for conducting searches', of this chapter.

Personal search

means a search of a person by or at the direction or request of a police officer or watch-house officer. A personal search includes a pat-down search and an unclothed search but does not include a frisk search.

Responsible officer

is defined in the SMD. Additionally, and for the purpose of this section, the term includes the officer who is to conduct a search of a person who is not arrested or detained and who consents to being searched.

Unclothed search (also known as a strip-search)

includes a search of a person by or at the direction of a police officer or watch-house officer, that involves:

(i) the removal of all of a person's clothing; or

(ii) the removal or moving of all items of outer clothing from the upper or lower part of the body which reveals underwear or exposes bare skin normally expected to be covered by underwear.

See also Appendix 16.9: 'Guidelines for conducting personal searches', subsection 'Procedures for conducting searches', of this chapter. All guidelines relevant to a pat-down search also apply to an unclothed search.

16.10.1 General requirements concerning searches of persons

Officers are reminded of their responsibilities under the *Human Rights Act* (HRA) to consider the human rights of persons prior to taking action. Section 1.2: 'Human rights and policing' of this Manual provides additional information about officers' obligations under the HRA.

The responsible officer conducting a search of a person (in all circumstances):

(i) must ensure, as far as reasonably practicable, that the search is conducted in a way that causes minimal embarrassment, and protects the dignity of the person;

OPM Issue 113 Public Edition

(ii) who determines that a more thorough search is necessary, and the search is not required to be conducted immediately, is to restrict the search of the person in public to an examination of outer clothing until the search can be conducted out of public view, for example, in a room of a shop or, in a station if nearby;

(iii) is to comply with gender safeguards outlined in s. 624A: 'Gender safeguard for searches of persons' of the PPRA, unless it is necessary to carry out an immediate a search of a person. For example, an officer reasonably suspects that the person to be searched is concealing a weapon and there is an immediate need to carry out the search;

(iv) if reasonably practicable, is to be of the same gender as the person being searched, however, the person being searched can express a preference as to the gender of the persons they would like to search them, that preference must be accommodated by the officer, unless:

(a) there are reasonable grounds that the officer believes the preference is for an improper purpose, such as:

- making lewd comments or gestures about a particular officer they prefer to exercise the search power;
- expresses an offensive preference to be searched by a person of a gender they do not identify as; or
- not genuinely have a preference to be searched by a particular gender, and express a preference to solely frustrate the responsible officer from performing their duties;

(b) it is not reasonably practicable to accommodate the preference, for example:

- in a remote area; or
- late at night in regional or remote areas;

(v) is to prior to the commencement of any search:

(a) explain the process of the search to the person; and

(b) offer the person being searched the opportunity to express a preference about the gender of the person conducting the search. The person being searched is to be given a reasonable opportunity to express their gender preference.

In circumstances where a preferred gender is not reasonably available, the search may be conducted by different officers, or person, under the direction of an officer, to search the upper body, lower body or head;

(vi) has discretion about who conducts the search to help protect the officer from potential physical harm or degradation, if they believe the gender preference request has been made in bad faith or for an improper purpose. In these circumstances, they are to contact a supervisor to outline their decision.

In the absence of any gender preference being expressed by the person being searched, the search may be conducted by an officer of the same or different gender of the person if, in the circumstances, which is the most appropriate way to address any actual or potential concerns related to gender.

There is no requirement for the person being searched, or the officer, to disclose information about their gender at any point in the process.

ORDER

Any police officer conducting or directing a search must, as soon as reasonably practicable, provide the following information to the person:

(i) if not in uniform:

(a) that the officer is a police officer;

(b) the officer's name, rank and station; and

(c) the police officer must also produce for inspection the officer's identity card; or

(ii) if the police officer is in uniform, the officer's name, rank and station.

See s. 637: 'Supplying police officer's details' of the PPRA.

Decision/delegation to search persons

Generally, only the responsible officer is to decide if it is appropriate to conduct a personal search of a person.

However, for a pat-down search only, the responsible officer may delegate this decision-making power to a suitable police officer or watch-house officer. When a police officer or watch-house officer delegated the ability to decide if a person is to be subjected to a pat-down search decides that a pat-down search is to be conducted, that police officer or watch-house officer becomes the responsible officer for that search under this policy.

OPM Issue 113 Public Edition

In deciding whether a person is to be subjected to a personal search, the responsible officer or, in the case of a pat-down search, the delegated police officer or delegated watch-house officer is to ensure any decision made is based upon:

(i) legislative requirements;

(ii) Service policy;

(iii) the individual circumstances surrounding the person to be searched; and

(iv) reasonableness; and

(v) the interests of both the public and the person involved.

General responsibilities of police officers and watch-house officers conducting personal searches (safeguards)

Responsible officers, who decide to conduct an immediate search of a person of the opposite sex, are to ensure, that the risk of a complaint by the person to be searched is minimised, wherever practicable. Suitable methods to minimise risk include video recording or audio recording of the search (see subsection titled 'Electronic monitoring and recording of unclothed searches' of s. 16.10.2: 'Unclothed searches of persons' of this chapter), or having another person, inline with gender safeguard principles, observe the search.

A police officer or watch-house officer is generally not to be directed to conduct an immediate search of a person of the opposite sex if the police officer or watch-house officer has advised the responsible officer that they would consider such search overly offensive.

Additional safeguards relating to personal searches

The responsible officer is to ensure that any person conducting a personal search conducts the search in accordance with the relevant guidelines contained in Appendix 16.9: 'Guidelines for conducting personal searches' of this chapter. Wherever practicable, Before a personal search commences, the responsible officer is to:

(i) explain to the person to be searched the purpose and process of the search; and

(ii) ask if there is a preference about the gender of the person who is to conduct the search;

(iii) ask the person:

(a) if they understand why the search is to be conducted;

(b) if applicable, whether they are prepared to participate willingly, with reference made, if necessary, to the possibility of force being used (see s. 615: 'Power to use force against individuals' of the PPRA); and

(c) if they have any objections or concerns with being searched and with the manner of the search as explained to them.

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Any reasonable objections or concerns of a person who is to be subjected to a personal search is to be considered, and wherever practicable, accommodated by the responsible officer. For example, to prevent embarrassment to, or an affront to the dignity of a person because of their physical condition, appearance, age, cultural or religious background, or a disability that they have, it may be appropriate to afford the person a higher level of privacy by conducting a pat-down search of them out of public view and in an area where a person not directly associated with the search cannot view the search (See also s. 6.4: 'Cross cultural issues' of this Manual).

If it is apparent to the responsible officer intending to conduct a personal search that the person is unable, because of impairment caused by drugs or alcohol, to comprehend the purpose of the search, the responsible officer is to ensure, wherever practicable, that the purpose of the search is explained to the person at a later time when it is considered that the person's ability to comprehend is no longer impaired.

When an immediate personal search of a person is conducted, the responsible officer is to ensure, wherever practicable, that the purpose of the search is explained to the person as soon as possible after the search.

Additional considerations at a watch-house

ORDER

All persons detained or arrested are to be subjected to at least a pat-down search upon initial arrival at a watch-house.

When a person is to be subjected to a personal search at a watch-house before the person is accepted by the watch-house manager, the responsible officer at that time is to ensure that, as far as practicable, any station/establishment instructions adopted by that watch-house for conducting personal searches are complied with.

Searches of persons at watch-houses are to, wherever practicable, be conducted:

(i) before the person is locked in a cell; and

(ii) unless otherwise provided for in this chapter, at the watch-house counter.

(Also see ss. 16.9.2: 'Responsibilities of arresting officer when lodging a prisoner in a watch-house' and 16.9.4: 'Responsibilities of receiving officer and prescribed police officer accepting a prisoner into a watch-house' of this chapter.)

Where a person cannot be searched prior to being locked in a cell, the watch-house manager is to arrange for that person to be segregated from other prisoners and subjected to more frequent inspections.

Protective services officers

Whilst providing security of a state building a protective services officer (PSO) may ask an entrant to the state building to do any of the following:

(i) allow the officer to inspect the entrant's belongings;

(ii) remove one or more outer garments worn by the entrant as specified by the officer and allow the officer to inspect the garments;

(iii) remove all articles from the entrant's clothing and allow the officer to inspect them;

(iv) open an article for inspection and allow the officer to inspect it;

(v) allow the officer, or another adult assisting the officer, to touch a garment the entrant is wearing for the purpose of the officer inspecting the entrant's belongings;

(vi) open a vehicle or a part of it for inspection and allow the officer to inspect it;

(vii) remove an article from a vehicle as specified by the officer and allow the officer to inspect it;

(viii) move a vehicle to, and park it in, a place specified by the officer; and

(ix) if the officer reasonably believes a belonging of the entrant is capable of concealing a proscribed thing—deposit the belonging in a place specified by the officer.

The PSO may prevent the entrant from entering the state building and remove the entrant using reasonably necessary force (see ss. 552 'Power to inspect entrant's belongings' and 557 'Refusal of entry to and removal from state buildings' and 615A 'Power to use force against individuals—protective services officers' of the PPRA).

Use of interpreters

Also see ss. 6.3.1: 'Circumstances which constitute a vulnerability, disability or cultural need', 6.3.2: 'Establishing whether a person is vulnerable, disabled or has a cultural need exists' and 6.3.7: 'Interpreters' of this Manual.

If a personal search is to be conducted on a non-English speaking person or a person with a hearing or speech impairment, the assistance of an interpreter is generally to be obtained by the responsible officer to enable the person to understand the purpose for, and the procedures involved in the search.

However, a non-English speaking person or a person with a hearing or speech impairment may be subjected to a personal search without the assistance of an interpreter being obtained if:

(i) obtaining the assistance of an interpreter would cause the person to be searched to be detained any longer than is reasonably necessary (see s. 626: 'Limitation of period of detention for search' of the PPRA);

(ii) delaying the search is likely to result in evidence being concealed or destroyed;

(iii) an immediate search is necessary to protect the safety of any person; or

(iv) the person is capable of understanding and effectively communicating with the responsible officer and indicates to that officer that they:

(a) understand the purpose for the search;

(b) understand the procedures involved in the search; and

(c) do not require an interpreter to assist during the conduct of the search.

An interpreter obtained under this policy for the purpose of an unclothed search is to, wherever practicable, be able to communicate with all parties involved in the actual search without viewing the search. If the responsible officer considers that it would be beneficial for the interpreter to be in a position where they may view the unclothed search, both the person to be searched and the interpreter must first agree to this occurring before commencing the search.

Use of persons other than police officers or watch-house officers in personal searches

ORDER

Responsible officers who decide to use a person other than a police officer or watch-house officer to assist in or conduct a personal search are to ensure, before the search commences, that that person clearly understands the type of actions that they are authorised to take with respect to that search.

Persons other than police officers or watch-house officers are generally not to be asked or permitted to conduct or assist in personal searches of persons when suitable police officers or watch-house officers are available. However, when it is deemed necessary to use a person other than a police officer or watch-house officer to conduct or assist in a personal search, medical practitioners or police liaison officers (PLOs) are to be used in preference to any other persons.

A responsible officer is only to allow a person other than a police officer or watch-house officer to conduct or assist in a personal search:

OPM Issue 113 Public Edition

(i) if it is not reasonably practicable for a police officer or watch-house officer to conduct the search, as a result of the gender preference requested by the person to be searched;

(ii) under their direction and supervision;

(iii) after the person has received appropriate instruction in conducting personal searches (see Appendix 16.9: 'Guidelines for conducting personal searches' of this chapter);

(iv) if, in the opinion of the responsible officer, it is safe for the person to conduct or assist in the search; and

(v) if the person consents to conduct or assist in the search.

A PLO may only conduct a personal search of a person who is of the same cultural background as themselves. This does not prevent a PLO being present during any other type of search (e.g. unclothed search of a child) as a support person where appropriate.

Spouses or other immediate family members of officers are only to be used to conduct or assist in the search of a person where no other suitable person is available.

Volunteers in Policing (VIPs) and authorised cell visitors are not to be used to search or assist in a search of a person.

Officers in charge of stations and establishments are to ensure station/establishment instructions identify suitable persons within their locality who may conduct or assist in personal searches.

Before asking a person other than a police officer or watch-house officer to conduct or assist in a personal search of a person, the responsible officer must consider all relevant matters, including the:

(i) availability of a suitable police officer or watch-house officer from another division to conduct the search;

(ii) desirability of recalling a police officer or watch-house officer to duty to conduct the search;

(iii) urgency attached to the search;

(iv) ability of another police officer or watch-house officer to conduct the search;

(v) the practicability of providing the person to be asked appropriate instruction in conducting personal searches; and

(vi) any workplace health and safety issues.

Information to be recorded in QPRIME custody, search and property reports

ORDER

As soon as reasonably practicable after conducting a personal search at or proceeding to a watch-house the police officer or watch-house officer conducting the search is to ensure the required information is recorded, including:

(i) when and where the person was searched;

(ii) the purpose of the search;

(iii) whether the search involved the removal or moving of outer clothing in circumstances requiring the search to be conducted out of public view;

(iv) for a search because of reasonable suspicion—how long the person was detained for the search;

(v) a description of anything seized because of the search;

(vi) information about the return, destruction or disposal of anything seized during the search; and

(vii) where an unclothed search is involved, the following additional applicable information is recorded in the Detention Log of the relevant Custody Report, see the QPRIME User Guide (Custody: Detention Log: Record Activity):

(a) the purpose for the unclothed search was provided to the person to be searched, and if provided after the search was conducted, the reason(s) for the delay, or, if applicable, why it was not practicable to provide the purpose for conducting the search at all;

(b) where force is used to conduct an unclothed search due to lack of cooperation by the person being searched, all relevant details of the use of force, including the names of all police officers and/or watch-house officers involved in conducting the search;

(c) details of any immediate unclothed search conducted by officer(s) not of the same sex as the person searched;

(d) details of any request to the responsible officer by the person to be searched for a support person or additional person to be present during the unclothed search, and details of the decision of the responsible officer;

(e) details of any immediate unclothed search conducted of a child or person with impaired capacity where a support person was not present, including reasons why a support person was not present; and

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(f) a video recording was made of the unclothed search.

16.10.2 Unclothed searches of persons

For the purposes of this section:

Responsible officer

means the police officer or watch-house officer, where a search is conducted in a watch-house:

(i) deciding whether an unclothed search of a person is necessary; or

(ii) conducting an unclothed search of a person.

Video recording

means a visual recording (with or without audio) stored on a video cassette or as a digital recording (e.g. DVD or hard-drive recording system).

In accordance with s. 654: 'Search of persons' of the PPRA, the power of a police officer to search a person includes a watch-house officer when a person in custody is searched in a watch-house.

General considerations in determining whether to conduct an unclothed search

A police officer or watch-house officer searching a person may require a person to remove items of clothing in accordance with Chapter 20, Part 3, Division 2: 'Searches involving removal of clothing' of the PPRA for the purpose of the search. Where a person is held in a watch-house, s. 649: 'Watch-house officer may search person in custody at watch-house' of the PPRA authorises a watch-house officer to search and re-search a person in custody.

A general duty of care owed by a police officer or watch-house officer to a person in custody does not, of itself, justify an unclothed search. An unclothed search should only be conducted when a responsible officer reasonably suspects the person presents a particular risk and an unclothed search is necessary to mitigate that risk.

Where a responsible officer exercises their discretion to conduct an unclothed search of a person, the officer is to comply with the provisions of Chapter 20, Part 3, Division 2 of the PPRA.

At a minimum, the responsible officer is to consider the following matters when deciding whether to conduct an unclothed search:

(i) the risk that the person may possess in their clothing or on their body something that:

(a) is evidence of the commission of an offence;

(b) may be used to harm themselves or another person;

(c) may be used to escape from custody;

(d) may be used to damage property; or

(e) could be unlawfully taken from the person while in custody;

(ii) the circumstances in which the person has been or will be held in custody, including:

(a) the period for which the person is to be detained or held;

(b) whether the person has been or will be in contact with other persons in custody;

(c) the availability of suitable custody facilities; and

(d) the seriousness of the offence for which the person has been charged or detained;

(iii) any known relevant history of the person, including:

(a) previous or current threat of suicide or self-harm;

(b) previous violence;

(c) previous instances or attempts to conceal contraband while in custody;

(d) a history of intravenous illicit drug use;

(e) previous escapes, attempted escapes, or threats to escape; and

(f) criminal history;

(iv) the demeanour of the person, including whether the person appears to be affected by drugs or alcohol;

(v) whether an unclothed search has already been conducted since the person was taken into custody;

(vi) the level of risk associated with the person possessing a relevant item or thing; and

(vii) whether the risk can be mitigated by other means, including:

(a) immediate payment of an outstanding warrant;

OPM Issue 113 Public Edition

(b) release on bail or after the issue of an NTA;

(c) segregating from other persons in custody;

(d) placement in a cell within full view of the watch-house counter; and

(e) use of appropriate facilities to prevent harm to the person or others.

Responsibilities of police officers and watch-house officers conducting unclothed searches

Section 630: 'Protecting the dignity of persons during search' of the PPRA imposes specific obligations on responsible officers who intend to conduct, or who conduct, an unclothed search.

Where it is considered necessary to conduct an unclothed search of a person, the responsible officer is to, in addition to complying with the requirements of the PPRA, ensure that:

(i) where an unclothed search of a person has been conducted prior to lodging that person at a watch-house, the watch-house manager is to determine whether an additional unclothed search is required;

(ii) the unclothed search is conducted at a watch-house or police station, unless the person consents to an alternative location identified by the responsible officer;

(iii) only one officer is present during the unclothed search, unless:

(a) the subject person requests the presence of more than one officer and the request is reasonable and practicable; or

(b) exceptional circumstances exist, for example:

- a forced unclothed search is required; or
- there is a reasonable belief the person may become violent or attempt to escape custody,

and the responsible officer considers it reasonable or necessary for an additional police officer or watch-house officer to be present.

No more than 2 police officers or watch-house officers are to be present during the search unless the person's demeanour indicates that additional assistance is required.

If the person to be searched requests that an additional person be present in the search room or nearby, the responsible officer is to grant that request where it is practicable and reasonable in all the circumstances.

ORDER

If an officer or a watch-house officer suspects that a person in custody may be internally concealing contraband, the responsible officer is to refer to:

(i) Appendix 16.9: 'Guidelines for conducting personal searches' of this Manual; and

(ii) s. 2.23.2: 'Forensic procedure orders' of this Manual,

to determine the most appropriate course of action. An officer or a watch-house officer conducting a search are not to:

(i) request a person in custody roll back their foreskin; or

(ii) make physical contact with the genital and anal areas of the person being searched.

Special requirements for searching children and persons with impaired capacity

ORDER

In accordance with s. 631: 'Special requirements for searching children and persons with impaired capacity' of the PPRA, an unclothed search of a child or person with impaired capacity must be conducted in the presence of a support person, unless the responsible officer reasonably suspects:

(i) delaying the search is likely to result in evidence being concealed or destroyed; or

(ii) an immediate search is necessary to protect the safety of any person.

(See Schedule 6 of the PPRA for definitions of 'person with impaired capacity' and 'support person'.)

Recording of unclothed searches made on BWC

ORDER

Where an officer intends to use a video recording device, such as a BWC, to record an unclothed search:

(i) for the purpose of capturing evidence for identifying the commission of an offence (i.e. concealed drugs in an intimate area where the purpose of the recording is to show evidence of the concealment); or

(ii) where it is planned to or it is possible that the video will capture images of a person's:

(a) genital, anal, buttocks area, or

OPM Issue 113 Public Edition

(b) breast/chest area and the person has not given informed consent,

the officer is to comply with s. 2.23: 'Forensic procedures' of this Manual in relation to intimate forensic procedure or forensic procedure by consent. However, if only the breast/chest area of the person without informed consent may be captured then s. 2.26.4: 'Photographs' of this Manual and non-intimate forensic procedures is to be complied with (see also s. 2.24: 'Non-medical examinations' of the Manual).

Other than as described above, a responsible officer should only consider video recording an unclothed search by BWC, where:

(i) in their opinion, there is reason to believe that the person to be searched:

(a) poses a danger to any person conducting or assisting in the conduct of the search and that it is not otherwise possible to protect such person;

(b) is not cooperating with the person(s) conducting the search;

(c) is likely to become violent; or

(d) may make a complaint about how an unclothed search was conducted;

(ii) they believe the video recording can be justified, given the whole circumstances of the matter and balanced against the person's human rights;

(iii) it is not intended to record for the purpose of capturing evidence for identifying the commission of an offence; and

(iv) it is not possible that the BWC will capture images of a person's:

(a) genital, anal, buttocks area; or

(b) breast/chest area without their informed consent.

Where any member is video recording an unclothed search using a BWC, for a non-evidential purpose, they are to:

(i) when an intimate area is about to be exposed:

(a) if practicable, detach the BWC and face the lens away from the person being searched;

(b) if not practicable to detach the BWC, turn or obscure the lens of the BWC; or

(c) have an additional member present to be the recording member for the search, whose only role is to record the search and ensure the BWC lens is turned away from the searched person so that an intimate area is not captured;

(ii) ensure that they don't capture the searched person's genital, anal, buttocks area;

(iii) for a person's breast/chest area;

(a) ask for the person's informed consent to the specific area being captured; or

(b) if the person does not consent, obscure the BWC lens or turn the BWC lens away (see s. 2.26.4: 'Photographs' of this Manual),

(iv) comply with s. 4.4: 'Body worn cameras' of the DERIE; and

(v) ensure the recording is categorised in evidence.com as 'Unclothed Search' within 2 shifts of the search being conducted and deleted after 6 months unless required as evidence.

In all circumstances authorised members may use a BWC to audio only record the conduct of an authorised unclothed search (see Chapter 20, Part 3, Division 2 of the PPRA) by ensuring the BWC is turned away or obscured for the duration of the search so that there is no chance of any video footage or image of an intimate area of the searched person being recorded. Members are to categorise the recording in evidence.com as 'Unclothed Search—Audio only'.

Video recording of unclothed searches where a camera monitors a place

Section 632: 'If video cameras monitor place where person is searched' of the PPRA requires police officers and watch-house officers where a video camera (including CCTV) monitors the area in which a person is subjected to an unclothed search to ensure any unclothed search is not monitored by CCTV cameras in places such as watch-houses, stations or other public areas where the cameras can reasonably be controlled.

ORDER

Where an unclothed search is required to be conducted, officers are to ensure:

(i) the search is conducted in an area which is not monitored by a video camera; or

(ii) the video camera is turned off.

Where there is no area available that is not monitored by a video camera and the camera cannot be turned off without turning off any other monitoring the monitor that is being used to view the area, if reasonably practicable, is to be:

OPM Issue 113 Public Edition

(i) turned off; or

(ii) selected to monitor another area.

Security of video recordings of unclothed searches made on portable video cameras other than a BWC

Where an unclothed search is recorded by an appropriate officer using Service video recording equipment (other than a BWC), the responsible officer is to:

(i) immediately take possession of the video storage media or digital recording device from the officer operating the video recording equipment;

(ii) clearly mark the video recording with:

(a) the name and date of birth of the person searched;

(b) the name of the responsible officer authorising the unclothed search;

(c) the name of the officer/s conducting the unclothed search;

(d) the date, time and place of the search; and

(e) the reason for the video recording of the unclothed search;

(iii) secure the video recording in a heat-sealed polytubing or a property bag and sign across the heat seals;

(iv) update the relevant QPRIME occurrence to record the unclothed search and add the video recording to the property tab; and

(v) ensure that the video recording is lodged at a property point.

Where the recording of the unclothed search is not required to be retained as an exhibit, the responsible officer is to forward a QPRIME task, if the search was recorded:

(i) in a watch-house, to the watch-house manager; or

(ii) at a location other than a watch-house, to their officer in charge,

to manage the recording as the reporting officer for the purposes of Chapter 4: 'Property' of this Manual.

Security of video recordings of unclothed searches made on closed circuit television systems

Where an unclothed search is recorded on a watch-house, police station or establishment CCTV system, the responsible officer is to advise the watch-house manager or officer in charge of the station or establishment:

(i) that an unclothed search had been recorded on their establishment's CCTV system;

(ii) provide the details of the search, including:

(a) the name and date of birth of the person searched;

(b) the name of the responsible officer authorising the unclothed search;

(c) the name of the officer/s conducting the unclothed search;

(d) the date, time and place of the search; and

(e) the reason for the video recording of the unclothed search; and

(iii) where a copy of the search is required for evidential purposes request the officer in charge to generate a copy of the search.

The officer in charge should, when notified of an unclothed search being recorded on their establishment's CCTV system:

(i) take all practical steps to restrict access to the video recording within the CCTV system;

(ii) if practicable, record within the CCTV system the details of the search; and

(iii) where the responsible officer requests a copy of the search;

(a) generate a copy of the video recording from the CCTV system as soon as practicable after the request is made; and

(b) lodge the copy of the recording in the establishment's property point for collection by the responsible officer.

Destruction of video recordings of unclothed searches

Video recordings of unclothed searches:

(i) are to be retained for at least six months prior to destruction (see s. 5.5.2: 'Retention of records' of the MSM); and

OPM Issue 113 Public Edition

(ii) if evidence, are not to be destroyed until the finalisation of all proceedings to which they relate, including any appeal periods.

Video recordings of unclothed searches:

(i) where stored on a physical medium, such as USB drive, video cassette, are to, wherever practicable, be destroyed by incineration or in such a manner that prohibits viewing or copying the recording or any part thereof; or

(ii) where stored in Evidence.com, delete after 6 months unless required as evidence.

Accessing, viewing or copying video recordings of unclothed searches

ORDER

Video recordings of unclothed searches are not to be accessed, viewed or copied except:

(i) in compliance with this policy; or

(ii) to allow persons identified in s. 632(3) of the PPRA to view the recording.

A video recording of an unclothed search is not to be accessed, viewed or copied unless it is required by a police officer who is authorised to view the recording pursuant to s. 632 of the PPRA.

When a video recording of an unclothed search is accessed or viewed, the relevant QPRIME occurrence is to be updated by the most senior officer present to show:

(i) when the recording was accessed or viewed:

(ii) the reason the recording was accessed or viewed; and

(iii) the names of the persons who accessed or viewed the recording of the unclothed search.

Where a copy of video recording of an unclothed search is made, the reporting officer is to ensure the relevant QPRIME occurrence property entry is updated to record the name, rank and station or establishment of the police officer who received the copy of the video recording.

OPM Issue 113 Public Edition

16.10.3 Searches of Corrective Services prisoners and youths from Youth Detention Centres

POLICY

An unclothed search of a person is not to be conducted merely because that person is a Corrective Services prisoner or a youth from a youth detention centre. A decision to conduct such an unclothed search is to be made pursuant to the provisions of the subsection titled ‘General considerations in determining whether to conduct an unclothed search’ of s. 16.10.2: ‘Unclothed searches of persons’ of this chapter.

Watch-house managers are to ensure that, as soon as practicable after entering their watch-house:

(i) Corrective Services prisoners and youths from youth detention centres are subjected to at least a pat-down search; and

(ii) Corrective Services prisoners additionally change into prison browns (unless they are dressed in suitable attire to attend court) under the supervision of watch-house staff of the same sex as the prisoner. In such a case, the provisions of the subsection titled ‘General considerations in determining whether to conduct an unclothed search’ of s. 16.10.2: ‘Unclothed searches of persons’ of this chapter do not apply.

16.10.4 Deleted

16.10.5 Property taken possession of by police after search of a person

Property may be seized or taken and retained from persons whilst being subjected to a personal search under a number provisions of the PPRA (refer ss. 29: ‘Searching persons without warrant’, 443: ‘Police officer may search person in custody’ and 649: ‘Watch-house officer may search person in custody at watch-house’).

Property seized from a person whilst being subjected to a personal search is to be dealt with in accordance with the relevant provisions of Chapter 4: ‘Property’ of this Manual.

Property taken and retained from a person subjected to a personal search while the person is in custody is to be kept in safe keeping and returned to the person when the person is released from custody.

Property taken from a person detained for intoxication (see s. 16.6.3: ‘Intoxication’ of this chapter) may be given to a person, friend or relative if the detained person is diverted to a place of safety, in which case a signed receipt (Form 44) is to be obtained from the person to whom the property is given. See ss. 53BQ: ‘Transporting detained persons’ and 444: ‘Powers relating to thing taken from person taken to place of safety’ of the PPRA.

16.11 Property of prisoners

Persons who are arrested or detained are often in possession of property which, if left unsecured or unattended, could be stolen or damaged. Although officers are to deal expeditiously with the person arrested or detained, the offenders, wherever practicable, should be afforded the opportunity of securing property in their possession or making suitable arrangements for its safekeeping. Measures taken may include the locking of residences, premises or motor vehicles or allowing the person to make arrangements for the towing or removal of a vehicle.

Persons in custody are to be informed that they are fully responsible for any costs which may arise and that the Service is in no way responsible for any charges in respect of the storage of property or the towing of vehicles.

When officers making an arrest or detaining a person consider the offender is incapable of making a rational decision because of some apparent mental ill-health or other disability, that member is to take the necessary action to ensure the safekeeping of the person's property.

When the person detained is in possession of personal items of property such as luggage, etc., which cannot be secured or left in the care of a person acceptable to the detainee, that property is to accompany the detainee, and in cases where the detainee is conveyed to a watch-house, it is to be processed and accounted for in accordance with 'Responsibilities of receiving officers' of this section.

Responsibilities of receiving officers

The receiving officer is to:

(i) itemise in the QPRIME Custody Report (Full) for each article taken from a prisoner;

(ii) ensure that the prisoner:

(a) makes a suitable notation if the prisoner requires all or part of that prisoner's property to be given to another person; and

(b) obtain a signature (electronic or otherwise) from the person receiving the property against the relevant QPRIME Custody Report (Full) entry;

(iii) record any additional property delivered to a prisoner against the QPRIME Custody Report (Full) entry for that prisoner;

(iv) request the prisoner provide an electronic or other signature in the QPRIME Custody Report (Full) entry in respect of property returned when the prisoner is released from custody; and

(v) where possible, if a prisoner is unable or refuses to sign the QPRIME Custody Report (Full) entry:

(a) return the prisoner's property in the presence of another police officer or watch-house officer; and

(b) record the procedure against the relevant QPRIME Custody Report (Full) entry in the Detention log.

Responsibilities of watch-house managers

The watch-house manager, is to:

(i) ensure the recording and storage of the prisoner's property is correct; and

(ii) report any discrepancy, as soon as practicable, to the:

(a) officer in charge;

(b) district duty officer;

(c) patrol group inspector; or

(d) regional duty officer.

OPM Issue 113 Public Edition

16.12 Management of persons in watch-houses

In accordance with the provisions of Chapter 21, Part 1, ss. 639–640: 'Watch-houses' of the PPRA, the watch-house manager may give or cause to be given to a person in custody in the watch-house any reasonably necessary directions, or take or cause to be taken any reasonably necessary steps, for ensuring the good management and control of the watch-house. See also s. 16.19: 'Transfer and escort of prisoners' of this chapter.

Watch-house managers are to ensure that all prisoners held in watch-houses are photographed using a digital still camera as soon as practicable upon entering the watch-house unless an existing 'watch-house description' photograph depicting a suitable likeness already exists in QPRIME. The digital photograph taken for the purposes of 'watch-house description' is to be added to the QPRIME Person Record through Description by clicking on the yellow starburst icon and adding as watch-house description.

The use of a photograph entered into QPRIME as a 'watch-house description' is to ensure the correct identification of prisoners whilst they are in the watch-house, attending court, being escorted in custody and when released.

Photographs taken for the purposes of 'watch-house descriptions' are not to be attached to the QPRIME Ident/Fingerprint Report (See s. 2.5.6: 'Use of digital still cameras' of this Manual for the correct use of digital still cameras. See also s. 16.21.5: 'QPRIME Custody Report, QPRIME Custody Report (Full), Confidential Prisoner Medication Register and Medical Record Sheet (QP 0462) and Watch-house Inspection Register entries' of this chapter).

16.12.1 Segregation of prisoners

Other than in circumstances where it is necessary for the appropriate management and control of a watch-house and the safety and welfare of a prisoner(s), prisoners should not be segregated.

Where it is necessary for the safety and welfare of a prisoner(s), a watch-house manager may segregate prisoners according to the following criteria:

(i) male and female prisoners are not to be held in the same cell or permitted direct access to each other in other areas within a watch-house. At no time should male prisoners be able to see into a female prisoner's cell;

(ii) Aboriginal or Torres Strait Islander prisoners are to be placed in a multi-prisoner cell, preferably with other Aboriginal people or Torres Strait Islanders, unless there is considered to be a threat, such as cultural, family, or social differences, created by placing them together;

(iii) children are not to be placed in the same cell as an adult prisoner, unless there are compelling reasons in the child's interests e.g. an older sibling is also in custody at the same time. However, prior to any child being placed in a cell with an adult, watch-house staff should contact officers from the Department of Youth Justice;

(iv) children who have a history of violent or sexual assault offences should be separated from other children;

(v) where there is an assessed risk of harassment, abuse or assault from another prisoner(s), a prisoner should be placed in a cell where the risk of harassment, abuse or assault can be monitored and mitigated;

(vi) prisoners who may create a potential danger to themselves, other persons, or officers, which may include but not limited to:

(a) prisoners exhibiting violent, abusive or threatening behaviour;

(b) prisoners with a history of sexual assault offences;

(c) prisoners suffering from a disease or condition or suspected to have a disease or condition that requires the isolation of the prisoner to minimise the risk of transmission to other persons in the watch-house. Diseases or conditions that require the isolation of a prisoner, at least until the prisoner is assessed by a healthcare service provider include:

- tuberculosis;
- chickenpox;
- measles;
- mumps;
- hepatitis A;
- gastroenteritis;
- body Lice; and
- severe skin infection.

It is not necessary to isolate a prisoner with, or suspected to have HIV/AIDS, Hepatitis B or Hepatitis C unless there are specific circumstances that indicate other persons may be exposed to infectious body fluids (cerebrospinal fluid, peritoneal fluid, amniotic fluid, pleural fluid, pericardial fluid, synovial fluid, breast milk, semen, vaginal secretions, unfixed organs and tissues, saliva in association with dentistry and any other body fluids containing visible blood). Circumstances that may indicate other persons may be exposed to infectious body fluids if the prisoner is not isolated include a propensity by the prisoner to violence, self-harm or sexual assault. The mere condition of having HIV/AIDS, Hepatitis B or Hepatitis C is not sufficient reason to segregate a prisoner;

(d) prisoners suspected of withholding contraband;

(e) prisoners who have threatened or previously exhibited self-harming behaviours. Prisoners who are considered to be at risk to themselves are to be detained in a cell which is appropriate to their level of risk. This may include a violent detention cell (VDC). Prisoners detained in a VDC are to be clothed in a manner appropriate to their risk level (e.g. removal of dangerous items of clothing, ensuring the prisoner is wearing a tear resistant smock) (see s. 16.12.4: 'Violent detention cells' of this chapter);

(vii) sentenced prisoners;

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(viii) prisoners detained pursuant to the DFVPA; and

(ix) prisoners who for any reason are considered by the watch-house manager to be vulnerable. The watch-house manager is to consider those who do not want to be segregated or isolated while ensuring that in placement the person's vulnerabilities are not exploited by the other prisoners.

Gender diverse, transgender and intersex prisoners

It is acknowledged gender diverse, transgender and intersex prisoners may:

(i) be subject to harassment or abuse by other prisoners; and

(ii) require discretion to ensure their privacy and dignity is maintained.

See 'LGBTQIA+ communities' on the QPS internet website for more information.

ORDER

A prisoner is not to be segregated solely on the basis:

(i) the prisoner identifies as, or a watch-house manager suspects the prisoner is, a gender diverse, transgender or intersex person; or

(ii) of perceived gender presentation.

Where reasonably practicable, a watch-house manager should discreetly ask where a gender diverse, transgender or intersex prisoner would feel most safe and consider any request to be isolated or segregated with prisoners of a particular sex.

16.12.2 Transfer of prisoners

Section 640: 'Transfer of persons in watch-houses' of the PPRA sets out the grounds to allow a watch-house manager to transfer a prisoner.

Sections 54: 'Custody of child pending court appearance' and 56: 'Custody of child if not released by court' of the *Youth Justice Act* (YJA) allows for the transfer of a child arrested on a charge of an offence or a warrant issued under the YJA who is not released from custody, to a detention centre until the child can be brought before a court.

The transfer of prisoners in accordance with these sections is not to be performed unless it is:

(i) for the:

(a) safety and welfare of:

- an individual or number of prisoners;
- watch-house staff; or
- watch-house visitors; or

(b) good management and control of the watch-house;

(c) processes under the PPRA or YJA; or

(ii) in accordance with s. 2.5.7: 'Removal of prisoners from a watch-house' of this Manual.

16.12.3 Restraining devices

In addition to ss. 14.19: 'Handcuffs' and 5.12.1: 'Handcuffing of children' of this Manual, a police officer or watch-house officer is only to use handcuffs and other restraining devices as a precaution against escape, to prevent a prisoner from self-injury or injury to others, or to prevent damage to property.

PROCEDURE

The police officer or watch-house officer with responsibility for a prisoner has discretion in all situations other than when prisoners are in court cells to use or remove any restraining device from the prisoner. For situations when prisoners are in court cells, see s. 16.12.7: 'Presence or conduct of prisoners in court cell' of this chapter. The police officer or watch-house officer is to take into consideration the:

(i) demeanour of the prisoner;

(ii) history of the prisoner;

(iii) environment in which the prisoner is held; and

(iv) health and welfare of the prisoner;

when assessing whether to use or remove restraining devices.

16.12.4 Violent detention cells

The watch-house manager is to, in situations where a violent detention cell (VDC) is available:

OPM Issue 113 Public Edition

(i) only use a VDC for the management of violent or aggressive prisoners in the interests of safety of those prisoners and other persons; and

(ii) ensure that a VDC is not used for punishment of prisoners.

When a prisoner known to be suicidal is placed into a VDC, the prisoner should have their clothing removed and issued with an anti-suicide smock. Consideration should be given to supplying the prisoner with an anti-suicide blanket. Officers are to adhere to the following:

(i) the use of the VDC must be recorded in the person's QPRIME detention log;

(ii) the shift supervisor is to ensure the person placed in the VDC is personally monitored during the first five minutes, delegating an officer this responsibility, until satisfied all risk has been mitigated;

(iii) watch-house staff will continue to monitor the prisoner every 30 minutes, or as prescribed by inspection intervals assigned by the relevant shift supervisor (see s. 16.9.5: 'Determining the frequency of prisoner inspections' of this chapter);

(iv) a prisoner is to be allowed access to a toilet and provided with water upon request, all requests are to be recorded in the prisoner's QPRIME detention log;

(v) a prisoner is not to be detained in a VDC for longer than necessary. The removal time must be recorded in the prisoner's QPRIME detention log; and

(vi) when a prisoner is placed in a VDC, the shift supervisor must consider whether the prisoner needs medical assessment and attention. If the prisoner shows obvious signs of deteriorating health, QAS is to be called immediately. This medical assistance is to be recorded in the prisoner's QPRIME detention log.

16.12.5 Management of violent prisoners and prisoners considered to be security risks

PROCEDURE

Where prisoners are considered to be:

(i) violent;

(ii) susceptible to violent behaviour, including verbal threats, which those prisoners can reasonably be assumed to have the ability to carry out; or

(iii) liable to escape attempts;

police officers, watch-house officers and police liaison officers (PLOs) dealing with those prisoners are to take precautions for their own safety and the safety of other persons in the watch-house.

Procedures to deal with such prisoners include:

(i) leaving those prisoners in their cell until the level of threat is manageable;

(ii) obtaining assistance (e.g. other police officers, watch-house officers and PLOs) before attempting to deal with those prisoners; and

(iii) transporting prisoners to another watch-house where more appropriate facilities are available to manage prisoners.

POLICY

Where appropriate, watch-house managers are to develop station/establishment instructions to deal with such prisoners, including:

(i) the availability of assistance from other police officers, watch-house officers and PLOs (see s. 612: 'Assistance in exercising powers' of the PPRA); and

(ii) the transfer of prisoners to a watch-house with more appropriate facilities for dealing with such prisoners.

16.12.6 Smoking by prisoners in watch-houses

The Service has a smoke-free workplace policy. In accordance with ss. 112:'Person must not smoke in enclosed place' and 140: 'Person must not smoke within government precinct' of the *Tobacco and Other Smoking Products Act* (TOSPA), a person must not smoke in an enclosed place or within a government precinct. Government precinct includes land adjoining a building occupied by the State. Smoke includes inhaling through a vaping device which includes e-cigarettes (see Schedule 1: 'Dictionary' of the TOSPA).

Prisoners are not permitted to smoke in any part of a watch-house facility or adjoining land.

Officers are not to provide smoking materials (e.g. cigarettes, lighters, matches) to prisoners under any circumstances.

Members are to be cognisant that there is no discretion to permit smoking by prisoners in or around watch-houses under current legislation.

OPM Issue 113 Public Edition

16.12.7 Presence or conduct of prisoners in court cell

Section 796(2): 'Helping courts etc.' of the PPRA sets out the requirement of police officers to comply with requests from the court.

Watch-house officers are to ensure that all lawful directions, requests or orders and any reasonable requests made by judges, magistrates or other presiding officers that relate to the presence or conduct of a prisoner in a court cell and before the court are to be complied with. This may include matters such as the removal of handcuffs and other restraining devices from prisoners and the removal and restraint of prisoners whilst in a court cell.

PROCEDURE

Should a police officer or watch-house officer have concerns about the nature of a direction or request in regards to a prisoner when given a lawful direction, request order or reasonable request, those concerns are to be put before the judge, magistrate or other presiding officer through the prosecutor. This procedure is to ensure the judge, magistrate or other presiding officer makes an informed decision. Those considerations listed in subsections (i) to (iv) of s. 16.12.3: 'Restraining devices' of this chapter or any other relevant considerations or circumstances regarding the prisoner are matters that may be put before the judge, magistrate or other presiding officer.

16.12.8 Prisoners and hanging points

All watch-house cells have been designed or modified to minimise obvious hanging points. The level to which individual watch-house cells have been designed or modified to minimise hanging points varies according to individual circumstances. Regardless, no watch-house cells are hang proof and all still carry a level of risk in relation to prisoners suiciding or other forms of self-harm. (There have been instances where prisoners have hung/asphyxiated themselves in watch-house cells where the hanging point has been their own body.)

Other areas of watch-houses such as exercise yards, reception cells and shower facilities provide a greater number of hanging points.

An OIC of a watch-house is to ensure prisoners are supervised at all times when in areas of a watch-house where there are hanging points such as open cell doors, protruding door hinges, plumbing fixtures and open cell door flaps.

As an example, prisoners who access exercise yards or showers where hanging points are more readily available are to be supervised at all times until returned to cells.

In watch-houses with dedicated areas for holding prisoners, such as pods or wings, it is mandatory that an officer maintains constant supervision (see s. 16.9.5: 'Determining the frequency of prisoner inspections' of this chapter).

Where prisoners are unable to be constantly supervised at all times, prisoners are to remain locked in a watch-house cell or otherwise transferred to watch-houses which have facilities and staff for constant supervision. See also s. 16.21.15: 'Sanitation and exercise' and s. 16.13.1: 'Assessment of prisoners' of this chapter in relation to prisoners who may be suicidal.

OPM Issue 113 Public Edition

16.12.9 Leaving prisoners unattended

Section 394: 'Duty of police officer receiving custody of person for offence' of the PPRA outlines circumstances where a prescribed police officer may release a person who has been arrested and delivered into custody at a police station, establishment or watch-house. See s. 16.9.4: 'Responsibilities of receiving officer and prescribed police officer accepting a prisoner into a watch-house' and s. 16.21.1: 'Bail arrangements' of this chapter.

Nevertheless, there are circumstances where a person in custody is not to be released prior to appearing in court. For example, where there is an unacceptable risk the person, if released, would commit further offences or the release would endanger the safety or welfare of any person, including the person in custody.

When a person is held in custody in a watch-house, the guidelines relating to prisoner inspections are set out in the following sections of this chapter:

(i) s. 16.9.5: 'Determining the frequency of prisoner inspections'; and

(ii) s. 16.13.3: 'Prisoner/watch-house inspection'.

However, for operational reasons there may be instances where it is necessary for a person in custody to be left unattended temporarily in a watch-house or holding cell. For example, at a single officer station, an officer may be required to leave a person in custody in a holding cell unattended while the officer responds to an urgent incident involving significant risk to persons or property.

POLICY

Where possible, officers are not to leave persons in custody in a police station, establishment or watch-house unattended. Prior to leaving a person in custody unattended, officers are to consider whether any suitable alternatives exist. For example:

(i) recalling another officer to duty;

(ii) obtaining assistance from another station or establishment; or

(iii) transferring the person in custody to another watch-house (see s. 16.12.2: 'Transfer of prisoners' and s. 16.19.1: 'Transfer of sentenced prisoners' of this chapter.

Officers are not to leave persons in custody unattended when a suitable alternative exists. Any decision to leave a person in custody unattended must be justifiable in the circumstances.

See also s. 16.1.1: 'Duty of care' of this chapter.

16.12.10 Requests by prisoners or legal representatives for attendance of doctor at watch-house

When a prisoner or the prisoner's legal representative requests that the prisoner be examined by a medical practitioner of their choice or that blood tests, bodily samples, photographs or other intimate forensic procedures be taken, subject to operational and security considerations, the watch-house manager is to:

(i) provide the prisoner with facilities to contact the medical practitioner if necessary;

(ii) permit a prisoner to be examined or have tests, samples, photographs or other procedures performed at a convenient time;

(iii) upon the attendance of the medical practitioner provide adequate facilities, having regard to watch-house security, for the examination, tests, samples, photographs or other procedures to be conducted;

(iv) ensure an entry is made in the relevant place in the Custody Report (Full) or Custody Report, Detention Log in QPRIME in relation to the prisoner examination, test, sample, photograph or procedure;

(v) ensure an entry is made in the Watch-house Inspection Register in relation to the prisoner examination, test, sample, photograph or procedure, see also s. 16.13.3: 'Prisoner/watch-house inspection' of this chapter;

(vi) where necessary, ensure the prisoner knows in general terms what examination, tests, samples, photographs and procedures are to occur and consents to these occurring, (see 'Admittance of medical practitioners to the watch-house' of this section);

(vii) advise the prisoner or legal representative prior to any visit that the cost of any examination, test, sample, photograph or procedure is the responsibility of the prisoner or legal representative including where a government medical officer (GMO) or forensic physician (FP) is used. Ensure that in any accounts issued to the watch-house by the GMO or FP the relevant visit has not been charged to the watch-house; and

(viii) provide every assistance to prisoners and/or legal representatives.

For security reasons it is preferred that GMOs or FPs attend at watch-houses on behalf of the prisoner or legal representative to make examinations, take tests, samples, photographs or other procedures. However, other medical practitioners should be admitted to the watch-house provided that verification of their identification and qualifications can be made. See 'Admittance of medical practitioners to the watch-house' of this section. It is the responsibility of the prisoner or legal representative to arrange any visit by a private medical practitioner to the watch-house.

Watch-house staff are not to transport a prisoner to any other place to visit a medical practitioner of the prisoner's choice where the visit is at the request of the prisoner or their legal representative.

During business hours:

(i) Brisbane, Ipswich and Richlands watch-house staff should advise the prisoner or legal representative to contact the Brisbane Forensic Medical Office (and provide contact details if necessary);

(ii) Southport and Beenleigh watch-house staff should advise the prisoner or legal representative to contact the Gold Coast Forensic Medical Office (and provide contact details if necessary);

(iii) Townsville watch-house staff should advise the prisoner or legal representative to contact the Townsville Forensic Medical Office (and provide contact details if necessary);

(iv) watch-houses where a GMO or FP is on call, should advise the prisoner or legal representative to contact the GMO in their local area (and provide contact details if necessary); and

(v) watch-houses that are not serviced by a GMO or FP, should advise the prisoner or legal representative that they are to make their own arrangements,

to conduct any required medical examination, test, take samples, photographs or procedures.

After hours:

(i) in places where a GMO or FP is on call, watch-house staff are to contact the GMO or FP on behalf of a prisoner or legal representative; and

(ii) in places where a GMO or FP is not on call, watch-house staff are to advise the prisoner or legal representative that they are to make their own arrangements,

to conduct any required medical examination, test, take samples, photographs or procedures.

OPM Issue 113 Public Edition

Watch-house staff should pass on the contact details of the requesting legal representative to the GMO or FP on call or provide a prisoner with facilities (e.g. dial telephone number) to contact the respective medical officer on call. Watch-house staff are not responsible for locating a medical practitioner to assist with requests after hours where an on-call GMO or FP is not readily contactable by prisoners or legal representatives.

Admittance of medical practitioners to the watch-house

When a medical practitioner who is unknown to watch-house staff, attends at a watch-house for the purpose of obtaining access to a prisoner, the watch-house manager is to:

(i) request proof of the medical practitioner's identity. If the medical practitioner has identification issued by Queensland Health (i.e. a GMO, FP), no other identification is necessary. Where the medical practitioner does not have Queensland Health identification (e.g. a private medical practitioner), watch-house staff are to require photographic identification and check the name on the Medical Board of Australia website to confirm the person's registration. If identification and registration as a medical practitioner cannot be verified, admittance to the watch-house may be refused;

(ii) advise the medical practitioner and any accompanying legal representative of relevant watch-house procedures including:

(a) no property is to be handed directly to prisoners, all property for prisoners is to be handed to watch-house staff;

(b) all visits where physical contact is necessary, such as to take blood samples, are to be in the sight and hearing of watch-house staff; and

(c) where a private conversation with the prisoner is required, arrangements will be made to facilitate the conversation in line with usual watch-house procedures. For private communications between prisoners and legal representatives or medical practitioners, such arrangements will as far as practicable be in circumstances where no physical contact can be made;

(iii) confirm that the prisoner desires the services of the medical practitioner and the specific conversation to this effect should be recorded, preferably in an audio recording. If the prisoner does not desire the services of the medical practitioner, the medical practitioner and where necessary the relevant legal representative should be advised;

(iv) ensure all material (syringes, swabs etc) used by a medical practitioner during a visit to a prisoner is accounted for and disposed of appropriately. See also 'First Aid Procedure' within Safety and Wellbeing policies SharePoint page;

(v) ensure all biological samples taken from prisoners whilst in the watch-house are removed from the watch-house;

(vi) ensure after a visit from a medical practitioner of their choice, that the prisoner is searched and any items located are removed and reported as appropriate; and

(vii) advise the medical practitioner, legal representative and prisoner that the watch-house is not responsible for the storage or transportation of any samples taken.

See also s. 3.21: 'Legal representatives at interviews' of the DERIE Manual.

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16.13 Healthcare of persons in custody

POLICY

Members are to be mindful of the need to continually reassess the healthcare needs of persons in custody throughout the duration of such custody.

It is the responsibility of each officer who forms a reasonable degree of suspicion (see SMD) with regards to the health of a person in custody, either in a watch-house or not, to contact or cause to be contacted a professional healthcare provider (see also the State Watch-house Coordinator's 'Statement of Intent' on the Service Intranet).

16.13.1 Assessment of prisoners

ORDER

Every person in custody, whether held in a watch-house or not, is to be assessed and reassessed as appropriate using Appendix 16.1: 'The assessment of persons in police custody' of this chapter.

Where a person is taken to a watch-house the receiving officer is to:

(i) complete, at the earliest opportunity, the QPRIME risk assessment regarding:

(a) the person's health; and

(b) officer observations and prisoner injuries; and

(ii) prior to asking the risk assessment questions **must** read the following statement aloud in its entirety:

Every question you are being asked is to help you with any health needs while you are in the watch-house. Your answers cannot be used as any evidence against you in any court proceeding or be used for any other purpose except health care.

If a person is compliant:

(i) request they provide a voluntary specimen of their breath for a blood alcohol concentration test for the purpose of a health assessment. There is no requirement for the person to comply with the request and cannot be used as evidence against the person in any court proceeding; and

(ii) where the person indicates they are diabetic, a Service glucometer is to be offered to the person to check their blood sugar level (BSL),

(see 'Conducting alcohol and blood sugar level tests on compliant persons in custody' of this section).

Where a reasonable degree of suspicion (see SMD) exists after any assessment of a person in custody (including outside of a watch-house), the responsible officer is to seek appropriate professional healthcare assistance or advice.

Where a professional healthcare provider is performing duty at a watch-house, the responsible officer (see SMD) is to consult with the provider regarding a person's health and medical needs (see 'Professional healthcare provider assessment of persons transported to watch-houses' of this section).

A police or watch-house officer assessing or reassessing a prisoner is to:

(i) observe the prisoner's physical appearance and demeanour;

(ii) seek from the prisoner, police, watch-house officers or other persons who have had contact with the prisoner, information that will assist in the management of the prisoner;

(iii) determine the healthcare requirements of the prisoner, including the provision of medication and treatment plans (e.g. medical devices or care) and obtaining medical assistance for minor injuries or illnesses. Prisoner healthcare requirements may be determined by:

(a) asking other persons who have had contact with the prisoner;

(b) locating medication etc. in their property;

(c) checking all relevant QPRIME entries;

(d) asking the prisoner questions about their health; and

(e) making observations about their health and behaviour; and

(iv) determine whether the prisoner is:

(a) fit to be held in police custody; or

(b) requires the intervention of a professional healthcare provider.

This determination is to be made by using Appendix 16.1 of this chapter.

The responsible officer is to immediately assess and re-assess the level of supervision and healthcare requirements for a prisoner where the prisoner:

(i) is suicidal or at risk of self-harm;

(ii) is believed to be suicidal or at risk of self-harm;

(iii) attempts suicide or self-harm;

(iv) has personal circumstances which may have changed whilst in custody, including:

(a) being refused bail or sentenced to a period of imprisonment;

(b) death or serious illness of someone meaningful to them;

(c) break-up of a personal relationship or conflict with family members; or

(d) loss of employment or other significant economic stress;

(v) displays signs, symptoms or other indicators that would give rise to a reasonable degree of suspicion with regards to that person's health;

(vi) is believed to have taken an overdose of prescription or non-prescription drugs;

(vii) is believed to be heavily intoxicated or affected by drugs; or

(viii) is believed to be alcohol or drug dependent.

Where any of the above issues are evident, the responsible officer is to ensure that the prisoner is closely monitored while in their custody.

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Conducting alcohol and blood sugar level tests on compliant persons in custody

Members obtaining voluntary breath specimens are to advise the person in custody, prior to the test "I now request a specimen of your breath as part of a health assessment. This information will not be used in evidence against you. Do you consent?"

Where a person checks their own BSL, if a reading:

(i) falls below 4 or above 20 then professional healthcare providers are to be contacted; or

(ii) between 4 and 20 is obtained, if the person is remaining in custody, their BSL is to be requested again immediately prior to their next meal and the relevant forensic physician or government medical officer is to be advised of the reading.

All tests and readings obtained are to be recorded on the person's QPRIME risk assessment.

Further assessments to be made of prisoners who are to be held in a watch-house

A police or watch-house officer assessing or reassessing a prisoner is to:

(i) ensure the initial assessment of all prisoners who are to be held in a watch-house is conducted at the earliest available opportunity. Where the prisoner is violent, aggressive or non-cooperative, ensure the prisoner is monitored closely until an assessment can be made;

(ii) ask all prisoners processed at a watch-house the QPRIME risk assessment questions and record any answers and observations made. Exceptions to asking the questions may be made where:

(a) a prisoner is being immediately released from the watch-house; and

(b) the responsible officer is satisfied adequate medical assessment and treatment has been provided by a correctional centre and no new circumstances have arisen since being received into police custody;

(iii) request the prisoner to electronically sign the responses recorded for the risk assessment questions in the QPRIME Risk Assessment tab. If the prisoner is unable or refuses to sign:

(a) record the reason for not obtaining a signature in QPRIME; and

(b) if possible, the prisoner's refusal or inability to sign the form is to be observed by more than one police or watch-house officer; and

(iv) take into account any vulnerability, disability or cultural needs and take appropriate action as suggested in Chapter 6: 'Persons who are vulnerable, disabled or have cultural needs' of this Manual. Appropriate action may also include:

(a) asking health questions of, or with the assistance of an interpreter, independent person, carer, guardian, legal representative or relative;

(b) rephrasing or rewording health questions to suit the prisoner's understanding; or

(c) having the prisoner medically assessed by a professional healthcare provider before accepting custody of the prisoner into the watch-house.

Managing risk of suicide and self-harm for all prisoners

The responsible officer is to take appropriate action to prevent the likelihood of a prisoner suiciding or self-harming. Appropriate action may include:

(i) locking a prisoner in a cell;

(ii) placing a non-violent prisoner at risk of suiciding or self-harming with another prisoner;

(iii) removing all items that may be used by a prisoner to hang or injure themselves from the cell;

(iv) placing a prisoner in a violent detention cell (VDC);

(v) transferring a prisoner to a watch-house that has a VDC;

(vi) removing clothing and placing a prisoner in a VDC in a tear resistant smock;

(vii) transferring a prisoner to another place where the prisoner may receive treatment necessary for the prisoner's welfare, e.g. hospital;

(viii) constant direct/personal supervision of the prisoner. The greater the likelihood that a prisoner may suicide or self-harm, the greater the level of supervision and action required to prevent the prisoner suiciding or self-harming. See also s. 16.12.1: 'Segregation of prisoners' of this chapter;

(ix) placing a caution or flag of the suicide risk in the QPRIME Person Report;

(x) liaise with mental health service to obtain guidance or information that may facilitate care of the prisoner whilst in custody or appropriate suitable aftercare when released (see s. 6.6.13: 'Mental health intervention coordination and training' of this chapter); and

OPM Issue 113 Public Edition

(xi) prisoners that have indicated thoughts of suicide and are being released, are to be offered a referral in accordance with s. 6.3.14: 'Police referrals' of this chapter. If the referral is declined the refusal must be recorded in the QPRIME person report.

Preventing illness or death from alcohol or drug intoxication, overdose or withdrawal

Police and watch-house officers are to be aware that in some cases of severe alcohol or drug dependency or intoxication, withdrawal may result in death if the person does not receive medical treatment.

The responsible officer must take appropriate action to prevent the likelihood of a prisoner becoming seriously ill or dying in custody because of intoxication, an overdose or withdrawal from a dependency on alcohol or drugs. Appropriate action may include:

(i) monitoring for signs, symptoms and behaviours consistent with a person suffering from drug or alcohol intoxication, overdose or withdrawal. See Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this chapter;

(ii) being aware that persons in custody may not be truthful, may refuse or be unable to answer the risk assessment questions asked from the QPRIME Risk Assessment tab about their alcohol or drug intake;

(iii) constant direct/personal supervision; and

(iv) ensuring Appendix 16.1 of this chapter is complied with.

Any person displaying signs and symptoms or behaviours consistent with a person suffering from alcohol or drug intoxication, overdose or withdrawal must have a minimum Level 3 care plan as per s. 16.9.5: 'Determining the frequency of prisoner inspection' of this chapter. If the person is unable to give a sensible verbal response to risk assessment questions the prisoner must be assessed by a healthcare professional prior to being accepted into watch-house custody.

Medical advice or attention is to be sought from a professional healthcare provider if a watch-house prisoner is discovered to be in possession of drug paraphernalia. This is in addition to any criminal investigation to identify how/when the drugs were brought into the watch-house.

The greater the likelihood that a prisoner or person in custody may be intoxicated, has taken an overdose or is suffering withdrawal from a dependency on alcohol or drugs, the greater the level of supervision and action that is to be taken to prevent the prisoner becoming seriously ill or dying.

ORDER

Wherever a reasonable degree of suspicion exists regarding a prisoner's health, a professional healthcare provider is to be contacted.

Assessment of persons handed over to police

A medical assessment in compliance with Appendix 16.1 is to be completed when a person has been detained/restrained by members of the public and subsequently 'handed over' to police for further investigation. Examples may include:

(i) hotel security staff who may have restrained a disorderly hotel patron;

(ii) hospital security staff who have restrained a person who may be suffering from a mental disorder; or

(iii) a member of the public who has performed a citizen's arrest type of detention and may have restrained or held down a person until police arrived.

Members are to be mindful that the detainee may have been involved in a struggle with persons for some time prior to being restrained. Where a person has been involved in a violent or lengthy struggle prior to being restrained there is a heightened risk of a post arrest collapse (see s. 14.3.7: 'Post arrest collapse (medical risk factors)' of this Manual).

Professional healthcare provider assessment of persons transported to watch-houses

For the purposes of this subsection, a professional healthcare provider is a:

(i) paramedic employed by the Queensland Ambulance Service (QAS); and

(ii) registered nurse employed by Queensland Health.

In accordance with the Memorandum of Understanding between the Service and QAS, professional healthcare providers can perform duty at identified watch-houses and will:

(i) conduct a health assessment of persons in custody who report a medical condition or injury:

(a) during the initial prisoner assessment upon arrival at a watch-house; or

(b) whilst being held in a watch-house; and

(ii) assist with the medical care of persons being held in custody.

The health assessment will assist the responsible officer in determining whether the person is to:

(i) remain in custody at the watch-house;

OPM Issue 113 Public Edition

(ii) be transported to a medical facility for treatment, either whilst in custody or after release;

(iii) be released from custody and issued with a notice to appear or an infringement notice in accordance with s. 377: 'Additional case when arrest of adult may be discontinued' of the PPRA; or

(iv) be taken to a place of safety to recover from the effects of intoxication in accordance with s. 378A: 'Power to detain particular intoxicated persons' of the PPRA,

(see s. 16.6: 'Discontinuing arrest' of this chapter).

Professional healthcare providers performing duty at watch-houses are able to:

(i) provide ongoing medical assistance to persons being held in custody;

(ii) provide advice to the responsible officer when a higher level of care is necessary (i.e. hospitalisation);

(iii) arrange for the transportation of the person to an appropriate medical facility at the request of the responsible officer; and

(iv) supervise persons in custody whilst they are taking prescribed medication (see s. 16.13.4: 'Provision of medication' of this chapter).

Where requested by the responsible officer, a professional healthcare provider performing duty at a watch-house is to conduct a health assessment of the person in custody and brief the responsible officer of the outcome of the assessment. The responsible officer is to determine whether the person is to be held at the watch-house.

Where a professional healthcare provider has:

(i) conducted a health assessment; or

(ii) provided medical assistance or treatment to a person in custody,

and the prisoner will remain in the sole custody of Service members, the healthcare professional is to complete a QP 0638: 'Medical Assessment' form in accordance with s. 16.13.2: 'Person in custody's medical condition' of this chapter.

Members are to regularly update the person's QPRIME Custody report (Full) with information regarding the treatment or medication provided.

16.13.2 Person in custody's medical condition

ORDER

A responsible officer with a person in custody who has received a professional healthcare assessment (whether in the watch-house or not), is to request a written notice from the professional healthcare provider, indicating the medical condition of the person in custody.

The written notice may be provided:

(i) in an official police notebook; or

(ii) on a QP 0856: 'Prisoner Medical Transfer, Treatment and Clearance Sheet'; or

(iii) on a form bearing the letterhead of the healthcare professional or their organisation; or

(iv) on a QP 0638: 'Medical Assessment' form; or

(v) by electronic QAS notes.

The notice is to include:

(i) the name and classification of the medical person;

(ii) the date and time of the completion of the medical treatment;

(iii) the name and location of the hospital or medical facility (if appropriate);

(iv) details of any special attention that needs to be taken regarding the prisoner, e.g. medication, frequency of observations, segregation of the prisoner;

(v) any other information that will assist in the management of the prisoner in custody;

(vi) the nature and the prognosis of any injury or illness; and

(vii) whether the prisoner is fit to be held in the watch-house.

The completed form or notice is to be scanned as an attachment to the relevant QPRIME Custody Report or Custody Report (Full) entry.

Where the professional healthcare provider declines to provide a written notice as to the medical condition of the person in custody, detailed notes of the advice provided are to be taken and included in the relevant QPRIME detention log. A separate report to the State Watch-house Coordinator should also be completed as to the circumstances of the refusal.

OPM Issue 113 Public Edition

In circumstances where a person in custody refuses medical treatment such refusal must be made by that person to the healthcare professional personally. Such refusal is to be documented in the relevant QPRIME detention log.

16.13.3 Prisoner/watch-house inspection

Inspection by watch-house manager

ORDER

The watch-house manager is to ensure each prisoner and the watch-house complex are inspected regularly.

The watch-house manager is to ensure regular inspections are conducted at varying intervals. The interval between prisoner inspections is to be no greater than one hour. Intervals between watch-house inspections may vary according to circumstances.

The watch-house manager is to ensure a record is kept of all prisoner inspections through entries in the appropriate QPRIME Custody Report (Full) Detention Log.

The watch-house manager is to ensure station or establishment instructions are developed and implemented to ensure where prisoners are violent, aggressive or non-cooperative and are held in a watch-house cell (including a violent detention cell (VDC)) that in all circumstances, inspections of such prisoners are conducted in compliance with this section.

The station or establishment instructions are to ensure, even in circumstances where:

(i) prisoners are naked;

(ii) where the cell has been soiled with urine or faeces;

(iii) only one officer is on duty in the watch-house; or

(iv) in any other circumstance,

inspections of the prisoners are still conducted.

The watch-house manager is to ensure station or establishment instructions are developed, implemented and maintained, as per s. 1.5.3: ‘Regional, district and station/establishment instructions’ of this Manual.

Responsibilities of officers in charge

OIC of stations or establishments are to ensure any reasonable requests made by a watch-house manager to ensure compliance with this section, including supply of officers to assist watch-house staff in making checks on prisoners within watch-house cells or modifications to watch-house cells, are considered.

Inspection by independent inspection officer

OIC of regions are to ensure prisoners held in watch-houses are inspected where practicable by a police officer other than a police officer involved in the administration of the watch-house (independent inspection officer) on at least one occasion each shift during which the watch-house operates (at least 3 checks in a 24-hour period for a 24-hour watch-house) and further as appropriate in the circumstances. The independent inspection officer is to be nominated by the OIC of the region and may include, for example, the RDO, patrol group inspector, DDO, or shift supervisor. All the factors to be considered by the RDO or DDO in relation to watch-houses are also to be considered by the independent inspection officer. See s. 1.18: ‘Significant events’ of this Manual. It may be impracticable to have an independent inspection officer inspect a watch-house when:

(i) the distance to the watch-house by the independent inspection officer does not permit travel to the watch-house within a reasonable time;

(ii) due to staffing arrangements, no independent inspection officer is available; or

(iii) the watch-house has no prisoners.

Factors to be considered when determining whether travel to inspect a watch-house by the independent inspection officer is within a reasonable time include:

(i) the number of watch-houses to be inspected; and

(ii) the amount and relative importance of other duties to be performed.

Factors to be considered when determining how often prisoners held in watch-houses are to be inspected by the independent inspection officer include:

(i) the number of prisoners held;

(ii) the health condition (i.e. whether in need of medical treatment or has sustained injuries) of prisoners;

(iii) the demeanour (i.e. whether intoxicated or affected by alcohol or drugs) of prisoners;

(iv) the rank and experience of the watch-house manager; and

(v) any other relevant factors.

OPM Issue 113 Public Edition

Inspection of prisoners

ORDER

Prisoner inspections are to be conducted personally irrespective of whether or not video monitoring equipment is installed (see s. 16.13.1: 'Assessment of prisoners' of this chapter).

Intervals between watch-house inspections may vary as per s. 16.9.5: 'Determining the frequency of prisoner inspections' of this chapter.

Each person in custody is to be inspected to determine:

(i) whether a degree of suspicion exists in regard to the health of the person in custody (see s. 16.13.1: 'Assessment of prisoners' of this chapter); and

(ii) whether the person in custody is to remain isolated or is to be placed in the company of others in custody;

(iii) the frequency of further persons in custody inspections; and

(iv) where a professional healthcare provider has recommended observation of a person in custody the following assessment criteria are to be carried out and recorded at a minimum of 30 minutes (if required) for four hours from the time of that assessment:

(a) the ability of the person to open their eyes (yes/no);

(b) the ability of the person to respond verbally and be understood (yes/no); and

(c) the ability of a person to move their limbs on both sides of their body in a purposeful manner (yes/no).

The watch-house manager is to ensure a record is kept of all prisoner inspections through entries in the appropriate QPRIME Custody Report (Full) Detention Log.

The inspection officer is to:

(i) where practicable and subject to prisoner numbers, prior to the initial inspection, read the information in the QPRIME Custody Report (Full) Detention Log relating to each prisoner;

(ii) observe the prisoner's physical appearance or demeanour;

(iii) ask prisoners who are awake if they are well;

(iv) pay particular attention to any prisoner apparently intoxicated to ensure intoxication is not masking symptoms of a serious medical condition (see Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this chapter);

(v) ensure a sleeping prisoner is breathing comfortably and appears well by observing the prisoner's breathing and moving. Breathing is to be observed by the rise and fall of the prisoner's chest. In low light conditions a torch or other method of illumination, is to be used to confirm the rise and fall of the prisoner's chest;

(vi) wake a sleeping prisoner;

(a) when they cannot easily observe the rise and fall of the chest; and

(b) if unsure of a prisoner's condition and suspects the prisoner may require medical attention; and

(vii) ensure the security of the cell keys and where reasonably practicable, be in the company of a second officer when entering a cell.

The inspection officer is to record or cause to be recorded in the relevant QPRIME Custody Report (Full) Detention Log for each prisoner immediately after the inspection:

(i) the date and time of the commencement of the prisoner inspection;

(ii) the number of prisoners inspected;

(iii) a brief comment in relation to each prisoner inspected;

(iv) relevant details where the current assessment differs from the previous assessment;

(v) any injuries observed on prisoners; and

(vi) what action, if any, was taken in relation to the prisoner.

ORDER

The inspection officer is to immediately notify the watch-house manager if the officer forms a reasonable suspicion as to the prisoner's health, segregation from other prisoners, or an increased frequency of inspection is required and is to record the details in the relevant QPRIME Custody Report (Full) Detention Log where necessary.

If the inspection officer forms a reasonable suspicion with regards to a prisoner's health, they must seek or cause to be sought the assistance of a professional healthcare provider.

OPM Issue 113 Public Edition

The member is to record both the details of the occurrence and the notification of the watch-house manager in the QPRIME detention log.

Wherever practicable, at night, watch-house staff are to leave corridor lights on and turn cell lights off except where there is a need (e.g. suicide watch).

Inspection of watch-houses

Watch-house managers are to cause periodic inspections of watch-houses to be conducted to locate items which may have been illegally brought into a watch-house. Inspections may be deemed necessary for a number of reasons, including before a prisoner is allowed a visitor, and immediately after that visitor has left the watch-house. Where practicable, non-contact visitor rooms are to be used to reduce the risk of items being illegally brought into a watch-house.

Whether the whole watch-house is inspected, or relevant cells or rooms, may vary according to the circumstances of each search. Care is to be taken to inspect areas and fittings, such as mattresses and furnishings, where items may be concealed.

ORDER

The inspection officer or inspection watch-house officer is to immediately notify the watch-house manager of any breaches or potential breaches of watch-house security raised during the inspection.

16.13.4 Provision of medication

For the storage, supply and administration of prescription and non-prescription medication to persons temporarily held in custody at a station or establishment, the relevant provisions of this section that apply to watch-houses are to, where practicable, apply to stations or establishments.

All duties and responsibilities imposed on watch-house managers in this section are to be taken to be imposed on OICs of station or establishments, or if the person is held elsewhere than at a station or establishment, the senior officer who has actual custody of the person (e.g. removal of a prisoner from a corrective services facility for the purpose of visiting a crime scene).

As a general rule, new medication should not be administered to a prisoner temporarily removed from a corrective services facility unless the withholding of such medication for the duration of temporary custody would be detrimental to the health and well-being of the prisoner.

Medication is to be obtained and administered to a prisoner where:

(i) it is established that a prisoner has been prescribed medication by a medical practitioner;

(ii) after following the procedures in s. 16.13.1: 'Assessment of prisoners' of this chapter it is determined medication is required (see also Appendix 16.1: 'The assessment of persons in police custody' of this chapter); or

(iii) a prescription is filled and supplied by a pharmacy or hospital. If approved by a prisoner, officers are required to provide the pharmacy or hospital with Medicare and health care card details of the prisoner.

OPM Issue 113 Public Edition

Obtaining of prisoner medication

Medication may be obtained for a prisoner:

(i) by using medication or a prescription in the prisoner's possession after seeking medical advice on the medication being required and verifying its contents;

(ii) by allowing friends or family to supply medication or a prescription after seeking medical advice on the medication being required and verifying its contents;

(iii) by prescription from a pharmacy or hospital; or

(iv) from a government medical officer (GMO), other doctor or registered nurse.

Officers are to ensure medication is obtained for prisoners using the most efficient and effective means available in the circumstances. Where possible, GMO's, other doctors or registered nurses are to be used to dispense and manage medication within watch-houses.

Storage, supply and administration of prescription medication in the watch-house

The watch-house manager is to:

(i) seek medical advice before administering any prescribed drug;

(ii) ensure that medication is given at the strength, quantity and times as prescribed on the label of the medication or as per other written instructions;

(iii) ensure the identity of prisoners is verified to ensure the medication is administered to the prisoner for whom it is prescribed. Before administering the medication, officers must confirm the identity of the person by:

(a) comparing the photograph on the QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' to the individual in custody; and

(b) asking the person to state their full name and date of birth;

(iv) ensure medication is taken in the presence of the person administering same to prevent prisoners accumulating it. Wherever operationally possible, the administration of the medication should be conducted by two police or watch-house officers;

(v) ensure that the following are recorded in the QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet', which is to be attached to the QPRIME Custody Report (Full) Detention Log in the relevant prisoner's entry:

(a) the name of the prisoner;

(b) a recent colour photograph of the person;

(c) the name of the medication(s);

(d) how the medication was obtained (medication received/delivered to the prisoner does not have to be recorded in compliance with s. 16.11: 'Property of prisoners' of this chapter if it is recorded in the QP 0462), including where the:

- prisoner or family/friends supplied the medication/prescription;
- prisoner's usual doctor provided the medication/prescription; or
- prisoner saw a GMO or other doctor to obtain medication/prescription;

(e) the strength, quantity and the times the medication is to be given;

(f) the date and time medication is administered;

(g) the name of the person (includes a GMO, nurse, police officer, watch-house officer) who administered the medication;

(h) the signature of the prisoner administered the medication;

(i) any departure from the prescribed strength, quantity or the times the medication is to be administered that is inconsistent with the written label or other written instructions, and reason for such departure including the doctor authorising the change;

(j) whether medication can/cannot be administered to the prisoner on their release from the watch-house, including the name of any doctor contacted who approves/disapproves the supply of any remaining medication;

(k) the quantity of medication remaining on release of the prisoner from the watch-house;

(l) any advice sought from a doctor and provided to the prisoner on release from the watch-house, where medication is not to be supplied on release; and

(m) the signature of the prisoner to indicate their receipt of any medication supplied on release from the watch-house;

(vi) use the expertise of the Aboriginal and Torres Strait Islander Community Health Service for Aboriginal and Torres Strait Islander prisoners, particularly for prisoners from traditional Aboriginal and Torres Strait Islander communities, where this service is available;

(vii) ensure where the prisoner or the prisoner's family/friends supply the medication/prescription, or medication/prescription is obtained from the prisoner's usual doctor that unless point (ix) applies, the remainder of any medication is supplied to the prisoner when they leave the watch-house. Leaving the watch-house includes when being sent to a Queensland Corrective Services (QCS) facility or detention centre. It is irrelevant whether or not the Service has paid for the medication;

(viii) ensure where a GMO or other doctor prescribes medication to a prisoner and they are not the prisoner's usual doctor:

(a) the doctor who prescribed the medication is asked to specify whether or not when the prisoner leaves the watch-house, the prisoner can be supplied with the remainder of any medication; or

(b) when the prisoner is leaving the watch-house, a GMO or other doctor is contacted if it has not already been done, to determine whether the remainder of any prescribed medication can be supplied to the prisoner; and

(c) where a doctor does not authorise a prisoner to receive any remaining quantity of medication on release from the watch-house, advise the prisoner to seek medical advice after their release;

(ix) ensure, where a prisoner indicates on being released from the watch-house the possibility of suicide or self-harm, the prisoner is treated as requiring medical assessment under an emergency examination authority. See

OPM Issue 113 Public Edition

s. 6.6.2: 'Emergency examination authority (EEA)' of this Manual, and seek medical advice before the supply of any medication to the prisoner;

(x) ensure no prescribed medication remains in the watch-house if it is a high-risk medicine or a restricted medicine (see ss. 9: 'Restricted medicines' & 10: 'High-risk medicines—Act, s 40' of the Medicines and Poisons (Medicines) Regulation) after the person it has been prescribed for has left the watch-house. It is an offence against the *Medicines and Poisons Act* to keep such medications in the watch-house, unless the drugs are kept in a locked cabinet and a doctor or nurse has control of the cabinet. See also 'Storage, supply and administration of non-prescription medication in the watch-house' of this section;

(xi) ensure where a prisoner is no longer required to take any prescribed medication, a doctor has determined medications are not to be supplied to the prisoner on their leaving the watch-house, or medications become out-of-date, the medications are disposed of by giving the drugs to a local pharmacy, hospital, registered nurse or doctor on a frequent and regular basis. A record is to be kept of all medications disposed of in this manner. This policy does not apply in those watch-houses where drugs are kept in a locked cabinet and a doctor or nurse has control of the cabinet. Disposing of the drugs then becomes the responsibility of the doctor or nurse in control of the cabinet;

(xii) ensure medications where possible are stored in compliance with the label on the product, including where refrigeration is required. Refrigerated medicines are to be kept separated from food, so that food cannot be affected by the medication;

(xiii) ensure no medication prescribed for an individual prisoner is used for any other prisoner. This policy does not apply in those watch-houses where drugs are kept in a locked cabinet and a doctor or nurse has control of the cabinet. The reuse of any drugs for other prisoners then becomes the responsibility of the doctor or nurse in control of the cabinet;

(xiv) ensure all prescribed medication is used from and stored in its original packaging, and is not to be used where any administering label is unclear or missing unless medical advice has been obtained. Where medication has been supplied in open containers, is not in tamper proof packaging, or is not obtained through a pharmacy, hospital or doctor, the medication is to be checked to ensure it is genuine before it is used. Where the contents of prescribed medication cannot be verified or may be contaminated, unless it is the property of a prisoner, it should be disposed of. See point (xi) above. Seek medical advice if in doubt;

(xv) ensure where possible that all tablets and capsules are swallowed whole by a prisoner unless the pharmacist or doctor advises otherwise;

(xvi) ensure no injections of prescribed medication for prisoners other than diabetic medications are administered by any person other than by a registered nurse, doctor or dentist. Prisoners may self-inject diabetic medications. For all other medications to be injected, medical advice is to be sought. Prisoners should be isolated when using syringes and needles and other safety measures taken as appropriate; and

(xvii) ensure medications are stored in the watch-house in compliance with the 'order' below.

OPM Issue 113 Public Edition

Provision of medicinal cannabis to persons in custody

Where a person in custody at a watch-house holds a valid and current prescription for medicinal cannabis, the person in custody is permitted to receive the medication in accordance with the requirements of s. 16.13.4: 'Provision of medication' of this Manual.

The OIC of a watch-house is to:

(i) ensure medicinal cannabis is not administered through smoking or vaping, in accordance with s. 16.12.6: 'Smoking by prisoners in watch-houses' of this Manual. Medicinal cannabis may only be administered in a non-smokable form, such as oil or capsule, as prescribed;

(ii) ensure all medicinal cannabis, whether classified as Schedule 4 (S4) or Schedule 8A (S8A), is stored and handled in accordance with the requirements applicable to Schedule 8A drugs, including secure storage in a locked cabinet under the control of a doctor or registered nurse; and

(iii) ensure the rights of persons in custody to access health services without discrimination are upheld in accordance with s. 37: 'Right to health services' of the HRA, including the right to use prescribed medicinal cannabis in a permitted form.

Storage, supply and administration of non-prescription medication in the watch-house

Non-prescription medication may be stored in the watch-house. See SMD.

Non-prescription medication that may be administered to prisoners includes:

(i) painkillers (analgesics) such as paracetamol;

(ii) antacids;

(iii) mild laxatives;

(iv) Ventolin or similar spray; and

(v) non-restricted topical agents such as calamine lotion.

Non-prescribed medication is not safe for all people at all times. There are some risks with certain doses of non-prescribed medication for certain people.

Where non-prescription medications are stored/used in the watch-house, the watch-house manager is to ensure:

(i) they are stored in compliance with the 'order' below and with 'Use and disposal of prescription medication in the watch-house', points (x) and (xii) above;

(ii) any caution and warning statement on the pack or container is communicated to the prisoner before administering. Ascertain where possible, whether warnings and cautions listed on the pack or container apply to the prisoner. Non-prescription medication is not to be used contrary to any warnings or cautions;

(iii) any non-prescription medication that does not have original packaging is disposed of in compliance with 'Use and disposal of prescription medication in the watch-house', point (xi) above, and is not used;

(iv) administering to any prisoner is limited to the recommended dose and is given in accordance with the manufacturer's instructions on the packaging, unless otherwise instructed by a doctor;

(v) that all doses administered of non-prescription medication are recorded in the QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' as for prescribed medication procedures, see: 'Use and storage of prescription medication in the watch-house' point (v) above;

(vi) where any doubt exists about whether to administer non-prescription medication to a prisoner, do not administer and seek medical advice;

(vii) ensure non-prescribed medication is taken in the presence of the person administering same to prevent prisoners accumulating it;

(viii) ensure where possible that all tablets and capsules are swallowed whole by a prisoner unless the package, container, pharmacist or doctor advises otherwise;

(ix) ensure, any non-prescribed medications supplied by prisoners or their family/friends are returned to prisoners unless 'Use and disposal of prescription medication in the watch-house' point (ix) above, applies; and

(x) ensure all non-prescribed medications which, when used by one prisoner may become contaminated (such as Ventolin or similar sprays) are not used by any other prisoner.

ORDER

Watch-house managers are to ensure that all prisoner medication, both prescription and non-prescription is kept in a locked drawer or cabinet with limited access to both the drawer or cabinet and the key. A record of the provision and any disposal of medication to prisoners is also to be maintained in the relevant QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet'.

OPM Issue 113 Public Edition

Prisoners and medication supplied by Queensland Corrective Services

On occasion, prisoners are transported from Queensland Corrective Services (QCS) facilities to watch-houses with a supply of medication. Watch-house managers are to ensure whilst these prisoners are in the watch-house that this medication is:

(i) administered to the relevant prisoner in accordance with the directions supplied with the medication; and

(ii) where a prisoner is supplied with a dose or may miss a dose, QCS is to be advised of this fact in writing on the documentation supplied.

Where a prisoner from QCS is released from the watch-house and will not be returning to QCS custody, all medication supplied from QCS is to be given to the prisoner when released. QCS assess all prisoners and only provide up to one week's supply of medication. This minimum quantity of medication is appropriate to be supplied to prisoners on their release from the watch-house. Any queries in relation to the provision of medication supplied by QCS should be directed to the medical staff at the relevant QCS facility.

Where a prisoner from QCS is to be returned to QCS custody, all medication is to be returned with the prisoner to the relevant QCS facility.

16.14 Call-out procedures for Government Medical Officers

The policy of the government medical officer with respect to call-outs for the possible treatment of persons in custody is as set out below.

When a doctor is called regarding a prisoner in custody seeking medical treatment, it is prudent that the doctor makes inquiries to ascertain the nature of the complaint, the duration of the complaint, the previous treatment and the urgency of the symptoms. When the doctor has considered this information the doctor can then make a decision as to whether

the patient is to be transported urgently to hospital, whether the doctor's physical attendance is necessary or whether telephone attendance is all that is required.

There can be no stated policy regarding medical management of either prisoners or ordinary patients. All requests are treated individually.

16.14.1 Generally

The duty of care for a person in custody is the obligation of the responsible officer.

PROCEDURE

Police officers or watch-house officers requesting the services of a government medical officer, a suitable medical practitioner, or medical person after hours is to make the requests through their immediate supervisor.

Supervising police officers or supervising watch-house officers who receive a request from a subordinate police officer or watch-house officer for the services of a government medical officer, medical practitioner or medical person after hours is to ensure that there is an immediate need for such a call-out.

Supervising police officers or supervising watch-house officers are to use local procedures to obtain the service of a government medical officer, suitable medical practitioner or medical person after hours.

ORDER

Police officers and watch-house officers are to strictly adhere to appointments made with the government medical officer, medical practitioner or other medical person, and are to bring any delays to the notice of such persons immediately.

16.14.2 Watch-house

POLICY

The duty of care for a person in custody in a watch-house rests with the watch-house manager.

PROCEDURE

The watch-house manager is to obtain medical treatment or advice from another suitable medical practitioner, or medical person when the government medical officer is unavailable, and where the watch-house manager identifies that a person in custody is:

(i) in need of medical treatment; or

(ii) requesting medical treatment.

The watch-house manager is to:

(i) contact the government medical officer, a suitable medical practitioner or medical person to obtain medical treatment or advice for a person in custody, where it has been identified that medical treatment or advice is required;

(ii) contact the government medical officer, a suitable medical practitioner or medical person again and seek further advice and assistance if a medical problem experienced by the person in custody continues; and

(iii) where the watch-house manager is not satisfied with the medical advice received from the government medical officer, a suitable medical practitioner or medical person, seek a second opinion by transporting the prisoner to a hospital or other medical facility.

POLICY

The discretion to seek further assistance and advice from the government medical officer, a suitable medical practitioner or medical person before transporting a prisoner to a hospital or other medical facility lies with the watch-house manager.

16.15 Medical information regarding a prisoner

ORDER

When a prisoner is in the custody of a police officer or watch-house officer and has received medical attention and a:

(i) completed QP 0856: 'Prisoner Medical Transfer, Treatment and Clearance Sheet';

(ii) written statement, or

(iii) record of the prisoner's medical condition,

has been obtained, the police officer, watch-house officer who has custody of the person is to advise the person into whose custody the prisoner is being placed, of that prisoner's medical condition.

The police officer or watch-house officer who is receiving a prisoner into custody in instances where there may be some indication that that prisoner has received medical treatment or is otherwise suffering from some medical condition, is to request from the police officer or watch-house officer who is relinquishing custody of that prisoner:

OPM Issue 113 Public Edition

(i) the history associated with such treatment or medical condition; and

(ii) a completed QP 0856; or

(iii) any document relating to the prisoner's treatment or condition (e.g. medical certificate) including:

(a) sufficient information in accordance with s. 16.13.2: 'Prisoner's medical condition' of this chapter; and

(b) a medical clearance stating the prisoner is fit for extended custody in a police watch-house.

Any information obtained is to be scanned as an attachment to the relevant QPRIME Custody Report or Custody Report (Full) or QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet'.

Provision of medical information to a professional healthcare provider attending a watch-house

When a professional healthcare provider attends a watch-house in relation to a person in custody, they are to be provided with all available medical information, including:

(i) a copy of the QPRIME risk assessment;

(ii) a copy of the Prisoner Running Log (if it contains relevant information); and

(iii) any other information that might assist them in the care of the prisoner.

16.15.1 Medical transfer of a prisoner or person under arrest

Where bail cannot be granted or is to be opposed, and a prisoner requires medical attention and transfer from a watch-house to a hospital or other medical facility, the watch-house manager is to facilitate the transfer pursuant to s. 640: 'Transfer of persons in watch-houses' of the PPRA. Appendix 16.1: 'The assessment of persons in police custody' of this Manual is to be utilised when determining the appropriate method of transfer.

Watch-house manager responsibilities for the medical transfer of a prisoner

The watch-house manager is to:

(i) consider the seriousness of the medical condition and identify if bail should be granted;

(ii) if bail is not granted, as soon as practicable, advise the supervising commissioned officer, RDO, patrol group inspector or DDO of the requirement for medical treatment and arrange for and coordinate the attendance of escorting officers at the watch-house;

(iii) complete Part A of QP 0856: 'Prisoner Medical Transfer, Treatment and Clearance Sheet';

(iv) ensure notification of the NOK or person nominated by the prisoner, unless:

(a) specifically requested not to by the prisoner; or

(b) concerns exist that notification will jeopardise the security of the prisoner or safety of persons at the medical facility;

(v) verbally brief the senior escorting officer and ensure they are aware of the details in the risk assessment (on the QP 0856) and provide escorting and guarding directions;

(vi) ensure the prisoners QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' is attached to the QP 0856 for review and updating by the treating medical practitioner;

(vii) obtain a copy of the QP 0856 once the senior escorting officer has entered their details in Part B;

(viii) ensure regular inquiries of the prisoner's medical condition are conducted and record information obtained;

(ix) if the prisoner is to appear in court, advise the prosecutor responsible for the court in which the prisoner is to appear, of the prisoner's medical treatment;

(x) on prisoner return to the watch-house, review the QP 0856 and if necessary, conduct inquiries to rectify deficiencies. The completed QP 0856 is to be scanned to the prisoner's Custody Report in compliance with s. 16.13.2: 'Person in custody's medical condition' of this chapter. Any medical records or documents attached to the form should not be scanned into QPRIME to maintain prisoner confidentiality;

(xi) ensure all information has been recorded in accordance with s. 16.8: 'QPRIME Custody, search and property reports' of this chapter; and

(xii) comply with the provisions of s. 16.18.1: 'Transfer of prisoners' of this chapter.

Escorting and guarding officer responsibilities

Officers escorting or guarding prisoners or other persons in custody who have been taken to a hospital or other medical facility, are to maintain situational awareness and ensure a continual risk assessment is completed with changes recorded on the QP 0856 and the offender's QPRIME record. Escorting and guarding officers who are terminating their shift are to ensure all risks and safety concerns about the prisoner are discussed with the officers relieving them of duty and commencing the following shift.

OPM Issue 113 Public Edition

The senior escorting officer is to ensure either the district tasking and coordination centre (DTACC), RDO, patrol group inspector or DDO are made aware of any changes in the risk assessment. In addition, the senior escorting officer is to ensure hospital security staff and Queensland Health staff are made aware of changes in the risk assessment, to ensure a consistent and balanced approach to any security arrangements.

The senior escorting officer is to:

(i) review the QP 0856 risk assessment and QP 0462;

(ii) acknowledge and comply with any escorting and guarding directions briefed by the watch-house manager;

(iii) commence Part B of the QP 0856;

(iv) update the custody register;

(v) conduct a detailed handover briefing to secondary and relieving escorting officers; and

(vi) provide the QP 0462 and Part C of the QP 0856 to the medical practitioner and advise of any safety concerns.

Responsibilities of all escorting officers:

(i) comply with the requirements for handcuffed prisoners in hospitals or under medical treatment provisions (see ss. 14.19.1: 'Use of handcuffs' and 14.19.6: 'Body belts and leg cuffs' of this Manual);

(ii) conduct a detailed handover briefing to relieving escorting officers;

(iii) ensure completion of Part B of the QP 0856 including relevant details in the incident log;

(iv) ensure that upon prisoner release from medical care, the medical practitioner has completed and signed the medical fitness for custody Part C of the QP 0856 and made all relevant entries to the QP 0462;

(v) retain the QP 0856 and QP 0462 and hand to the watch-house manager on returning the prisoner to the watch-house; and

(vi) ensure the custody register is amended.

Visitation of prisoners in hospitals with life threatening/serious health issues

Prisoners in police custody may be hospitalised to receive medical treatment for life-threatening conditions, such as terminal or serious illnesses, or childbirth. Family members may be granted the opportunity to visit the prisoner, subject to consideration of the visit's purpose, the prisoner's condition, their human rights, and any applicable safety and security arrangements. All requests to visit a prisoner in an external medical facility are to be directed to the OIC of the relevant watch-house or the DDO.

For prisoners awaiting court or transfer to a correctional or youth detention centre, the OIC of the watch-house or DDO is to, using discretion:

(i) confer with medical staff or forensic physician to ascertain the prisoner's medical condition and diagnosis;

(ii) evaluate security considerations;

(iii) ensure thorough vetting of applicants and consider authorisation of visitors;

(iv) permit visitation by authorised visitors in accordance with hospital requirements and security provisions;

(v) arrange for the visitor and the visitor's property to be searched in line with security requirements;

(vi) ensure that all visits are recorded in the QPRIME detention log of the relevant custody report or custody report (Full) including the visitors' details, time and date;

(vii) ensure that authorised visitors do not pass items to prisoners and are supervised at all times during the visit;

(viii) invoke conditions such as limiting visit times, number of visitors, duration and allowable personal items as required;

(ix) for preservation of dignity, make a decision about the use of restraints, particularly in instances where the prisoner is terminally ill; and

(x) revoke authorisation previously granted to any visitor where such circumstances warrant.

The OIC or DDO responsible for a watch-house may authorise hospital visitations for prisoners and may revoke any such authorisation previously given.

Escorting and guarding officer responsibilities

Officers and watch-house officers guarding prisoners who have been taken to a hospital or other medical facility and are subject of an authorised hospital visit by a family member are to comply with s. 16.15.1: 'Medical transfer of a prisoner or person under arrest' of this Manual.

The senior escorting officer is to:

(i) confirm authorisation details of visitors from the OIC of the watch-house, DDO or watch-house manager;

OPM Issue 113 Public Edition

(ii) confirm the visitor's identity with sufficient proof of identity e.g. driver licence or passport;

(iii) ensure the safety and security of Service members, hospital staff and the prisoner during the visit;

(iv) search the visitor and the visitor's property in line with security requirements and s. 16.10: 'Search of persons' of this Manual.

(v) record all visits in the prisoners QPRIME custody record with the visitors' details, time and date and ensure completion of Part B of the QP 0856 including relevant details in the incident log;

(vi) ensure that authorised visitors do not pass items to prisoners and are supervised at all times during the visit;

(vii) for preservation of dignity, the senior guarding officer may consult with the OIC of the watch-house, DDO or watch-house manager regarding the use of restraints, particularly in instances where the prisoner is terminally ill; and

(viii) conduct a detailed handover briefing to relieving officers on visitations that have occurred and are authorised to occur, security considerations and hospital requirements.

Medical transfer of an arrested person to a hospital or other medical facility prior to acceptance at a watch-house

Where an arresting officer or supervisor determines that, prior to lodgement at a watch-house, an arrested person requires medical attention (see s. 16.9.1: 'Prisoner's health prior to acceptance in a watch-house' of this section) they are to determine if the arrested person can be released, any charge against the person is discontinued and proceedings commenced by other means. If the arrest is discontinued, the arresting officer is to assist the person in obtaining medical care, unless assistance is refused.

If arrest is to continue, the arresting officer is to:

(i) as soon as practicable, advise the supervising commissioned officer, RDO, patrol group inspector or DDO of the requirement for medical treatment;

(ii) obtain a QP 0856: 'Prisoner Medical Transfer, Treatment and Clearance Sheet' and convey the person to a medical facility. If a QP 0856 cannot be obtained, arrange for one to be delivered to the medical facility;

(iii) ensure notification of the NOK or person nominated by the prisoner, unless:

(a) specifically requested not to by the prisoner; or

(b) concerns exist that notification will jeopardise the security of the prisoner or safety of persons at the medical facility;

(iv) comply with the requirements for handcuffed prisoners or persons under arrest in medical facilities (see s. 14.19.1: 'Use of handcuffs' and s. 14.19.6: 'Body belts and leg cuffs' of this Manual);

(v) complete Part A and B of the QP 0856 ensuring the risk assessment section is completed, and provide the medical practitioner with Part C. The medical practitioner must be briefed on any risk issues;

(vi) coordinate relieving escorting officer attendance and conduct detailed handover briefings including amendments to the QP 0856, Part B;

(vii) ensure upon prisoner release from medical care, the medical practitioner has completed and signed the medical fitness for custody on the QP 0856, Part C;

(viii) on prisoner lodgement at the watch-house, the completed QP 0856 and any medical documents are to be provided to the watch-house manager; and

(ix) ensure all information has been recorded in accordance with s. 16.8: 'QPRIME Custody, search and property reports' of this chapter.

District tasking and coordination centre, RDO, patrol group inspector or DDO responsibilities

When notified that a prisoner or person under arrest has been conveyed to a medical facility, a DTACC, an RDO, patrol group inspector or DDO is to:

(i) coordinate the allocation of escorting and relieving officers;

(ii) ensure the commissioned officer responsible for the watch-house, or who has line command for the arresting officer, is notified;

(iii) monitor the medical treatment and where appropriate attend the medical facility; and

(iv) ensure next of kin notifications are conducted when appropriate.

Commissioned officer responsibilities

The commissioned officer responsible for the watch-house or who has line command for the arresting officer, is to:

OPM Issue 113 Public Edition

(i) ensure regular checks are made regarding the medical condition of the prisoner or person under arrest until release from the medical facility;

(ii) ensure the:

(a) NOK or person nominated by the prisoner; and

(b) relevant prosecution corps for the court in which the prisoner is to appear;

have been notified of the prisoner's location or condition as appropriate in the circumstances.

16.15.2 Removing a prisoner at a watch-house, suffering from a mental illness, to an authorised mental health service for assessment

Section 71: 'Custodian consent' of the *Mental Health Act* (MHA) set out the conditions under which a watch-house manager must make a 'Custodian consent' in respect of a person in custody unless doing so would pose an unreasonable risk to the safety of the person or others having regard to the security requirements for the person.

Once the person is taken to the authorised mental health service the person becomes a 'classified patient' (see s. 64: 'Meaning of classified patient' of the MHA). The person is then detained in the authorised mental health service and the administrator of the authorised mental health service assumes legal custody of the classified patient while detained in the health service.

Upon becoming a 'classified patient' proceedings against the person for any offence (other than a Commonwealth offence) are suspended until the person ceases to be a 'classified patient' (see s. 616: 'Suspension of proceedings' of the MHA).

If a 'return event' as defined in s. 83: 'Return of classified patient to custody' of the MHA occurs the Chief Psychiatrist will issue a written notice that the 'classified patient' is to be returned to custody to the watch-house manager. Within one day of receiving the notice the watch-house manager is to ensure that the 'classified patient' is returned to custody (see ss. 6.6.3: 'Transporting persons with impaired mental capacity' of this Manual and 83 of the MHA).

A 'classified patient' ceases to be a 'classified patient' when the patient is taken from the authorised mental health service (see ss. 83(5) of the MHA).

POLICY

Watch-house managers who believe that a person, who is in custody, may be mentally ill and in need of treatment or care are to:

(i) arrange for a doctor or authorised mental health practitioner to examine the person and complete a 'Recommendation for assessment' if appropriate (see ss. 31: 'Examination' and 39: 'Making recommendation for assessment' of the MHA);

(ii) if a 'Recommendation for assessment' is made, contact the administrator of an authorised mental health service to arrange an 'Administrator consent' at a particular authorised mental health service;

(iii) if a 'Recommendation for assessment' and an 'Administrator consent' have been made, complete a 'Custodian consent'. The 'Recommendation for assessment' is to be attached to the 'Custodian consent'. All Forms are to be added as an attachment to the relevant QPRIME Custody Report or Custody Report (Full) entry;

(iv) ensure that the person is transported as soon as practicable, but within seven days of the 'Recommendation for assessment' being made, to the authorised mental health service for which an 'Administrator consent' was made;

(v) comply with s. 16.18.1: 'Transfer of prisoners' of this chapter; and

(vi) upon the removal of the person from the watch-house, promptly advise the commissioned officer responsible for the watch-house of the:

(a) name and date of birth of the person;

(b) details of the charges against the person;

(c) date and place of any scheduled court appearances of the person; and

(d) authorised mental health service to which the person has been transported.

The commissioned officer may be advised by whatever means appropriate in the circumstances. This may include by:

(i) telephone;

(ii) e-mail; or

(iii) a Notification Task in QPRIME.

Officers to whom a 'Custodian consent' is directed are to ensure that the person named is transported to an in-patient facility of the stated authorised mental health service as soon as practicable. Officers are to give the 'Custodian consent',

OPM Issue 113 Public Edition

'Administrator consent' and the 'Recommendation for assessment' along with other transfer documents to an appropriate person at the receiving authorised mental health service.

Watch-house managers who have made a 'Custodian consent' which results in the detention of a person at an authorised mental health service are to advise the relevant prosecutor that the person has become a 'classified patient'. The prosecutor may be advised by whatever means appropriate in the circumstances. This may include by:

(i) telephone;

(ii) e-mail; or

(iii) a Notification Task in QPRIME.

Watch-house managers who are advised that a person is not to be held as a 'classified patient' and is to be returned to custody, are to ensure that the person is removed from the authorised mental health service within one day of receiving such advice and returned to custody (see s. 83 of the MHA).

Police prosecutors who are advised by the chief executive (justice) that a person is to be brought before a court, are to comply with the relevant provisions of subsection 'Responsibilities of officers when continuing proceedings' of s. 6.6.8: 'Effect of mental illness on matter before the court' of this Manual.

16.16 Serious illness, serious injury, attempted suicide or self-harm in custody

16.16.1 Additional first response procedures

PROCEDURE

In addition to the requirements of Chapter 2: 'Investigative Process' of this Manual, the police officer or watch-house officer who first discovers that a person in custody or in police company has attempted suicide or other forms of self-harm, is seriously ill or seriously injured is to:

(i) take adequate precautions to limit the chances of prisoners escaping custody (police officers and watch-house officers are to be aware that an incident may be a ploy for prisoners to escape);

(ii) call for assistance and render necessary attention to the person;

(iii) subject to security requirements, ensure that the health and well-being of the person is given priority;

(iv) record the details of the incident and any action taken in relation to the incident;

(v) notify the responsible officer of the incident as soon as practicable; and

(vi) take any necessary action in accordance with s. 1.16: 'Fatalities or serious injuries resulting from incidents involving members (Police related incidents)' of this Manual.

The responsible officer is to:

(i) notify the regional duty officer, patrol group inspector or district duty officer;

(ii) where appropriate, notify the commissioned officer responsible for the station or establishment; and

(iii) where the responsible officer is the watch-house manager, record details of the incident and action taken against the relevant QPRIME Custody Report or Custody Report (Full) Detention Log entry and/or the Watch-house Inspection Register as appropriate.

The regional duty officer, patrol group inspector district duty officer, commissioned officer or watch-house manager may be advised by whatever means appropriate in the circumstances. This may include by:

(i) telephone;

(ii) e-mail; or

(iii) a Notification Task in QPRIME.

POLICY

Depending on the nature of the incident, watch-house managers are to take action pursuant to s. 639: 'Control of persons in watch-houses' or s. 640: 'Transfer of persons in watch-house' of the PPRA to ensure the safety of staff, visitors and prisoners in watch-houses. (See ss. 16.12: 'Management of persons in watch-houses' and 16.19: 'Transfer and escort of prisoners' of this chapter).

16.16.2 Additional responsibilities of investigating officers

Officers responsible for the investigation of a serious illness, serious injury, attempted suicide or self-harm of a person in custody or in police company are to be mindful of s. 3.4: 'General prosecution policy' of this Manual. Officers are to exercise discretion when deciding to charge persons in custody or in police company with minor criminal or regulatory

OPM Issue 113 Public Edition

offences (e.g. damages to property) arising from incidents where self-harm or suicide was solely the intended outcome of the unlawful conduct.

Where appropriate, investigating officers are to:

(i) attend the scene of the incident as soon as practicable;

(ii) initially review the procedures and actions taken in relation to the incident and take any additional action required to remedy any deficiencies;

(iii) ensure all due consideration is given to the psychological welfare of members involved with the incident and the ensure the immediate provision of 'Psychological First Aid' (PFA) is applied where necessary, as per the Guidelines for Psychological First Aid (PFA) available on the Safety and Wellbeing Policies SharePoint page;

(iv) ensure the notification to the next of kin is given as soon as reasonably possible; and

(v) if the prisoner is identified as an Aboriginal or Torres Strait Islander, ensure the appropriate Aboriginal and Torres Strait Islander Legal Service or other Aboriginal and Torres Strait Islander community organisation with responsibility for the area is notified, regardless of whether a relative has been located.

16.17 Children

16.17.1 Considerations for the custody of children

In addition to Chapter 5: 'Children' of this Manual, officers or watch-house officers who have responsibilities in relation to the custody of children are to consider:

(i) wherever possible, proceedings against a child in relation to an offence are to be commenced by way of notice to appear or complaint and summons;

(ii) a child arrested for an offence is to be released with or without bail at the earliest possible time, pending that child's appearance before a court, unless a decision is made to keep the child in custody under the provisions of s. 48: 'Releasing children in custody in connection with a charge of an offence' of the *Youth Justice Act*;

(iii) a child should not be kept in custody where an external agency cannot assume responsibility for the child because of a lack of resources (e.g. the Department of Families, Seniors, Disability Services and Child Safety are to provide accommodation for the child), unless a court issues a release order or bail undertaking stipulating a child can only be released into the custody of a named person or external agency;

(iv) a child held in custody is to, wherever reasonably possible, be held in a detention centre;

(v) where all other reasonable alternatives have been exhausted and a child is to be held in a watch-house/police custody, the child:

(a) is to be held for the least possible time;

(b) must be segregated from adult prisoners unless there are compelling reasons in the child's interests (e.g. the detention of an Aboriginal or Torres Strait Islander child with Aboriginal or Torres Strait Islander adult prisoners may be safer than isolation where the child is agreeable, and the adult is of the same gender); and

(c) is to be, if detained for more than four hours, provided with materials for age appropriate activities if available or otherwise supplied, unless any of these items constitute a security risk;

(vi) a child in custody is to be treated/supervised in a manner that has due regard to that child's age, level of maturity and vulnerability and is consistent with the child's safe custody at all times;

(vii) permitting daily visits by family members, legal representatives or other appropriate adults to children in watch-houses contributes significantly to the wellbeing and morale of such children; and

(viii) a child who is ill, injured, or intoxicated and needs immediate medical treatment must not be admitted to a youth detention centre unless the child has been examined by a medical practitioner and given the immediate treatment required. Additionally, the medical practitioner has given a medical certificate stating the child is medically fit to be admitted to the detention centre (as required under s. 11: 'Medical examination of child before admission' of the Youth Justice Regulation). Any medical certificate is to be added as an attachment to the relevant QPRIME Custody Report or Custody Report (Full) entry.

16.17.2 Arrest of children

In addition to s. 5.9.6: 'Parent and other notification requirements' of this Manual, an officer arresting a child is to, as soon as possible, advise a representative from the Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS) of the:

(i) child's name, date of birth, and usual address;

OPM Issue 113 Public Edition

(ii) circumstances of the child's arrest, including the offence for which the child is charged and whether the child will be held for any length of time before release;

(iii) particulars of the release being granted including any special conditions or the reason for the refusal of bail where bail was refused;

(iv) name and nature of the relationship of the child to the person(s) into whose custody the child has been released if the child has been released;

(v) child's history of prior offences, if any, or breaches of bail undertakings;

(vi) notification to the child's parent of the child's arrest; and

(vii) date, time and place of the intended appearance of the child before a childrens court.

ORDER

An officer arresting a child is to request a representative from the DFSDSCS to provide information that would help determine appropriate custodial management for the child (e.g. whether the child is violent, potentially suicidal, or has a communicable disease) and where applicable, request a representative from the DFSDSCS to nominate a detention centre. The arresting officer is also to record in the child's relevant QPRIME custody report the name of the person to whom such request was made, details of that person's response and give relevant information to any other person taking responsibility for the custody of the child.

Representatives from the DFSDSCS may be contacted:

(i) between 0900 hours and 1700 hours, Monday to Friday, at the area office nearest the area where the child has been arrested; or

(ii) outside business hours through Child Safety After Hours Service Centre (see SMCD).

A DFSDSCS representative may nominate to the arresting officer a detention centre where the child may be detained. Once a detention centre is nominated the watch-house manager is to arrange for the child's transportation to the nominated detention centre as soon as practicable.

Bail decision-making framework

Officers are to release a child from custody unless:

(i) required to keep the child in custody under the *Youth Justice Act* (YJA); or

(ii) exercising a discretion to keep the child in custody under the YJA or another Act.

It is a requirement under the YJA that officers not release a child from custody if satisfied that if the child is released:

(i) there is an unacceptable risk the child will commit an offence that endangers the community, or the safety or welfare of a person and it is not practicable to impose a bail condition(s) to adequately mitigate the risk; or

(ii) the circumstances of the offending are such that the child's safety would be endangered and there is no other reasonably practicable way of keeping the child safe.

Welfare concerns, including the child having no accommodation or family support, is not reason alone to keep the child in custody.

See ss. 48AAA(2): 'Releasing children in custody—risk assessment' and 48AE: 'Releasing children whose safety is endangered because of offence' of the YJA.

When deciding whether to release a child from custody, officers should consider whether there is an unacceptable risk the child will:

(i) not surrender into custody;

(ii) commit an offence other than an offence that is likely to endanger the safety of the community or the safety and welfare of a person; or

(iii) interfere with a witness or obstruct the course of justice.

When deciding whether:

(i) a child is an unacceptable risk of committing an offence that endangers the community, or the safety or welfare of a person and it is not practicable to impose a bail condition(s) to adequately mitigate the risk;

(ii) there is an unacceptable risk the child will (i)–(iii) above;

(iii) to release a child despite there being an unacceptable risk the child will (i)–(iii) above;

(iv) to release a child with or without bail; or

(v) whether the child has shown cause under s. 48AF(2): 'Releasing children charged with prescribed indictable offence committed while on release' of the YJA why the child's detention in custody is not justified,

OPM Issue 113 Public Edition

officers should consider:

(i) the nature and seriousness of the offence;

(ii) any criminal history and other relevant history, associations, home environment, employment and background;

(iii) any previous bail history;

(iv) the strength of the evidence;

(v) the child's age, maturity, cognitive ability and developmental needs;

(vi) whether a parent of the child, or another person, has indicated a willingness to the court or the officer to do any of the following:

(a) support the child to comply with the bail conditions;

(b) notify the chief executive or police of a change in the child's personal circumstances that may affect the child's ability to comply with the bail conditions; or

(c) notify the chief executive or police of a breach of the bail conditions;

(vii) if the child identifies as an Aboriginal person or Torres Strait Islander, a submission made by a representative of the child's community; and

(viii) any other relevant matter.

Officers are to also have regard to the considerations in s. 48AA(2): 'Matters to be considered in making particular decisions about release and bail' of the YJA.

When deciding whether to release a child with or without bail, officers should consider:

(i) the relationship between the child and the child's parents and family;

(ii) whether the child's living arrangements, education or work will be interrupted;

(iii) any reputational harm that may arise from keeping the child in custody;

(iv) the child's physical and mental health; and

(v) if the child:

(a) has a disability, what support the child needs;

(b) is an Aboriginal person or Torres Strait Islander, the desire to keep the child connected with the child's family and community; and

(c) is under 14 years, the vulnerability of the child and community expectation a child under 14 requires care and protection.

OPM Issue 113 Public Edition

Bail Conditions

Bail conditions should only be imposed if doing so will mitigate an unacceptable risk mentioned in s. 48AAA(2)(a) or (3) of the YJA (see ss. 52: 'Conditions of release on bail—generally' and 52A: 'Other conditions of release on bail' of the YJA and s. 5.10.2: 'Child released on bail' of this Manual).

16.17.3 Care of children in custody

In addition to s. 16.9.1: 'Prisoner's health prior to acceptance in a watch-house' and s. 16.13: 'Healthcare of persons in custody' of this chapter, when assessing a child's medical condition, an officer or watch-house officer is to consider the child's apparent emotional and psychological state, signs of distress, injury or illness, and the possible influence of drugs or alcohol on the child.

ORDER

Officers or watch-house officers are to advise, as soon as possible, the child's parent(s) or adult caregiver, where practicable and an officer from the Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS) (when the child is under the care of the DFSDSCS), when a child is transferred from a watch-house to a hospital or other medical facility for medical attention.

In addition to s. 16.13.4: 'Provision of medication' of this chapter, the provision of medication to children is to be recorded in a QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' and the Detention log in the child's relevant QPRIME custody report.

The watch-house manager is to allow access visits by parents or an authorised cell visitor (see s. 16.22: 'Cell visitor scheme' of this chapter) subject to operational or security needs of the watch-house, and the consent of the child.

An officer from the DFSDSCS is to, whenever practicable, be permitted access to children in watch-houses.

Where a child is assessed as being at significant risk of attempting suicide or engaging in self-harming activities and it is not possible to transport the child promptly to a youth detention centre, the watch-house manager is to request the

relevant DFSDSCS regional office to provide suitable departmental staff to attend the watch-house and provide appropriate support to the child if required. Watch-house security and safety of departmental staff are to be considered prior to complying with this procedure.

As soon as practicable upon admission, a child who is lodged in a watch-house must be provided with information regarding their rights and responsibilities whilst in a watch-house. A copy of Appendix 16.2: 'Rights and responsibilities of children whilst in custody in a watch-house' of this chapter is to be given to the child and to any parent or adult caregivers present when the child is admitted to the watch-house. If the police officer or watch-house officer who gives this document to the child reasonably suspects the child cannot understand or read the document, the police officer or watch-house officer is to ensure the material is explained verbally. For this purpose, the DFSDSCS representative, independent person, authorised cell visitor or child's legal representative can be present.

Receiving officers are to ensure the copy of the document is included in the child's property tab within the QPRIME Custody Report (Full) and dealt with in accordance with the relevant provisions of Chapter 4: 'Property' of this Manual.

If a child in custody attempts self-harm; is assaulted; or becomes ill or injured and requires medical treatment; a significant event message is to be completed (see s. 1.18: 'Significant events' of this Manual).

16.17.4 Custody of children

Refer to s. 10.4.24: 'Documents to accompany escorted children' of this Manual for documents required to accompany a child to a detention centre. Also refer to ss. 39, 54, 56 and 265 of the YJA.

Custody of child pending court appearance

Where a child is arrested and not released with bail in accordance with the provisions of s. 50: 'Dealing with a child not brought before Childrens Court in accordance with s 49' of the YJA, watch-house managers are to ensure the child appears before a children's court as soon as practicable.

Where a children's court is not listed to sit within a reasonable time following the delivery of the child into that watch-house manager's custody, the watch-house manager is to consider making arrangements to have a children's court convened as soon as practicable. Consideration is also to be given, in appropriate cases, to establishing an audio-visual or audio link with a court to allow a bail application on behalf of the child to be heard (see s. 53: 'Granting of bail by audio visual link or audio link' of the YJA).

Where it is not possible to promptly bring an arrested child before a childrens court following arrest and lodgement in a watch-house, the watch-house manager is to make arrangements for the child to be placed in a detention centre wherever practicable.

Watch-house managers are to seek advice for the selection of a suitable detention centre for placement of the child pending that child's court appearance from the nearest area office of the Department of Youth Justice and Victim Support (DYJVS). Outside of office hours, the Child Safety After Hours Service Centre is to be contacted (see SMCD).

Where a representative from the DYJVS nominates a detention centre where the child is to be detained, the watch-house manager is to arrange for the child's transportation to the nominated detention centre as soon as practicable.

Custody of child ordered to be detained or remanded in custody

Following a child's court appearance; whether the child is sentenced to a term of detention or remanded in custody, the relevant watch-house manager is to make arrangements for the child to be placed in a detention centre wherever practicable. Watch-house managers are to seek advice for the selection of a suitable detention centre for placement of the child pending that child's court appearance from the nearest area office of the DYJVS as per the above paragraph (generally, a DYJVS Court Officer present at court will advise on the admission to a detention centre).

Where a child has been sentenced to a term of detention or remanded in custody, and escort arrangements cannot be made to immediately transport the child, the watch-house manager shall advise a DYJVS representative.

In rural areas where there is no representative of the DYJVS at court, the watch-house manager shall, by the most expeditious means available, consult with the responsible DYJVS area office and record the outcome of the conversation in the child's relevant QPRIME custody report.

16.17.5 Custody of children in watch-houses

For the purpose of this section:

Custody in a watch-house overnight

means a continuous period of custody in a watch-house of at least six hours, commencing after 9pm and ending at or before 6am.

Wherever practicable children are not to be kept in custody in a watch-house. Following the:

(i) arrest of a child where the child remains in custody and the child's court appearance is delayed; or

(ii) sentencing in detention or remanding of a child in custody,

OPM Issue 113 Public Edition

the relevant watch-house manager should ensure, wherever practicable, the child is transferred to a detention centre nominated by a Department of Youth Justice and Victim Support (DYJVS) representative.

When a child is to be held in custody in a watch-house overnight the prescribed OIC or watch-house manager of the watch-house is to record the reasons for the decision to hold the child in custody in the child's relevant QPRIME custody report.

A child should only be kept in custody in a watch-house overnight where:

(i) it is not reasonably practicable to immediately transport the child to a youth detention centre; and

(ii) there are no extenuating factors, such as:

(a) a perceived need for the child to remain close to significant family members; and

(b) subjecting the child to lengthy transportation to a youth detention centre only to return soon after to the same watch-house to attend court.

If, following consultation with the nearest area office of the DYJVS (or the Child Safety After Hours Service Centre), in accordance with the provisions of the previous section, it is not reasonably practicable to transfer the child to a detention centre, the watch-house manager should notify the commissioned officer responsible for that watch-house. The commissioned officer, after consulting with the delegated officer of the DYJVS in that region, may authorise that the child continues to be kept in custody in a watch-house. The commissioned officer should:

(i) record the reasons for the decision in the officer's diary; and

(ii) ensure the reasons for the decisions are recorded in the child's relevant QPRIME custody report.

Where appropriate or necessary, a child may be transported to a youth detention centre or watch-house outside of the designated catchment area by Queensland Government Air (QGAir). QGAir availability is limited to the condition where the aircraft is on a scheduled flight on a scheduled route, unless there are compelling reasons or extraordinary circumstances. This would include where commercial or charter flights are either not appropriate or unavailable.

If QGAir is not available a child may be transported to a detention centre by commercial flight or charter flight (if a commercial flight is not available).

Payment of airfares for the child and escorting officer(s) and payment of overtime, travel allowance and meal allowances to be incurred by the escorting officer(s) are to be approved by the:

(i) commissioned officer responsible for the watch-house;

(ii) Inspector, Manager—State Custody Unit; and

(iii) where travel is required outside the Youth Detention Centre catchment, consultation is to occur with DYJVS for travel reimbursement costs,

prior to arranging commercial or charter flights.

OPM Issue 113 Public Edition

The commissioned officer responsible for a watch-house will determine, in consultation with the delegated officer, DYJVS, the need for special transport arrangements referred to above (see s. 10.4.22: 'Escort of children' of this Manual).

Where QGAir is available, a child is to be considered as a priority for transport by QGAir.

If a child is to be kept in custody in a watch-house longer than overnight the commissioned officer is to ensure the relevant Manager, DYJVS is aware of the custody.

Where a child of any age:

(i) is appearing in extended proceedings; and

(ii) it has been determined no suitable alternative exists; and

(iii) the child is required to be kept in custody in a watch-house during the court's sittings; or

(iv) there are exceptional circumstances that prevent the transportation of a child to a youth detention centre,

and results in the necessity for the child to be kept in custody in a watch-house for two or more consecutive nights, it may constitute an extraordinary circumstance and does not alter or override the provisions of this policy in its general application. In all other situations the provisions of this policy should be adhered to.

16.17.6 Transportation of a child to court

Refer to Chapter 10: 'Escorts and Extraditions' of this Manual.

Where a child is being kept in custody in a detention centre which, due to its distance from the place of the child's court appearance, requires that the escort commences the day before the child's court appearance, the OIC of the station or establishment responsible for the escort is to advise the manager of the detention centre at which the child is being held, of this fact a reasonable time before the escort is commenced.

The manager of the detention centre is to authorise the release of the child to the police escort.

The watch-house manager is to make arrangements for the escorting of children to a court directly with the relevant manager of a youth detention centre, or that person's delegate. Such arrangements are to be made at least 24 hours before the child is to be ready for the escort. Where commencement of the escort is necessary prior to the day of the child's appearance in court the watch-house manager is to advise the manager of the relevant youth detention centre a reasonable time before the escort commences.

16.17.7 Child breaching bail conditions

This section applies to contravention of bail conditions. A further offence while on bail, does not by itself engage this section.

Where a child has been arrested under the provisions of s. 367: 'Arrest of person granted bail' of the PPRA, a prescribed police officer (see s. 16.20.2: 'Prescribed police officer's (PPO) responsibilities' of this chapter) has no power to release a child from the watch-house on a release notice, NTA, or to grant a new bail undertaking. The prescribed police officer is to ensure the child is brought before a children's court in accordance with s. 29A: 'Procedure in respect of defendants apprehended under s 21(7) or the Police Powers and Responsibilities Act 2000' of the BA. Alternatively, where lawful and appropriate (e.g. where grounds for arrest no longer exist), an arresting officer may discontinue the child's arrest pursuant to s. 376: 'When arrest may be discontinued—general rule' of the PPRA.

ORDER

Prior to considering the arrest of a child who:

(i) has been released from custody on bail (court ordered bail or police bail) for an offence other than:

(a) a prescribed indictable offence (see Schedule 4: 'Dictionary' of the *Youth Justice Act* (YJA)); or

(b) an offence against s. 177(2): 'Contravention of domestic violence order' of the *Domestic and Family Violence Protection Act* (DFVPA); or

(c) an offence against s. 178(2): 'Contravention of police protection notice' of the DFVPA; and

(ii) the officer reasonably suspects the child is likely to contravene, is contravening, or has contravened a condition of that bail;

(iii) where the child has contravened or is contravening the condition, the contravention is not an offence, other than an offence against s. 29: 'Offence to breach conditions of bail' of the BA,

an officer is to first consider if it is appropriate to do one of the following:

(i) take no action;

(ii) warn the child; or

(iii) where the contravention or likely contravention relates to a condition other than a condition for the child to appear before a court, make an application under s. 30: 'Apprehension on variation or revocation of bail' of the *Bail Act* (BA) to vary or revoke the child's bail.

In deciding whether one of the above is more appropriate, the officer must consider all the circumstances including:

(i) the seriousness of the contravention or likely contravention;

(ii) whether the child has a reasonable excuse;

(iii) the child's particular circumstances; and

(iv) any other relevant circumstances of which the officer is aware.

Where the officer considers that taking no action, warning the child, or making an application under s. 30 of the BA is the more appropriate course, the officer must take that action.

See s. 59A: 'Police officers must consider alternatives to arrest for contraventions of bail conditions' of the YJA.

An officer may also consider the alternatives to arrest outlined above where:

(i) the child has been released from custody on bail, whether court ordered bail or police bail, for:

(a) a prescribed indictable offence;

(b) an offence involving contravention of a contravene a DVO; or

(c) an offence involving contravention of a Police Protection Notice; and

(ii) the officer reasonably suspects the child is likely to contravene, is contravening, or has contravened a condition of that bail.

OPM Issue 113 Public Edition

Arresting officer responsibilities

ORDER

Arresting officers are to ensure arrangements are made for a child arrested under the provisions of s. 367: 'Arrest of person granted bail' of the PPRA to be brought before a childrens court forthwith. Where the child is arrested within 24 hours before the time at which the child is bound by a condition of the undertaking to appear before a court, is to be kept in custody and surrendered into the custody of that court at the time and place appointed (see s. 29A: 'Procedure in respect of defendants apprehended under s 21(7) or the Police Powers and Responsibilities Act 2000' of the BA).

Upon arrival at a watch-house, the officer arresting a child under the provisions of s. 367 of the PPRA is to:

(i) comply with s. 16.17.2: 'Arrest of children' of this chapter and s. 5.9.6: 'Parent and other notification requirements' of this Manual;

(ii) create a 'Juvenile breach bail' [1518] QPRIME occurrence through Police Intranet Report (PIR2);

(iii) complete a QP 0727A: 'Notice of Exercise of Power Affidavit and Notice of Exercise of Power Annexure—Child'. When completing the QP 0727A, officers are to include:

(a) a statement of facts concerning the alleged breach of bail conditions;

(b) information about the circumstances which made it inappropriate to take no action, warn the child, or file an application under s. 30 of the BA to vary or revoke the child's bail; and

(c) an outline of what endeavours were made to advise a parent of the child, the Chief Executive, Department of Families, Seniors, Disability Services and Child Safety (DFSDSCS) of the arrest of the child; and

(d) ensure the QP 0727A: 'Notice of Exercise of Power Affidavit and Notice of Exercise of Power Annexure—Child' is sworn or affirmed; and

(iv) where the contravention constitutes an offence against s. 29 of the BA and after considering the alternatives required by s. 11: 'Police officer to consider alternatives to proceeding against a child' of the YJA, the arresting officer decides to commence proceedings against the child for that offence, complete a bench charge sheet and Court Brief (QP9) in the relevant QPRIME occurrence (see s. 16.9.2: 'Responsibilities of arresting officer when lodging a prisoner in a watch-house' of this chapter).

Arresting officers are to ensure a copy of the QP 0727A is:

(i) given to the arrested child;

(ii) provided to the court:

(a) as a hard copy with the prosecution paperwork; and

(b) via email to the local court registry; and

(iii) provided to the appropriate prosecution corps:

(a) as a hard copy; and

(b) via email at the same time as the material is sent to the court registry;

(iv) delivered to the Chief Executive, DYJVS.

The prosecution corps should receive 3 hard copies: the prosecutor copy, the tender-to-court copy, and the defence copy.

If the child cannot be brought before a court immediately or is to be kept in custody under s. 29A(1)(d) of the BA, arrangements are to be made to have the child kept in custody in a detention centre until the child's appearance in court.

Where transport to a detention centre before the child's court appearance is impracticable, the child is to be held in a watch-house subject to the provisions of s. 16.17.5: 'Custody of children in watch-houses' of this chapter.

If a child is to be kept in custody in a detention centre, the officer or watch-house officer transporting the child to the detention centre is to take a completed copy of the QP 0727A and provide it to the person admitting the child into the detention centre.

Warrant issued on application to vary or revoke bail

Where an application has been made under s. 30 of the BA to vary or revoke a child's bail, the court may issue a Form 19: 'Warrant to apprehend defendant on application for revocation or variation of bail' under the BA requiring the child to be brought before the court to show cause to why the child's bail should not be varied or revoked.

ORDER

Arresting officers are to ensure arrangements are made for a child arrested under a Form 19 to appear before a childrens court, and that all arrangements directed in the warrant are complied with.

OPM Issue 113 Public Edition

16.17.8 Application for removal of child from custody

Where an officer seeks a removal order to remove a child from lawful custody for investigation or questioning under the provisions of Chapter 15, Part 2, Division 2: 'Removal of persons from lawful custody' of the PPRA, s. 400: 'Chief executive must be advised of application for removal order' of the PPRA is to be complied with. For the purpose of s. 400 of the PPRA, the manager of the relevant youth detention centre, or that person's delegate, is to be advised of the location and anticipated period of detention of the child.

A child who is removed from a place of custody for investigation or questioning is to be returned to that place of custody as soon as possible after the investigation or questioning ends, unless an extension is granted. See also s. 2.5.6: 'Removal of prisoners/children from corrective services facilities and detention centres' and s. 2.5.7: 'Removal of prisoners from a watch-house' of this Manual.

16.17.9 Appearance in court of violent and potentially violent children

Child in custody at a detention centre

When it is considered that a child in custody at a detention centre who must appear before a childrens or magistrates court may be violent or has displayed violent behaviour on past court appearances, in order to ensure the safety of the child, court staff, the public and members of the Service, the use of an audio-visual link or audio link is to be considered.

An audio-visual link or audio link may be used:

(i) in the granting of bail (see s. 53: 'Granting of bail by audio visual link or audio link' of the YJA); and

(ii) to sentence (see s. 159: 'Audio visual link or audio link may be used to sentence' of the YJA);

but only where the child agrees to the use of the link and is legally represented or in the case of a bail application the court is satisfied the child has had an opportunity to obtain independent legal advice.

The investigating officer is to contact the child and their legal representative to determine if they consent to the use of a link or in the case of a bail application, the child has had independent legal advice. If consent is reached, contact the relevant court and detention centre to ensure they have appropriate facilities for the use of the link. If facilities are available, make the appropriate arrangements with the relevant court and detention centre for use of the link on the date of the court appearance. Ensure all other relevant persons are informed prior to the court appearance that an audio-visual or audio link is to be used. These relevant persons are to include the police prosecutor with carriage of the matter who is also to inform the magistrate, the watch-house normally receiving the child for court and the Department of Youth Justice and Victim Support, who will need to consult with the child before the relevant court appearance.

16.18 Transfer of prisoners

16.18.1 Transfer of prisoners

Watch-house managers may authorise the transfer of prisoners from one watch-house to another where the transfer is reasonably necessary for ensuring the good management and control of the watch-house (see Chapter 21, Part 1: 'Watch-houses' [ss. 639–640] of the PPRA).

When a prisoner is transferred from one watch-house to another watch-house, the transferring watch-house is to notify the prisoner's legal representative.

Prior to authorising the transfer of a prisoner, watch-house managers are to:

(i) consider requirements that a prisoner be taken forthwith before a justice to be dealt with according to law (see s. 10.4.2: 'Legal requirements relating to escorting police officers and watch-house officers' of this Manual);

(ii) consider the implications transferring a prisoner may have on preventing, restricting or significantly inconveniencing access being gained to the prisoner at any time by any person lawfully entitled to access the prisoner;

(iii) consider any relationships which may exist between prisoners being transported together to ensure no conflict exists (i.e. DFV, Bail Act or any other orders which may impact the prisoner's welfare); and

(iv) ensure such transfer is recorded in the relevant QPRIME Custody Report or Custody Report (Full) entry in accordance with s. 16.8.4: 'Maintaining QPRIME custody and search reports' of this Manual.

Watch-house managers are to ensure that for each prisoner transferred from the watch-house to a detention centre, institution or another watch-house, a:

(i) QPS Person Report (Custody) including details of police custody in relation to the offence in compliance with s. 3.7.16: 'Presentence custody certificates (*Penalties and Sentences Act*)' of this Manual;

(ii) QP 0035: 'Prisoner Property Sheet';

(iii) QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' (if applicable);

OPM Issue 113 Public Edition

(iv) QP 0856: 'Prisoner Medical Transfer, Treatment and Clearance Sheet' (if applicable);

(v) Court Brief (QP9) and criminal history (if any) in compliance with s. 3.4.18: 'Supply of information where court outcome requires action by Queensland Corrective Services or Department of Youth Justice and Victim Support' of this Manual;

(vi) criminal history (if any); and

(vii) relevant warrant, QPRIME warrant report or other authority, in compliance with s. 10.4.15: 'Transfer of and taking charge of persons in custody' of this Manual,

is prepared and associated property is packaged (see s. 10.4.13: 'Packaging prisoner property for escort' of this Manual) and forwarded with the escorting officer or watch-house officer; and the signed QPS Prisoner Property Sheet (after handover or transfer of prisoner is completed) is filed at the watch-house either:

(i) in hardcopy; or

(ii) added as an attachment to the relevant QPRIME Custody Report (Full) entry,

and a notation made in the relevant Detention Log.

Where prisoners in a watch-house are regularly transferred to another watch-house, local standing orders should be developed regarding the transfer of prisoners between such watch-houses (see also s. 10.4.15: 'Transfer of and taking charge of persons in custody' of this Manual).

Footwear

Watch-house managers are to ensure that where prisoners enter the watch-house wearing footwear and are transferred from the watch-house to another place, including court and corrective services facilities, the prisoners are permitted to wear their footwear during the transfer. Where it is believed that allowing a prisoner to wear shoes may create an unacceptable risk of suicide, self-harm, escape, injury to police etc., and this risk cannot be mitigated by removing laces, socks, searching shoes etc., prisoners may be transported without shoes.

Watch-house managers should consider obtaining thongs or other open footwear for prisoners who are determined an unacceptable risk and unable to wear shoes during transit. Thongs or other acceptable footwear may be obtained from sources including:

(i) prisoner's family or friends;

(ii) Department of Families, Seniors, Disability Services and Child Safety, where prisoner is a child;

(iii) Aboriginal and Torres Strait Islander Legal Service or community, where prisoner is an Aboriginal or Torres Strait Islander;

(iv) Queensland Corrective Services; and

(v) purchasing a supply.

See also ss. 16.6.3: 'Intoxication' regarding detained intoxicated persons who may be taken to and released at a place of safety and 16.12: 'Management of persons in watch-houses' of this chapter.

OPM Issue 113 Public Edition

16.19 Transfer and release procedures

16.19.1 Transfer of sentenced prisoners

POLICY

The officer in charge of a watch-house is to ensure that:

(i) Queensland Corrective Services is notified of the custody of any prisoner who is eligible to be transferred to the Queensland Corrective Services as soon as practicable but within seventy-two hours of the prisoner entering into police custody; and

(ii) where the prisoner is not accepted by Queensland Corrective Services the:

(a) name of the Corrective Services Centre contacted;

(b) date and time the advice was provided by Queensland Corrective Services;

(c) name of the Corrective Services officer refusing to accept the prisoner; and

(d) reason the prisoner was not accepted by the Corrective Services Centre;

is recorded against the relevant QPRIME Custody Report (Full) Detention Log entry.

PROCEDURE

The officer in charge of a watch-house is to maintain contact with appropriate Corrective Services personnel to facilitate the earliest practicable transfer of a sentenced prisoner, taking into account other operational needs.

16.19.2 Development of release procedures

ORDER

The OIC of the watch-house is to develop release procedures to ensure that persons in custody are released at the termination of their lawful custody. When releasing a person in custody officers are to use the approved checklist in Appendix 16.13: 'Release checklist' of this chapter.

The procedures developed and adopted at each watch-house are to ensure that:

(i) the correct person is being released;

(ii) prisoners are not held for periods longer than necessary; and

(iii) unreasonable bail conditions are not demanded of prisoners.

The procedures developed need to take local issues and conditions into account, including the number of persons in custody which are usually processed.

The procedures are to align substantially with the following steps, while allowing for tailored adjustments to meet the unique operational requirements of each location. Each individual step of the release procedure directly correlates to the same numbered step within the Release Checklist (Release Procedure & Checklist), specifically:

(i) physically identify person to be released;

(ii) determine managing agency (QPS, QCS, DYJVS). All persons in custody managed by external agencies are not to be released without the approval of the managing agency;

(iii) ensure the verdict and judgment record is correct and lawful;

(iv) ensure all outstanding court matters have been finalised or allow for lawful release (permitted to go at large, bail etc.);

(v) identify if the person in custody has received a custodial or non-custodial sentence;

(vi) conduct checks to ascertain if the person in custody is held on other matters (return to prison warrant, parole suspension, serving a sentence etc.);

(vii) if conditions have been imposed by the court, ensure that conditions are met prior to release (surrender passport, sureties etc.);

(viii) review cautions and flags for outstanding warrants/wanted for questioning matters and confirm if the prisoner is an Australian citizen/resident;

(ix) should the person in custody wish to receive assistance, provide post release support information; and

(x) provide the person in custody with their property upon release ensuring this includes any medication.

OPM Issue 113 Public Edition

Dealing with discrepancies of QPS persons in custody

Where discrepancies are identified, the issuing court should be contacted immediately for clarification. Should discrepancies be identified outside business hours, the court registrar can be contacted. The OIC of the watch-house should seek an appropriate contact person from their local court for this purpose.

Dealing with discrepancies of QCS or QCS eligible persons in custody

Where reasonable suspicion exists, contact the Lawful Detention Unit of QCS or approved 'out of hours' office listed under subsection 3.3 'Contact details for the Lawful Detention Unit at Queensland Corrective Services' of the 3a. LDERG Command Instruction—Endorsed 14/07/2025 for further guidance.

Unlawful detentions and discharges in error

Where officers become aware of a 'discharge in error' or an 'unlawful detention' has occurred within a watch-house or other Service custodial environment, members are to comply with the instructions listed in Command Instruction 3a. LDERG Command Instruction—Endorsed 14/07/2025. In all instances of persons in custody unlawfully detained or discharged in error must be reported to the watch-house OIC, shift supervisor and to the State Custody Unit via LDERG—Reporting Detention/Discharge Errors.

16.19.3 Release of sentenced prisoners

ORDER

The watch-house manager is to ensure that a prisoner who has completed a sentence and who is not otherwise lawfully detained is released.

PROCEDURE

When a prisoner has completed a sentence, the watch-house manager is to:

(i) calculate the day the prisoner is sentenced as one day and the day of expiry of the sentence as one day; and

(ii) discharge prisoners by 0630 hours on the day of expiry of the sentence.

It will be necessary to determine the length of a term of imprisonment manually. In cases where a sentence is of a number of hours the sentence shall be calculated on a daily basis of twenty four hours per day.

The watch-house manager is to ensure that a prisoner who has been sentenced to a term of imprisonment, a portion of which is ordered to be suspended on the prisoner entering into a recognisance, is discharged as soon as such recognisance first takes effect.

16.19.4 Release of prisoners detained by warrants

ORDER

The watch-house manager is to ensure that a prisoner is not detained in custody longer than any period authorised by the relevant warrant.

PROCEDURE

Where a prisoner has paid a portion of the fine, the default period of imprisonment will be reduced as calculated, as near as practicable, in proportion to the amount paid.

Where a prisoner has served a period in custody, the amount of money to be paid will be reduced as calculated using QPRIME. Where there is no access to the QPRIME system the default period of imprisonment will be reduced as calculated, as near as practicable, in proportion to the balance of the default period shown on the warrant.

The term of imprisonment will be calculated manually. The first day, or any part of the first day, counts as one day. The last day, or any part of the last day, counts as one day.

POLICY

In circumstances where a prisoner is detained by virtue of a warrant of commitment and an appeal is made against the conviction on which the warrant is based, the watch-house manager is to release the prisoner if a relevant order has been made by a justice (see s. 3.11: 'Appeals' of this Manual).

If an appeal against a conviction on which a warrant is based is by way of an appeal to a Judge of the District Court, the prisoner is only to be released in compliance with an order of a justice made upon the appellant having entered into a recognisance or lodging security as required (see s. 222: 'Appeal to a single judge' of the *Justices Act*).

16.19.5 Deleted

16.19.6 Responsibilities of releasing police officers releasing respondents taken into custody under the Domestic and Family Violence Protection Act

ORDER

The releasing police officer, prior to releasing a respondent from custody under the DFVPA is to ensure that the release conditions and QP 0937: 'Release from custody conditions' are completed in the relevant QPRIME Custody Report (Full) (see s. 9.1.2: 'Definitions for DFV' of this Manual; the subsection titled 'Service of DV application on respondent' of s. 9.3.5: 'Taking a respondent into custody under the DFVPA' of this Manual; and QPRIME User Guide).

16.19.7 Release of persons after expiration of detention period

Chapter 15, Part 2: 'Investigations and Questioning' (ss. 398–413) of the PPRA contains authority for officers to question persons in relation to, or detain a person for investigating, indictable offences. During detention periods it may be necessary to detain persons in watch-houses while officers complete further investigations.

ORDER

Releasing a person, who is not in lawful custody for other reasons, at the expiration of a detention period (including the lawful extension of a detention period) is the responsibility of the senior investigating officer.

Where a detained person is held at a watch-house it is sufficient for the senior investigating officer to advise the watch-house manager that the person may be released. It is then the responsibility of the watch-house manager to release the person. This is subject to the lawful detention of that person for any other reason. Where a detained person is held at a watch-house (e.g. under arrest while police make further inquiries or for the safety of that person) the senior investigating officer is to inform the watch-house manager:

(i) when the detention period commenced and when it will expire;

(ii) when the person may be released; and

(iii) of any extension to the detention period.

Where a detained person is held in a watch-house the relevant QPRIME Custody Report, Custody Report (Full), Detention Log, Interview Report and/or Ident/Fingerprint Report are to be fully and accurately completed. If a detention period is extended a copy of the magistrate's order extending the detention period is to be added as an attachment to the relevant QPRIME Custody Report or Custody Report (Full) entry and a notation made in the relevant Detention Log.

OPM Issue 113 Public Edition

The provisions of this section are in addition to the requirements of ss. 24: 'Applications for removal orders—Act, s 399' and 25: 'Application for extensions of detention periods—Act, s 405' of the Responsibilities Code.

16.19.8 Adult prisoners held in watch-house awaiting transfer to Corrective Services

Watch-house managers are to ensure adult prisoners awaiting transfer to Corrective Services are accurately recorded in QPRIME to support inclusion in the automated prisoner movement sheet.

For the purposes of the prisoner movement sheet, a prisoner is to be included where:

(i) a Remand Verdict and Judgment Record (VJR) has been issued;

(ii) the prisoner has been sentenced to serve actual imprisonment;

(iii) a Return to Prison Warrant (RTPW) or similar order has been executed; or

(iv) any other lawful detention instrument requires imprisonment.

Adult prisoners remanded in custody after a court appearance are to be included in the prisoner movement sheet regardless of the remand duration.

Watch-house managers are to ensure relevant QPRIME custody report data is accurate and current to support the automated generation of the prisoner movement sheet, including where applicable:

(i) prisoner's full name;

(ii) date of birth;

(iii) sex;

(iv) detention reason including details of remand, sentence or parole suspension/cancellation where applicable;

(v) warrant details;

(vi) date the prisoner was initially taken into police custody;

(vii) prisoner classifications and alerts relevant to reception and transport; and

(viii) any other relevant information recorded in QPRIME.

All watch-house managers are to ensure the category 'Movement Sheet' is selected in the QPRIME custody report for prisoners meeting the criteria for inclusion.

Where a prisoner has been allocated for reception to a corrective services facility, watch-house managers are to ensure the category 'Movement Sheet' is de-selected from the QPRIME custody report as soon as practicable after receipt of the relevant QCS reception list, to prevent the prisoner continuing to appear on subsequent prisoner movement sheets.

Watch-house managers are to ensure detention reasons recorded in QPRIME are accurate and current. Where applicable, the appropriate detention reason is to be selected to reflect whether the prisoner is:

(i) remanded in custody;

(ii) sentenced; or

(iii) held on a return to prison warrant.

The prisoner movement sheet is generated from QPRIME data by an automated report process. Watch-house managers are to ensure QPRIME entries are accurate and updated in a timely manner to support the integrity of the prisoner movement sheet and associated reporting. (See s. 16.8.4 'Maintaining QPRIME custody and search reports' of this Manual.)

The State Custody Unit is responsible for distribution of the prisoner movement sheet to the approved distribution list, which includes:

(i) Strategy and Performance Officer, Deputy Commissioner, Regional Operations;

(ii) State Custody Unit;

(iii) Sentence Management Services at:

(a) Operations, Brisbane;

(b) Lawful Detention Unit;

(c) Arthur Gorrie Correctional Centre (AGCC);

(d) Brisbane Correctional Centre;

(e) Brisbane Women's Correctional Centre;

(f) Capricornia Correctional Centre;

(g) Lotus Glen Correctional Centre;

OPM Issue 113 Public Edition

(h) Maryborough Correctional Centre; and

(i) Townsville Correctional Complex (Men's);

(iv) Queensland Corrective Services Intelligence;

(v) Specialised Clinical Services, Queensland Corrective Services;

(vi) Serious Offenders Unit, Queensland Corrective Services;

(vii) Victims Register, Queensland Corrective Services;

(viii) Parole Board Queensland; and

(ix) Assistant Nursing Director, Queensland Health.

Local instructions are to outline any additional responsibilities necessary to support compliance with the automated prisoner movement sheet process, including local review of QPRIME custody report data prior to automated report generation.

16.19.9 Fine option orders

Where a person arrested on a warrant of commitment (under the *Justices Act*) is admitted to a watch-house, the watch-house manager is to inform the person of the opportunity to apply for a fine option order. Where the prisoner wishes to apply for a fine option order, the watch-house manager is to:

(i) provide the prisoner with a fine option order application (Form 21, under the *Penalties and Sentences Act* (PSA), available from the court registry only)

(ii) endorse the application with the time and date the sentence was commenced; and

(iii) arrange for the application to be delivered to the proper officer of the court that imposed the fine.

Officers are not to make determinations regarding a fine option order.

Where a prisoner is discharged after the issue of a fine option order, the watch-house manager is to:

(i) add the fine option order as an attachment to the relevant QPRIME Custody Report (Full) entry; and

(ii) made a notation in the relevant Detention Log.

Persons arrested on a Form 61: 'Warrant of arrest and imprisonment for non-payment of penalty' of the PSA are not eligible to apply for a fine option order.

16.19.10 Children held in watch-houses awaiting transfer to Youth Detention Centres

Where a court has not released a child from custody and the child has not yet been accepted into the custody of the Chief Executive, Department of Youth Justice and Victim Support (DYJVS), the Commissioner must take immediate custody of the child in compliance with:

(i) s. 56(2): 'Custody of child if not released by court' of the YJA (where a child is remanded); or

(ii) s. 210(2): 'Detention to be served in detention centre' of the YJA (where a child is sentenced).

Watch-house managers are to ensure that children are detained in watch-houses for the least amount of time possible.

The Service will share information from QPRIME data holdings about young persons in police custody with the Chief Executive, DYJVS and other relevant agencies twice daily.

To ensure the accuracy and reliability of information provided, watch-house managers must ensure QPRIME custody and search reports are maintained in accordance with s. 16.8.4: 'Maintaining QPRIME custody and search reports' of this Manual. This includes:

(i) uploading verdict and judgment records; and

(ii) updating category, detention reason, and disposition details.

The Chief Executive, DYJVS must accept the transfer of a child in the custody of the Commissioner as soon as reasonably practicable in all the circumstances. Watch-house managers should forward relevant information outlined in s. 56(4): 'Custody of child if not released by court' of the YJA to the Chief Executive, DYJVS or their delegate.

Upon notification from the Chief Executive, DYJVS for the date from which a youth detention centre will accept the child, watch-house managers must take all reasonable steps to ensure the child is delivered to the designated centre on the specified date.

16.19.11 Temporary transfer of child to DYJVS custody

Where a court has not released a child from custody, the child is not a prisoner of the court, and the child has not yet been accepted into the custody of the Chief Executive, Department of Youth Justice and Victim Support (DYJVS), the Commissioner must take immediate custody of the child in compliance with:

OPM Issue 113 Public Edition

(i) s. 56(2): 'Custody of child if not released by court' of the YJA—where a child is remanded; or

(ii) s. 210(2): 'Detention to be served in detention centre' of the YJA—where a child is sentenced.

Where a child has yet to be delivered into custody of the DYJVS and remains in the custody of a watch-house, the Chief Executive, DYJVS, may request for temporary custody of the child to facilitate the child's attendance at a specified Youth Justice (YJ) detention centre. The purpose of the temporary custody, is to enable the child's participation in YJ activities, programs, or services pursuant to ss. 56A: 'Temporary transfer of child on remand' and 210A: 'Temporary transfer of child sentenced to period of detention' of the YJA.

Specified detention centres participating in YJA temporary transfers

Specified detention centres participating in temporary transfer activities, programs or services, are the following:

(i) Brisbane Youth Detention Centre;

(ii) Cleveland Youth Detention Centre;

(iii) Wacol Youth Remand Centre; and

(iv) West Moreton Youth Detention Centre.

Receiving requests for temporary transfer of child

Requests for the temporary transfer of a child to DYJVS custody pursuant to ss. 56A or 210A of the YJA are only to be processed when the request has been received from a YJ business email account. Emails are not to be sent to members and are to be directed to designated watch-house business accounts only.

Requests for a temporary transfer of a child to DYJVS custody should specify at minimum:

(i) the name of the nominated child detained in the watch-house;

(ii) the name of the watch-house where the child is currently held in custody;

(iii) the name of the specified detention centre for where the child is to be taken;

(iv) the intended day of removal;

(v) the proposed collection time and expected return time for the child at the watch-house (note: release period is to be no more than one day, unless unforeseen circumstances exist);

(vi) nomination of the YJ activities, programs, or services the child is to participate in (outlining the purpose of the temporary transfer);

(vii) the contact details of the requesting DYJVS delegate (including the office details of the DYJVS delegate);

(viii) where it is known, the date on which a DYJVS delegate spoke to the child to discuss temporary transfer options for attending the specified YJ centre, including full name of the DYJVS delegate who obtained consent from the child;

(ix) where it is known, the details of the delegate responsible for transporting the child, otherwise known as receiving the child into DYJVS custody (where transport has been outsourced to another Chief Executive—specify the organisation responsible for transporting the child);

(x) details of any risks or needs identified by the DYJVS risk assessment process, including recommendation of procedures to implement during the temporary transfer of custody to DYJVS and how the identified risks will be negated (see s. 56(4): 'Custody of child if not released by court' of the YJA); and

Where there is insufficient detail in the email request for a temporary transfer, the reviewing watch-house member is to:

(i) request further details, as outlined above, from the DYJVS delegate before the request can be forwarded to the prescribed OIC or watch-house manager for consideration; or

(ii) decline the request for temporary transfer, outlining the reasons for the DYJVS delegates understanding as to why the Service has declined the request.

Where it is requested, reasonable assistance should be provided to a DYJVS delegate wishing to discuss with the child the possible temporary transfer options (e.g. attend a YJ activity, program or service at a specified detention centre). This process will allow the DYJVS delegate to obtain the child's consent and agreement to participate in a temporary transfer request and initiate DYJVS processes to facilitate the transfer with the participating watch-house.

Watch-house considerations for assessing temporary transfer requests

The prescribed OIC or watch-house manager receiving a temporary transfer request, is to first consider the operational implications on the watch-house to satisfy and safely facilitate the request. Operational considerations include:

(i) the security and management of the watch-house; and

(ii) the safety and wellbeing of people detained in the watch-house.

OPM Issue 113 Public Edition

Consideration of whether to permit a temporary transfer of custody under ss. 56A and 210A of the YJA should include consideration to:

(i) the child's rights to education (see s. 36: 'Right to education');

(ii) the child's rights to access health services (see. 37: 'Right to health services');

(iii) the child's cultural rights (see s. 27: 'Cultural rights—generally'); and

(iv) where identified, the child's First Nations cultural rights (see s. 28: 'Cultural rights—Aboriginal peoples and Torres Strait Islander peoples'),

of the *Human Rights Act*.

ORDER

Where it is found the temporary transfer of the child to DYJVS custody is operationally viable and the transfer request can be fulfilled, the prescribed OIC or watch-house manager is to provide the relevant commissioned officer or executive officer, with a briefing (verbal or written) outlining details of the temporary transfer request. The briefing is to assist the commissioned officer or executive officer in their own decision-making process and aid the commissioned officer (or executive officer) to achieve a reasonable outcome for the request (the agreement).

In briefing the commissioned officer or executive officer, the prescribed OIC or watch-house manager is to provide the following:

(i) email correspondence from DYJVS delegate which requests for the temporary transfer of the child, ensuring details in the correspondence satisfy the minimum criteria to suitably assess the request (see subsection above titled 'Receiving requests for temporary transfer of child' of this section);

(ii) an outline of the number of staff required to safely facilitate the DYJVS transfer request and capacity of the watch-house to execute the transfer request (e.g. predicted impact on staffing numbers available at time of hand-over vs staffing numbers available at time of receiving the child back into watch-house custody);

(iii) a summary of the child's behaviour whilst held in watch-house custody;

(iv) if present, the needs of the child which may impact on the operational ability to safely facilitate the temporary transfer request and coordinate custody arrangements (e.g. violence or suicidal flags/cautions) with consideration to s. 5.12.1: 'Handcuffing children' of this Manual; and

(v) a prepared QP 1260: 'Agreement for temporary transfer of child prisoner from police watch-house to Chief Executive Department of Youth Justice and Victim Support' (available on Forms Select). The prepared QP 1260 is to include the following details:

(a) duration of the child's detention;

(b) upcoming court commitments for the child; and

(c) indication of the child's own agreement (signature or verbal agreement recorded on BWC).

OPM Issue 113 Public Edition

Agreement to YJA temporary transfer

The Commissioner, through s. 4.9 of the PSAA, authorises commissioned officers and executive officers to agree in writing to temporary transfer requests.

Agreement to grant the temporary transfer request must be provided in writing and provided to Chief Executive, DYJVS. This is achieved by emailing the completed QP 1260—which includes the approving commissioned officer or executive officer's signature—to the requesting DYJVS delegate's office.

Where agreement to remove a child from the watch-house has not been granted by the commissioned officer or executive officer, the prescribed OIC or watch-house manager is to ensure the reasons for declining the temporary transfer request is recorded in QPRIME by entering a detention log entry in the relevant custody report.

In all instances, the outcome of the temporary transfer request, either approved or declined, is to be supplied through emailing correspondence back to the requesting DYJVS delegate.

Where a child refuses to participate in the transfer process on the day of the transfer itself (revoking any original consent already given to DYJVS delegates or Service members), the watch-house member receiving the declined response from the child is to:

(i) where possible, outline the reasons for declining the transfer on the child's custody log; and

(ii) notify as soon as reasonably practicable, the DYJVS delegate of the child's decision to decline the temporary transfer request.

ORDER

Before DYJVS can receive temporary custody of the child pursuant to ss. 56A or 210 of the YJA, the:

(i) child is to agree to a Service member of their willingness to participate in the temporary transfer;

(a) by signing their consent on the QP 1260; or

(b) where the child is unable to sign the QP 1260, by providing verbal agreement on a member's BWC device: and

- the member is to note the child's consent on the QP 1260 has been captured in a BWC recording;
- the member ensures the BWC recording is uploaded to Evidence.com prior to termination of shift; and
- the uploaded Evidence.com recording is tagged 'verbal agreement to temporary transfer'; and

(ii) commissioned officer or executive officer agrees to the temporary transfer in writing, by completing the QP 1260.

Where the commissioned officer or executive officer declines the temporary transfer request the officer is to provide grounds for denying the request to the OIC or watch-house manager, ensuring the grounds for declining the request are communicated to the requesting DYJVS delegate (e.g. impost on the resources available at time of the request to provide security at the watch-house and safely facilitate the transfer request). For further guidance see subsection 'Agreement to temporary transfer has not been reached or is withdrawn' of this section.

The prescribed OIC or watch-house manager is to ensure:

(i) the temporary transfer outcome, either where both agreements have been reached (child and commissioners delegate) or the temporary transfer request is declined, is to be communicated to the requesting DYJVS delegate office as soon as reasonably practicable by sending an email response; and

(iii) where the temporary transfer is agreed and the QP 1260 is signed by the commissioned officer or executive officer, the completed QP 1260 is uploaded to the relevant custody report; or

(iv) where the temporary transfer request is declined by the commissioned officer or executive officer, written correspondence outlining reasons to decline the request is captured in QPRIME on the relevant custody report.

Actioning YJA temporary transfer requests

ORDER

Prior to releasing the child into DYJVS custody for the temporary transfer, watch-house members are to ensure:

(i) DYJVS has supplied a temporary transfer request (see subsection: 'Receiving requests for temporary transfer of child' of this section);

(ii) all email correspondence for the temporary transfer request has been uploaded to the child's custody file in QPRIME;

(iii) the formal temporary transfer request has been considered and agreed to in writing by a commissioned officer or executive officer (see subsection 'Agreement to YJA temporary transfer'), and the:

(a) detention log is completed on the relevant child's custody log, outlining the commissioned officer or executive officer's agreement to the temporary transfer; and

(b) commissioned officer or executive officer's signed agreement (QP 1260) has been uploaded on the relevant custody log;

(iv) on the day of the temporary transfer;

(a) the custody log is updated by the processing member (entry type: 'temporary absence') and reference made to the DYJVS correspondence specifying the 'period of time', 'specified day' and 'expected return time' of the child;

(b) the child is recorded as temporarily transferred (to custody of Chief Executive DYJVS) for attendance of programs (includes services and activities) at the specified youth detention centre;

(c) where the child requires medication for the duration of the temporary transfer and the watch-house is supported by relevant medical practitioners:

- consultation is to occur with the medical practitioner to administer any medications required by the child for the duration of the temporary transfer. Queensland Health do not administer externally sourced medications to children in detention centres or provide medical services for children who are not an existing client of the detention health service. Medications are not to be supplied to the receiving DYJVS delegate; and
- a copy of the medication record sheet QP 0462 'Confidential prisoner medication register and medical record sheet' (available on Forms Select) is provided to the receiving DYJVS delegate to accompany the child for the duration of the temporary transfer process, enabling DYJVS medical practitioners to provide oversight of the child's medical needs while in DYJVS temporary custody;

OPM Issue 113 Public Edition

(d) the child's property remains at the watch-house whilst the child is absent on the temporary transfer, unless the property is permanently signed out to a responsible person (e.g. parent or legal guardian of the child or DYJVS representative);

(e) no new or additional property is to be lodged at the watch-house upon return of the child from the temporary transfer agreement; and

(v) where a child declines the offer to attend the nominated activities, programs or services on the day of transfer, the reason for declining the offer to temporary transfer is recorded in the detention log and:

(a) at the earliest opportunity, notify the DYJVS delegate the child has declined the temporary transfer offer;

(b) where it is requested and operationally viable, provide assistance to the DYJVS delegate to speak further with the child to ascertain any alternative arrangements for the child; and

(vi) upon the return of the child to the watch-house:

(a) update the detention log to reflect the child has been returned to watch-house custody;

(b) ensure the child undergoes another risk-assessment to assess their health and wellbeing for holding in the watch-house facility (intake process); and

(c) consideration is to be given to the requirement of a further search (see s. 16.10.3: 'Searches of Corrective Services prisoners and youths from Youth Detention Centres' of this Manual).

Agreement to temporary transfer has not been reached or is withdrawn

Whilst rare for a commissioned officer or executive officer to decline the temporary transfer request, in all instances where the request has been declined, the child is to be provided with the agreement outcome. The outcome for declining a temporary transfer (or similarly where DYJVS has withdrawn or not proceeded with the temporary transfer) should be explained to the child through a DYJVS delegate. The DYJVS delegate is well-positioned to support the child in understanding the outcome, exploring alternative support options, and engage in broader conversations about any future transfer requests.

ORDER

Where a transfer request has been declined or otherwise withdrawn, watch-house members are to assist and facilitate where operationally possible, for the opportunity of a DYJVS delegate to speak directly with the subject child about the agreement outcome.

Return of child from DYJVS custody to watch-house custody

DYJVS must return custody of the child to the watch-house before the end of the temporary transfer period, unless:

(i) the child is formally transferred into the custody of the Chief Executive, DYJVS at a detention centre; or

(ii) where unforeseen circumstances arise which prevent the return of the child to the watch-house (e.g. natural disaster prevents travel plans or urgent medical treatment is required requiring the child to stay at a hospital).

Where unforeseen circumstances occur and a child is unexpectantly delayed in returning to the watch-house, arrangements are to be made between the Service and DYJVS to return the child as soon as reasonably practicable to the watch-house and the relevant custody log in QPRIME is updated by the prescribed OIC or watch-house manager.

Where the child is formally transferred to the custody of the Chief Executive, DYJVS and property of the child remains at the watch-house, the prescribed OIC or watch-house manager is to make an arrangement between the Service and DYJVS representative, as soon as reasonably practicable, to transfer property of the child to the relevant detention centre.

Escape from DYJVS custody whilst on YJA temporary transfer

Should a child has escape from a DYJVS delegate during a temporary transfer period and the watch-house has been notified, watch-house members are to ensure:

(i) the DYJVS delegate has notified triple zero, if this has not occurred the member is to make the necessary arrangements for police communications to be notified;

(ii) the prescribed OIC or watch-house manager of the nominated watch-house is notified;

(ii) the authorising commissioned officer or executive officer (who agreed to the child's temporary transfer) is notified;

(iii) the local CPIU OIC is notified, where no CPIU is located within the district then the relevant CIB OIC is notified;

(iv) a detention log is added detailing circumstances of the child's escape, including the upload of temporary release documents into QPRIME in the relevant custody log before releasing the child from the watch-house; and

(v) where a child is not located within 48 hours, the prescribed OIC or watch-house manager is to arrange;

(a) for the child's property to be returned to a responsible person for the child (e.g. parent or legal guardian); or

OPM Issue 113 Public Edition

(b) lodgement of the child's property at the investigating officer's station (for the escape lawful custody investigation) until the child is located; and

(vi) where relevant, the local Youth Co-Responder Team are notified.

See also s. 5.13: 'Escape of young people from Department of Youth Justice and Victim Support detention' of this Manual and Flowchart 5.24: 'Action to be taken when a young person escapes from detention' available on the Resources and Training webpage of the Youth Crime Group SharePoint page.

16.20 Bail

16.20.1 Arresting officer's responsibilities

An arresting officer who delivers a person into the custody of a prescribed police officer (PPO) is to, where the person is eligible to be granted bail (see s. 7: 'Power of police officer to grant bail' of the *Bail Act* (BA)):

(i) unless otherwise directed by the PPO:

(a) if the person is refused bail, swear or affirm the bail affidavit (being a QP 0215: 'Bail affidavit' and QP 0215A: 'Bail affidavit annexure (adult)' or, where relevant, a QP 0215B: 'Bail affidavit annexure (child)'), if required) and upload into QPRIME and attach it to the documentation required for the defendant's first court appearance (see s. 3.7.2: 'Documentation at first appearance' of this Manual); and

(b) prior to leaving the place of custody, provide a copy of the bail affidavit to the PPO; or

(ii) when the defendant is in a show cause situation under s. 16(3): Refusal of bail generally' of the *BA*. Officers should be aware that where further charges and grounds exist to justify bail conditions or a refusal of bail, a bail affidavit should be completed.

This will ensure the PPO has sufficient information to make a decision regarding bail as required by s. 16 of the BA.

The ability of a PPO to direct an arresting officer not to prepare a bail affidavit only arises where the PPO is not refusing bail.

16.20.2 Prescribed police officer's (PPO) responsibilities

Officers discharging the duties of a prescribed police officer (PPO) are to ensure they are aware of their responsibilities under the *Bail Act* (BA) and specifically:

(i) s. 7: 'Power of police officer to grant bail';

(ii) s. 11: 'Conditions of release on bail';

(iii) s. 11A: 'Release of a person with an impairment of the mind';

(iv) s. 11AA: 'Release of a person only after surrender of passport';

(v) s. 14: 'Release of persons apprehended on making deposit of money as security for appearance'; and

(vi) s. 16: 'Refusal of bail generally'.

A PPO is defined in s. 7(9) of the BA.

Where the OIC of a station or establishment will be absent they are to nominate an officer as the OIC for the purpose of s. 7 of the BA.

Criminal Law Bulletin 297 (available on the Legal Division Criminal Law Bulletins SharePoint page) includes detailed information to assist PPOs in determining whether a person should be released on bail or held in custody.

The PPO is to:

(i) ensure, where applicable, a prisoner is assessed in accordance with:

(a) s. 394: 'Duty of police officer receiving custody of person arrested for offence' of the PPRA;

(b) the BA; and

(c) the *Youth Justice Act* (YJA),

as soon as practicable;

(ii) ensure checks to establish if a prisoner is wanted in another state or territory are conducted on the National Criminal Intelligence System (NCIS) via QPRIME;

(iii) ensure the arresting officer and defendant are each to be given an opportunity to submit why bail should be refused or granted (see s. 15(1)(b): 'Procedure upon application for bail' of the BA). The defendant is not to be questioned by the PPO about the offence when determining bail;

OPM Issue 113 Public Edition

(iv) ensure the information and evidence presented by the arresting officer and defendant are recorded in QPRIME, including, where relevant, if the defendant poses an unacceptable risk of committing further acts of domestic or associated domestic violence;

(v) take reasonable action to facilitate bailing a prisoner from custody, including

(a) considering any bail affidavit submitted by the arresting officer and determine whether:

- bail should be refused (see 'Refusing bail' of this section); or
- specific conditions are imposed (see 'Granting bail generally' of this section);

(b) considering whether to discontinue the arrest:

- and issue the person a NTA (see s. 3.5.3: 'Proceedings by way of notice to appear' of this Manual);
- of an intoxicated person who can be released to a place of safety (see s. 16.6.3: 'Intoxication' of this chapter);
- of a person charged with a prescribed public nuisance offence, and any associated offence, and issue an infringement notice (see 'Discontinuing a prescribed offence arrest' of s. 13.15.1: 'Issuing infringement notices for public nuisance, public urination and associated offences' of this Manual);
- of a person charged with a minor drugs offence who is eligible to be given a drug diversion warning or offered an opportunity to participate in and complete a Drug Diversion Assessment Program (see s. 2.22.14: 'Duty of prescribed police officers' of this Manual);

(c) in cases involving a child, considering ss. 48: 'Releasing children in custody in connection with a charge of an offence' and 50: 'Dealing with children not brought before Childrens Court in accordance with s 49' of the YJA (see s. 5.10: 'Releasing children from custody' of this Manual);

(d) contacting relatives, friends or legal representatives of the prisoner and arranging for them, where appropriate, to deliver money for payment of any warrant or bail;

(e) exercising discretion to set the amount of cash bail, where applicable (i.e. consider the prisoner's ability to pay the bail);

(f) not automatically denying bail if a prisoner has no fixed place of abode. However, this may be considered as a factor in a decision to deny bail; and

(g) bailing from any place in the State to appear in the court where the matter will initially be heard;

(vi) when considering bail for an intellectually impaired person, consider s. 11A of the BA and where the person is released using this provision the PPO is to ensure that a Form 24: 'Release notice (by police officer)' (available in QPRIME) is fully and accurately completed and given:

(a) to the person being released; and

(b) if the person is released into the care of another person, to the other person;

(vii) where a defendant is in a show cause situation:

(a) refuse bail unless the defendant can show cause as to why detention is not justified (see s. 16(3) of the BA). Officers should note that if the indictable offences for which the defendant was on bail are proceeding summarily, the show cause provision in s. 16(3)(a) of the BA will not be enlivened. To determine whether proceedings for an offence must proceed on indictment see ss. 552A, 552B, 552BA, 552BB, 552D of the CC or any other relevant provisions that apply to the specific indictable offence(s) with which the defendant was on bail at the material time, including any factual circumstances, elections that have been made, or findings of a court that determine the charges must proceed on indictment such as s. 161(2) of the *Weapons Act*; and

(b) where bail is granted or the defendant is released under s. 11A of the BA, record the statement of reasons in the QPRIME Custody Report (Full) in the relevant report under the Documents tab. The 'Statement of Reasons' field is under the External Report Window—Report tab within the:

- 'Form 7 Undertaking as to bail Form 8 Surety' report, where bail is granted; or
- 'Form 24 Release notice (by police officer)' report where they are released;

(viii) where a defendant is refused bail for any reason (see s. 7 of the BA), a statement of reasons is to be recorded in the QPRIME Custody Report (Full) Detention Log entry;

(ix) where a statement of reasons is required (see (vii) and (viii) above), include:

(a) reference to the evidence or other material on which the decision is based;

(b) any findings on any material questions of fact (e.g. there is an unacceptable risk if released the defendant would commit further offences); and

OPM Issue 113 Public Edition

(c) the decision on whether bail is granted or refused; and

(x) advise the arresting officer whether the defendant is granted or refused bail.

Granting bail generally

When granting bail, the PPO:

(i) should release the defendant on an undertaking;

(ii) should consider the imposition of conditions and special conditions under s. 11 of the BA as appropriate to ensure the defendant's appearance at court;

(iii) prior to imposing reporting conditions, is to determine the opening times of the relevant station or establishment;

(iv) is to create a 'Bail conditions flag' in the person's QPRIME Person Entry;

(v) is to advise the OIC of the station or establishment where the defendant:

(a) resides;

(b) works; or

(c) is otherwise known to frequent,

of the relevant bail conditions (e.g. reporting conditions, restrictions or curfew imposed) by sending a 'Bail notification task';

(vi) is to set an initial court appearance date:

(a) a minimum of 14 days must be provided after bail is granted, except in cases where the arrest is discontinued, and proceedings are initiated via NTA. In such instances, the individual must be given at least 14 days' notice. However, with the defendant's written consent, a shorter timeframe for their court appearance may be set. For further details, refer to s. 384(3)(a): 'Notice to Appear Form' of the PPRA; and

(b) not more than 28 days after bail is granted, except in areas where court will not be convened within this period. In these circumstances, the date is to be set to the next court date;

(vii) is to provide the prisoner with a copy of:

(a) Form 7: 'Undertaking as to bail';

(b) Form 8: 'Notice to defendant and surety or sureties of undertaking as to bail'; and

(c) QP 1067: 'Notice to seek legal advice',

(available in QPRIME);

(viii) is to consider all information which may justify a departure from the standard 14-day period for setting initial appearance dates, including:

(a) the nature and seriousness of the offence;

(b) any bail conditions. Such conditions may be imposed by the PPO prior to the release of the defendant;

(c) requirements for researching legal issues;

(d) preparation of documentation required for the initial court appearance (see s. 3.7.2: 'Documentation at first appearance' of this Manual);

(e) the need to obtain:

- medical records;
- written estimates to support claims for restitution or compensation; and
- relevant certificates; and

(f) the availability of the defendant and their legal representative to appear on the date set;

(ix) is to, where the matter relates to a licensed premises, consider imposing special bail conditions, in consultation with the investigating officer, under s. 11(3) of the BA. Where special bail conditions are imposed:

(a) the defendant is to be photographed (see s. 13.7.7: 'Imaged orders' of this Manual);

(b) the Banning Order/Notice/Bail Conditions (Liquor) Report is to be added as an external report in QPRIME (see 'Banning Provisions' of the QPRIME User Guide);

(c) the PPO is to send a QPRIME 'for your information' task to:

- the local Liquor Unit, or the officer responsible for coordination of liquor incidents (if appointed); and

OPM Issue 113 Public Edition

- the OIC of the station or establishment where the licensed premises are located,

(see s. 13.7.4: 'Bail conditions relating to licensed premises' of this Manual),

prior to release;

(x) is to, when the defendant is a non-Australian citizen or not a permanent resident (see s. 11(10) of the BA), consider imposing a special condition defined in s. 11(4A) of the BA and where the bail is granted subject to a passport surrender condition:

(a) the undertaking is to state the defendant's current passport has been surrendered; and

(b) the person is to be held in custody until the passport is surrendered (see s. 11AA of the BA),

see also s. 7.2.7: 'Australian passports (request for information, cancellation and refusal)' of the MSM.

Cash bail

Where a PPO considers it appropriate under s. 11(1) of the BA to require an amount of money to bail a person where cash bail can be accepted (see Schedule: 'Offences for which bail must not be granted under section 14 or 14A' of the BA), they are to ensure:

(i) a Form 3: 'Notice to person granted bail and released from custody on the person making a deposit of money as security for appearance before a court' (available in QPRIME) is:

(a) handed to the person granted bail; and

(b) a copy is to be kept at the watch-house for audit purposes;

(ii) any money deposited for bail at the watch-house is:

(a) stored in a secure place; and

(b) processed in compliance with the Financial Management Practice Manual;

(iii) money collected is remitted to the clerk of the court at the court where the defendant is to appear; and

(iv) within 48 hours after the court date, the clerk of the court is supplied with:

(a) a list setting out the full details of all persons who forfeit cash bail; and

(b) a list detailing:

- who cash bail has been extended to;
- the amount of cash bail; and
- the short title of the charge;

(v) when a deposit of money for bail is received, entries are made on the Bench Charge Sheet regarding the:

(a) amount of money; and

(b) court, including the date, time and place the person is required to appear before; and

(vi) they record in the relevant QPRIME Custody Report (Full) entry:

(a) the receipt number and the amount of money which is issued or received; and

(b) any subsequent deposits of money and orders.

To ensure consistency of cash amounts at a watch-house, the OIC of the watch-house is to compile a list of commonly occurring offences and the appropriate cash amount for which a prisoner may be released on cash bail.

Aboriginal and Torres Strait Islander defendants

Where the defendant is an Aboriginal or Torres Strait Islander, a representative of a community justice group may make a submission to the PPO on the defendant's behalf (see s. 16(2)(e) and (6) of the BA).

The PPO considering a bail application is to:

(i) ensure the person making the submission belongs to a category within the definition of 'community justice group' (see s. 6: 'Definitions' of the BA);

(ii) receive all submissions, where received:

(a) orally, notes are to be made in the relevant QPRIME Custody Report (Full) Detention Log of the substance of the submission; or

(b) in writing, a copy of the written submission is to be uploaded to the relevant QPRIME Custody Report (Full) entry and a notation made in the relevant Detention Log; and

(iii) require the representative of the community justice group to advise whether:

OPM Issue 113 Public Edition

(a) any member of the community justice group responsible for the submission is related to the defendant or the victim; or

(b) there are any circumstances giving rise to a conflict of interest between any member of the community justice group responsible for the submission and the defendant or victim.

Where the representative of the community justice group fails to advise:

(i) they are related (including extended family and kinship relationships) to; or

(ii) fails to advise there are circumstances giving rise to a conflict of interest between them and,

the defendant or victim, the PPO is to investigate whether an offence under s. 204: 'Disobedience to statute law' of the Criminal Code has been committed.

Refusing bail

A PPO who refuses a defendant bail is to ensure:

(i) the defendant is placed before the next available court; and

(ii) the sworn/affirmed bail affidavits (see s. 16.20.1: 'Arresting officer's responsibilities' of this chapter) are attached to the relevant QP9 for the information of the prosecutor.

Where a defendant has been refused bail by a magistrate or justice, the PPO is to record the decision in the relevant QPRIME Custody Report (Full) Detention Log entry.

Variation of bail conditions by OIC of station or prosecution corps, or ODPP

The OIC of a station or police prosecutions corps (PPC) has no general authority to vary, amend, delete, suspend or cancel conditions of bail once lawfully imposed (see Re DNV [2020] QSC 276).

When a PPO determines that it is appropriate to grant a defendant bail under s. 7 of the BA on conditions under s. 11 of the BA, including a residential or reporting condition, either or both of those conditions may contain a clause that allows the address the defendant must reside at (residential condition) or the station the person must report to (reporting condition) to be varied in writing by the OIC of a specified station or PPC, or the ODPP.

Example of a residential and reporting conditions with provisions for variation by OIC of a station or PPC, or ODPP are:

(i) a residential condition requiring the defendant to reside at a [stated address] or 'another address as approved in writing by the Officer in Charge of [named] police [station/prosecutions corps]'; or

(ii) a reporting condition requiring the defendant to report at a [stated] police station or 'another [stated police station] approved in writing by the Officer in Charge of [named] police [station/prosecution corps]'.

No other condition of bail, imposed by a prescribed police officer exercising their authority under ss. 7 and 11 of the BA, is to contain a clause that purports to authorise or delegate any decision making in relation to the suspension, variation or operation of that condition (see Re DNV [2020] QSC 276 at [33]–[35]).

Once conditions of bail have been lawfully imposed, only the defendant's residential address or reporting station are able to be varied by an OIC of the stated station or PPC, or the ODPP if the relevant bail condition imposed included provision for variation by the OIC of a station or PPC, or ODPP.

OIC of stations or PPCs are not to purport to vary, amend, suspend or delete conditions of bail that have previously been lawfully imposed. If a defendant seeks a variation of a condition of the bail imposed, then the person should make application to the relevant court to vary their bail.

Applications for bail by remote communication device outside district or division

Where a PPO has refused a defendant bail and it is not practicable for a local magistrate court to hear an application for bail, the PPO:

(i) is to advise the defendant that they may apply to an alternative magistrates court by video or audio link (see s. 15A: 'Conduct of proceeding by Magistrates Court outside district or division' of the BA);

(ii) is to be present with the defendant if an application is made;

(iii) is to record in the relevant QPRIME Custody Report (Full) Detention Log entry:

(a) the details of why the defendant was refused bail; and

(b) that the defendant was offered the opportunity to apply for bail by video or audio link;

(iv) may make submissions about the application for bail by the defendant;

(v) may need to provide the magistrate hearing the application with copies or details of:

(a) relevant charge (bench charge sheets);

(b) facts and circumstances of the offence(s);

OPM Issue 113 Public Edition

(c) the defendant's criminal history and antecedents; and

(d) bail affidavits;

(vi) is to, if bail is granted by the magistrate:

(a) request the magistrate email a copy of the Form 27: 'Order as to bail upon an application by a remote communication device' to the PPO; or

(b) complete a Form 27 with terms of the order, as informed by the magistrate;

(vii) is to give a copy of the Form 27 to the defendant;

(viii) is to upload the order into the relevant QPRIME Custody Report (Full) entry and make a notation in the relevant Detention Log;

(ix) complete and distribute if relevant a:

(a) Form 7: 'Undertaking as to bail'; and

(b) Form 8: 'Notice to defendant and surety or sureties of undertaking as to bail',

(available in QPRIME) as appropriate (see also 'Cash bail' of this section); and

(x) at the first reasonable opportunity after an order is made, is to send to the relevant court registry a copy of any document or form made under this section.

16.20.3 Court ordered bail

Bail conditions imposed by court

Where a defendant has bail conditions imposed by a magistrate or justice, the police prosecutor is to:

(i) create a 'Bail conditions flag' in the person's QPRIME Person Entry;

(ii) advise the OIC of the station or establishment where the defendant resides, works or is otherwise known to frequent of the relevant bail conditions by sending a 'Bail notification task' which includes:

(a) name, address and date of birth of defendant;

(b) nature of offence(s) for which bail conditions are imposed;

(c) details of any reporting conditions imposed;

(d) details of other bail conditions such as:

- curfew;
- no contact with witnesses;
- surrender passport and/or
- conditions related to licenced premises;

(e) when bail conditions are to commence;

(f) when the defendant is to next appear in court on the related offence(s); and

(g) details of the investigating officer; and

(iii) where a bail condition relates to a licenced premise, send a 'for your information' task to the local liquor unit or the officer responsible for coordination of liquor incidents (where appointed).

Where an OIC of a station or establishment of the area where a defendant resides is notified of a special bail condition under s. 11(3) of the BA, they are to ensure:

(a) the defendant is to be photographed (see s. 13.7.7: 'Imaged orders' of this Manual); and

(b) the Banning Order/Notice/Bail Conditions (Liquor) Report is to be added as an external report in QPRIME (see 'Banning Provisions' of the QPRIME User Guide).

Sureties

Where documents ordering a grant of bail with a surety or sureties are produced outside normal court hours, the watch-house manager is to contact:

(i) a justice employed by the Department of Justice (DJ) at the nearest magistrates court if 'out of hours' contact arrangements exist; or

(ii) alternatively, any justice of the peace (magistrates court) or (qualified), willing to receive the Form 11: 'Affidavit of justification' from the surety. Where an appropriate justice of the peace cannot be located, the defendant remains in custody until normal court hours when the DJ justice can be accessed.

OPM Issue 113 Public Edition

The watch-house manager:

(i) may assist the justice (if requested) to properly complete the Form 11 and other documents relevant to the sureties and releasing the defendant;

(ii) is to ensure that copies of the:

(a) Form 11;

(b) remand warrant; and

(c) undertakings (Form 7: 'Undertaking as to bail' and Form 8: 'Notice to defendant and surety or sureties of undertaking as to bail' (available in QPRIME),

made by the surety or sureties and defendant, are forwarded to the clerk of the court where the charge on which the defendant has been granted bail is remanded or adjourned; and

(iii) attach a copy of the Form 11 to the QPRIME Custody Report (Full) entry and add a notation in the relevant Detention Log.

Withdrawal of surety

Officers should ensure they are aware of their obligations in relation to assisting a surety for a defendant. For further information see:

(i) s. 367(3)(b): 'Arrest of person granted bail' of the PPRA; and

(ii) s. 24: 'Apprehension of defendant by surety' of the BA.

Where a surety provides their wishes to be relieved of their obligations in writing to an officer, a copy is to be added as an attachment to the relevant QPRIME Custody Report (Full) entry and a notation made in the relevant Detention Log.

Enlargement, variation or revocation of bail conditions by court

Where a defendant has bail conditions enlarged, varied or revoked by a court the police prosecutor is to ensure the OIC of the station or establishment where the defendant:

(i) is required to report; or

(ii) resides, works or is otherwise known to frequent, where applicable,

is advised of:

(i) any reporting or other bail conditions that are enlarged by updating the 'Bail conditions flag' expiry date;

(ii) any variation to reporting or other bail conditions by expiring the previous 'Bail conditions flag', creating a new 'Bail conditions flag' and sending a new 'Bail notification task';

(iii) any reporting or other bail conditions that are revoked by expiring the previous 'Bail conditions flag' and sending a new 'Bail notification task' advising of the revocation; and

(iv) the next court appearance date for the defendant on the related offences by updating the 'Bail conditions flag' expiry date.

Bail where ordered by a superior court

Where bail is granted by a superior court, the watch-house manager where the prisoner is held is to (provided the prisoner is not under another legal restraint):

(i) have the prisoner enter an appropriate undertaking;

(ii) then release that prisoner from custody on production of a sealed copy of the order of the superior court regarding the grant of bail; and

(iii) attach a copy of the order as an attachment to the QPRIME Custody Report (Full) entry and make a notation in the relevant Detention Log.

Court ordered bail condition to wear a tracking device

As a condition of bail, a court may order a defendant to wear an electronic tracking device while released on bail. The court may impose any other conditions considered necessary to facilitate the operation of the tracking device (see s. 16.24: 'Electronic Monitoring (Bail)' of this chapter).

16.20.4 Breach of bail conditions

For matters involving a child refer to s. 16.17.7: 'Children breaching bail conditions' of this chapter.

This section applies to contravention of bail conditions. A further offence while on bail, does not by itself engage this section.

OPM Issue 113 Public Edition

Where an adult has been arrested under the provisions of s. 367: 'Arrest of person granted bail' of the PPRA, a prescribed police officer (see s. 16.20.2: 'Prescribed police officer's (PPO) responsibilities' of this chapter) has no power to release the adult from the watch-house on an NTA or by granting a new bail undertaking. However, where the grounds for the arrest no longer exist (e.g. the arresting officer no longer reasonably suspects the adult is likely to contravene, is contravening, or has contravened a condition of bail), the arresting officer is to release the adult as there is no longer a lawful basis for the adult's detention pursuant to s. 376: 'When arrest may be discontinued—general rule' of the PPRA.

An adult arrested under s. 367: 'Arrest of person granted bail' of the PPRA by an officer who reasonably suspects the adult is likely to contravene, is contravening, or has contravened a condition of their bail is to be:

(i) brought before the Magistrates Court forthwith; or

(ii) if arrested within 24 hours before the time the adult is required, under a condition of the bail undertaking, to appear before a court, kept in custody and surrendered into the custody of that court at the appointed time and place.

The adult is then to be dealt with in accordance with s. 29A: 'Procedure in respect of defendants apprehended under s 21(7) or the Police Powers and Responsibilities Act 2000' of the BA.

ORDER

Upon arrival at a watch-house, the arresting officer is to:

(i) comply with:

(a) s. 16.4.1: 'Responsibilities of arresting officers'; and

(b) s. 16.9.2: 'Responsibilities of arresting officer when lodging a prisoner in a watch-house',

of this chapter; and

(ii) complete a QP 0727: 'Notice of Exercise of Power Affidavit and Notice of Exercise of Power Annexure' and include a statement of facts outlining the alleged breach of bail conditions, under the heading 'details of alleged breach' on the form; and

(iii) ensure the QP 0727: 'Notice of Exercise of Power Affidavit and Notice of Exercise of Power Annexure' is sworn or affirmed.

Copies of the QP 0727 are to be:

(i) given to the arrested adult;

(ii) provided to the court:

(a) as a hard copy with the prosecution paperwork; and

(b) via email to the local court registry; and

(iii) provided to the appropriate prosecution corps:

(a) as a hard copy; and

(b) via email at the same time as the material is sent to the court registry.

The prosecution corps should receive 3 hard copies: the prosecutor copy, the tender-to-court copy, and the defence copy.

16.20.5 Electronic bail compliance, monitoring and recording

An OIC of a station or establishment is to ensure all information relevant to a defendant's personal details, bail undertaking and bail conditions within their area of responsibility are correctly entered on the Service Bail App as soon as reasonably practicable. Defendant's bail information should be reviewed at least daily, and updates managed accordingly.

Where a defendant's bail information has been entered on the Service Bail App, the OIC of the relevant station or establishment is to ensure the efficient and effective management of a defendant's bail. This includes monitoring and recording the defendant's compliance with their bail undertaking and conditions.

Members are to refer to the procedures outlined on the Bail App webpage on the Service intranet for instructions on recording a defendant's bail information on the Service Bail App.

16.21 Administration of a watch-house

The provisions of s. 639: 'Control of persons in watch-houses' and s. 640: 'Transfer of persons in watch-houses' of the PPRA allow watch-house managers to take necessary steps for the efficient and effective management of watch-houses. This includes issues such as prisoner safety and watch-house security.

OPM Issue 113 Public Edition

ORDER

The officer in charge of the watch-house is responsible for the efficient and effective management of a watch-house. This includes the development of appropriate systems for the safety of people in the watch-house, health care of prisoners and watch-house members, security of prisoners and their property and staff performance.

POLICY

The commissioned officer responsible for a watch-house is to ensure that the systems mentioned in the above order are in place.

16.21.1 Responsibilities of watch-house managers at change of shifts

POLICY

A watch-house manager is to be responsible for the security and care of the prisoner as soon as that prisoner is accepted into custody at the watch-house.

A watch-house manager, on commencing duty and immediately prior to terminating duty, is to assess each prisoner.

PROCEDURE

The watch-house manager is to record details of:

(i) a prisoner's need for medical treatment;

(ii) the need to isolate a prisoner; or

(iii) any increase in the frequency of prisoner inspections;

in the relevant QPRIME Custody Report (Full) entry.

ORDER

A watch-house manager, when terminating duty, is to brief the watch-house manager commencing duty of the number of prisoners held, any special occurrence during the preceding shift or special requirements for any following shifts, including prisoners to be bailed and any prisoner requiring special attention or supervision.

PROCEDURE

The watch-house manager terminating duty and the watch-house manager commencing duty are to physically inspect prisoners and cells at change of shifts and note the outcome in the relevant QPRIME Custody Report (Full) Detention Log and/or Watch-house Inspection Register as appropriate.

A watch-house manager is to ensure that:

(i) the prisoner inspection officer has access to the cells when performing inspection duties;

(ii) watch-house and cell keys are readily accessible, subject to security requirements, to watch-house staff in the event of an

(iii) watch-house and cell keys are handed to the relief staff.

OPM Issue 113 Public Edition

16.21.2 Watch-house maintenance

ORDER

A watch-house manager is to inspect the watch-house at the commencement of duty and take appropriate action to remove likely sources of injury to any person, and prevent avenues of escape for prisoners.

PROCEDURE

Where an injury or escape may result from a defect in a cell the watch-house manager is to:

(i) ensure that emergency repairs are effected; or

(ii) avoid using the cell or part of the watch-house affected; or

(iii) move prisoners to another watch-house where other alternatives are not reasonable or practicable; and

(iv) notify the officer in charge of the watch-house and record the advice given or action taken in the relevant QPRIME Custody Report (Full) Detention Log and/or Watch-house Inspection Register as appropriate.

Action to be taken would depend on the:

(i) availability of alternatives; and

(ii) danger that a defect presents to the security of prisoners and the safety of all persons.

ORDER

An officer in charge of a watch-house is to ensure that a watch-house is maintained in a serviceable and clean condition.

Where any building defects are identified the officer in charge of the watch-house is to:

(i) submit a report itemising the defects to the commissioned officer responsible for the watch-house as soon as possible; and

(ii) report to the commissioned officer responsible for the watch-house every four weeks on the progress of rectification of the reported defects until the repairs have been satisfactorily completed.

The commissioned officer responsible for the watch-house is to:

(i) take all necessary action to have any reported defects rectified; and

(ii) maintain a separate file regarding maintenance of the watch-house.

The officer in charge of the watch-house is to ensure, as far as practicable, that items capable of causing harm to any person are inaccessible to prisoners.

The officer in charge of the watch-house is to ensure that the first aid kit and resuscitation equipment are properly maintained, and located in a position accessible to watch-house staff but inaccessible to prisoners.

PROCEDURE

The officer in charge of the watch-house is to check the first aid kit and resuscitation equipment held at the watch-house each month and restock the first aid equipment as necessary.

16.21.3 Watch-house training

Police officer

Before commencing or immediately after starting watch-house duties, police officers are to complete the current Service-approved online learning products (OLPs) and 5Mile videos as directed by the OIC of the watch-house. Officers in permanent watch-house positions will be automatically enrolled in the mandatory training through the Ignite learning management system.

Where police officers are rostered to a watch-house on an ad hoc emergent need and that officer has not completed the mandatory training, they shall only be assigned appropriate tasks as directed by the OIC of the watch-house.

Watch-house officer

Following the successful completion of pre-service training provided by the State Custody Unit (SCU), newly appointed watch-house officers are assigned a watch-house mentor for a minimum of 6 months. During this period, a mentor will provide ongoing training and support, overseeing the completion of the structured workplace assessment framework provided by the SCU, not earlier than 12 weeks from the commencement of duty. All training activities and assessments conducted during this period are to be thoroughly documented and uploaded to Ignite or DAP system as appropriate.

Watch-house officer mentor

A mentor is to possess a minimum of 12 months experience in watch-house operations in order to provide effective guidance to mentored staff. In watch-houses where general duties officers are regularly rotated as part of the workforce, the OIC must ensure that only officers with the appropriate skills and experience are appointed to the mentor role for a watch-house officer.

Police liaison officer

Police liaison officers (PLOs), assigned to perform their approved functions in a watch-house, are to receive comprehensive instructions and training specific to their assigned duties prior to commencing their role (see ss. 1.4.10: ‘Role and function of police liaison officers’ and 16.10.1: ‘General requirements concerning searches of persons’ of this Manual).

The OIC will enrol PLOs in the relieving watch-house officer/police liaison officer training pathway via Ignite. Alternatively, this can be arranged upon request via the training team, SCU.

OIC Responsibilities

The OIC of a watch-house is to ensure all members, which includes PLOs, youth co-responders and administration officers, performing functions within a watch-house are aware of their responsibilities and processes in accordance with relevant watch-house orientation and induction manuals.

The OIC, or watch-house keeper (in the OIC’s absence), is to ensure that any police officer filling in for an urgent need (i.e. covering sick leave) and who hasn’t completed the required training is only given tasks suitable to their training, experience and skills.

The OIC of a watch-house is to ensure that all officers, watch-house officers and PLOs:

(i) are aware of the responsibilities and duties assigned to them;

(ii) are capable of performing the duties assigned in the watch-house;

(iii) receive comprehensive instructions and training specific to their assigned duties prior to commencing their roles in the watch-house; and

OPM Issue 113 Public Edition

(iv) are compliant with all mandatory training,

before these members or PLOs are assigned to undertake watch-house duties (see s. 1.4.10: 'Role and function of police liaison officers' of this Manual).

For police officers relieving in the watch-house, the OIC will enrol them in the relieving watch-house officer training pathway via Ignite. Alternatively, this can be arranged upon request via the Training Team, SCU.

The OIC is responsible for ensuring mentors are assigned and appropriately skilled.

The OIC of a watch-house is to ensure that all members are trained in a Service approved food handling and safety course.

The watch-house manager is responsible for conducting annual audits to verify training compliance for all permanent and temporary staff, ensuring that all personnel meet the required training standards for their roles. In instances where a member has not completed the mandatory training, an OIC is to assign appropriate tasks based on training, experience and skillset of the member.

Where an emergent need to replace a rostered watch-house keeper presents, consideration must be given to the replacement officers experience and suitability to perform the role.

ORDER

The OIC of a watch-house is to ensure all members comply with s. 14.3.10: 'Operational Skills and Tactics (OST) training' of this Manual.

The OIC of a watch-house is to ensure all police officers and watch-house officers are first aid and CPR qualified and are trained in the use of first aid and resuscitation equipment provided at the watch-house. This qualification is to remain current whilst performing duties within a watch-house.

16.21.4 Emergency plans for the evacuation of all persons from a watch-house

ORDER

The officer in charge of a watch-house is to develop station/establishment instructions for evacuation of the watch-house, action to be taken as a result of the escape or attempted escape of a prisoner from the watch-house, and medical evacuation of a prisoner from the watch-house.

PROCEDURE

The officer in charge of a watch-house is to:

(i) ensure instructions are in written form and included in this Manual as Station/establishment instructions;

(ii) ensure that members are familiar with their role in the procedures;

(iii) conduct a debriefing of officers involved in incidents to identify and address any deficiencies;

(iv) provide a copy of Station/establishment instructions to the officer in charge of the region; and

(v) ensure that a review of the Station/establishment instructions is undertaken annually and that the instructions are amended where necessary.

For the purpose of evaluating the adequacy of the Station/establishment instructions and the training of staff, the officer in charge of a watch-house is to arrange at least every twelve months for a practice drill, of the:

(i) evacuation of the watch-house;

(ii) action to be taken when the escape or attempted escape of a prisoner from the watch-house takes place; and

(iii) medical evacuation of a prisoner from the watch-house.

16.21.5 QPRIME Custody Report, QPRIME Custody Report (Full), Confidential Prisoner Medication Register and Medical Record Sheet (QP 0462) and Watch-house Inspection Register entries

ORDER

Police officers and watch-house officers are to make only official entries in any QPRIME Custody Report, QPRIME Custody Report (Full), Confidential Prisoner Medication Register and Medical Record Sheet (QP 0462) and Watch-house Inspection Register. They are also not to erase an entry (or use correction fluid on any paper register or record) in any QPRIME Custody Report, QPRIME Custody Report (Full), QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' or the Watch-house Inspection Register.

PROCEDURE

When corrections are necessary, entries are to be corrected by:

(i) ruling a line neatly through the original entry so that it remains legible;

(ii) entering the correct notation above or below the ruled line; and

OPM Issue 113 Public Edition

(iii) initialling and recording the name of the officer making the correction next to the corrected entry; or

(iv) making a new entry in the relevant QPRIME Custody Report or Custody Report (Full).

ORDER

The receiving officer is to make relevant entries in the QPRIME Custody Report or Custody Report (Full) when lodging prisoners into the watch-house.

POLICY

The receiving officer is to ensure that the following details are completed in the relevant entry in the QPRIME Custody Report, QPRIME Custody Report (Full) or QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' when the information is available:

(i) date and time offender charged;

(ii) reason for detention;

(iii) location of the court in which the prisoner is to appear;

(iv) surname, given name/s, date of birth, address and sex of the prisoner;

(v) code, date, and place of the offence;

(vi) statute and section to which the charge refers;

(vii) arresting officer's name, rank and station;

(viii) full wording of the charge(s);

(ix) if charged conjointly refer to the other prisoner's custody number;

(x) a full and accurate description of the prisoner's property (including medication in the prisoners possession), the name(s) of the officer who received the property and returned the property;

(xi) in a domestic violence detention case, the reason for detention;

(xii) cell number in which the prisoner is to be held;

(xiii) meals supplied to the prisoner;

(xiv) 'yes' or 'no' responses as given by the prisoner;

(xv) record the DNA number or barcode sticker (where the prisoner has provided a DNA sample);

(xvi) a record of the name, address, telephone number and relationship to the prisoner of the next of kin or contact person;

(xvii) the signature (electronic or otherwise) of the arresting officer or person delegated the responsibility, verifying the entries as a correct record of the prisoner's property and the prisoner's responses to the health questions. Where a person, other than the arresting officer is signing verification, the arresting officer's details are to be included in the relevant QPRIME Custody Report (Full) entry;

(xviii) a record of the date, time and any reason for notification where the next of kin or contact person was notified in relation to the prisoner;

(xix) a record of the receiving officer's observations of the prisoner's health/condition;

(xx) any other relevant comments regarding the apparent health/condition of the prisoner if applicable;

(xxi) a digital still or other photograph of the prisoner;

(xxii) the signature (electronic or otherwise) of the prisoner on return of the prisoner's property on release from the watch-house;

(xxiii) the date and time released including bail conditions; and

(xxiv) the court results.

ORDER

The receiving officer is to ensure that where prisoner's details are not available during the lodging process, a record of the time and reason the information was not included is made against the relevant QPRIME Custody Report or Custody Report (Full) entry.

16.21.6 Updating operational information in QPRIME

The provisions of ss. 1.4.6: 'Responsibilities of regional duty officer, district duty officer and shift supervisor', 1.16: 'Fatalities or serious injuries resulting from incidents involving members (Police related incidents)' and 16.23: 'Deaths in police custody' of this Manual are to be considered in conjunction with this section.

OPM Issue 113 Public Edition

POLICY

Watch-house managers are to ensure that the provisions of s. 1.6.11: 'Updating operational information in QPRIME' of this Manual are complied with for prisoners at their watch-house.

16.21.7 Prisoners registered on the opioid treatment program or on prescribed opioid medication

Opioid medication including: methadone syrup and buprenorphine (or Subutex); may be supplied to a person detained at a watch-house who is prescribed opioid medication (see Queensland Opioid Treatment Program on the Queensland Health website).

The supply of opioid medication to a person detained at a watch-house recognises the importance of this substance in dealing with illicit drug addiction and thereby aims to:

(i) minimise the risk of harm to the person, had the person otherwise ceased participation in the program;

(ii) maintain the safety of other prisoners and visitors to watch-houses from a person on the program who would otherwise be forced to withdraw from the program; and

(iii) ensure the safety of watch-house personnel who may be required to deal with a person detained at a watch-house who may suffer by forced withdrawal from the program.

Officers and watch-house officers are to seek medical advice for a person detained at a watch-house who appears to be suffering from the use of or withdrawal from alcohol or other drugs. See s. 16.13.1: 'Assessment of prisoners' of this chapter.

ORDER

Opioid medication is only to be supplied to a person detained at a watch-house who is prescribed opioid medication by a doctor (refer s. 16.13.4: 'Provision of medication' of this chapter if this is the case).

Storage of S8 medication

Opioid medication is not to be kept at a watch-house unless stored in a receptacle which must comply with s. 197: 'S8 safe must comply with standard' of the Medicines and Poisons (Medicines) Regulations (MP(M)R). The standard: 'Secure storage of S8 medicines' is available from the Queensland Health website. If in doubt about which storage option applies advice should be sought from the local public health unit (a list of the units is available by searching the Queensland Health website).

If these storage provisions cannot be complied with arrangements are to be made for supply of the appropriate dose of opioid medication on a daily basis to the person detained at the watch-house.

Procedure for supply of S8 medication

Before supplying opioid medication to a person detained at a watch-house, the watch-house manager is to confirm the person is prescribed the relevant medication.

Inquiries are to be made with the relevant prescriber or clinic to confirm the claims of the person, including strength in milligrams and frequency of the dose of opioid medication which has been prescribed. Before initially:

(i) taking possession of opioid medication for; or

(ii) allowing an authorised person to administer opioid medication to,

a person in custody.

The watch-house manager is to confirm that the person in custody is the person prescribed the opioid treatment.

Once confirmed arrangements are to be made for the person in custody to be examined by a government medical officer or other doctor if necessary, or alternatively a registered nurse, opioid treatment prescriber, clinic staff or pharmacist to obtain medical advice about the persons receiving the opioid treatment. Following approval, arrangements are to be made for doses of opioid medication to be supplied to the watch-house for that person.

The opioid treatment prescriber or clinic must make arrangements for the person's opioid dose to be conveyed to the watch-house by either a pharmacist or clinic staff. Where operational circumstances permit, it may be appropriate to transport persons detained in watch-houses, who are on the program, to the person's supplier (see s. 640: 'Transfer of persons in watch-houses' of the PPRA and ss. 10.5: 'Escort of persons in custody', 16.12.1: 'Segregation of prisoners' and 16.12.2: 'Transfer of prisoners' of this Manual).

Only the prescriber or clinic can issue an instruction for opioid medication to be supplied through a designated pharmacy to the person. Where a person detained at a watch-house claims to be registered with a prescriber or clinic which the watch-house does not deal with, that prescriber or clinic is to be contacted. The watch-house manager is to request that the prescriber or clinic continue to supply opioid medication for the person while detained in the watch-house.

If suitable arrangements are able to be made the pharmacy nominated by the prescriber or clinic is to be the opioid medication supplier for that person. If suitable arrangements cannot be made, the watch-house manager is to request the assistance of the prescriber or clinic to transfer the person's registration to another prescriber or clinic, which is able to supply opioid medication to the watch-house for the person. This is an internal procedure within Queensland Health

OPM Issue 113 Public Edition

and is solely dependent upon cooperation between the two suppliers. If either organisation refuses to take part in this process the person cannot participate in the program while detained in the watch-house.

Where a person detained at a watch-house is registered on an interstate opioid treatment program, inquiries are to be made with the organisation normally supplying opioid medication to the person. The procedure outlined above is to be followed to attempt to have the person registered on the program in Queensland. In these circumstances the interstate person is to be registered in Queensland at a public clinic. If this is unable to be done the person cannot participate in the program while detained in the watch-house.

If there is any concern that a person claiming to be on the program may be intoxicated or affected from alcohol or other drugs (e.g. slurring of speech, drowsiness), administration of opioid medication is to be withheld until medical advice has been obtained (see ss. 16.13: 'Health of prisoners' and 16.14: 'Call-out procedure for Government Medical Officers' of this chapter).

Not more than two daily doses of opioid medication, for a person detained in a watch-house, may be stored in the watch-house at a time. This medication is only to be stored in circumstances where the opioid treatment prescriber or pharmacist cannot attend and administer the dose such as on a Sunday or a public holiday.

Transfer and release of prisoners

Where the person is transferred to another watch-house, or a correctional centre which has an opioid treatment program, any unused doses of opioid medication are to be transferred with the property of the person. (See the above policy regarding storage of opioid medication in watch-houses.) Additionally, a copy of both the person's photograph and description of the person, as provided by the prescriber, are to accompany the person to the other watch-house or correctional centre.

The relevant QPRIME Custody Report (Full) Detention Log and/or QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' must be noted and signed (electronically or otherwise) by the officer discharging the person to show that unused doses of opioid medication have left the original watch-house.

No prisoners are to be released from custody with unused doses of opioid medication in their property. All unused doses are to be returned to the supplier and the relevant QPRIME Custody Report (Full) Detention Log noted accordingly. (This does not apply to situations where prisoners come into custody with take-away doses of opioid medications in their property. These doses are to be returned to the prisoner unless for some lawful reason, other action is to be taken.)

Watch-house managers are to advise the prescriber or clinic when a person is discharged from a watch-house or released from custody.

A person in custody who is on the program and is to be transferred to a correctional centre is to have their dose of opioid medication administered whilst still in watch-house custody if it is supplied to the watch-house prior to their transfer. Watch-house managers are to advise the correctional centre receiving a person into custody who is on the program so that the program may be continued, or where appropriate alternative treatment, can be arranged.

A person released from custody after consuming their dose of opioid medication is to be released into the custody of a person or organisation able to care for the welfare of that person. The situation of a person consuming their dose of opioid medication and then being released may arise where a person is released due to satisfaction of warrants or securing bail conditions. Normally the person satisfying the warrants or securing bail conditions would be appropriate to care for the welfare of that person.

A person on the program who is released from custody is to be advised to report to their prescriber or clinic after being released from custody.

ORDER

When a person in custody is transferred to another watch-house, or a correctional centre which has an opioid treatment program, and unused doses of opioid medication are transferred with the property of the person, the person is not to have physical possession of opioid medication.

Persons authorised to supply opioid treatment

Opioid medication may be supplied to a person detained at a watch-house, who is registered in the program, by an authorised person. The following persons are authorised to supply opioid treatment under the provisions s. 54: 'Authorisation of prescribed classes of persons' of the *Medicines and Poisons Act* (MPA) and s. 13: 'Approved persons—Act, s 54' of the MP(M)R:

(i) doctors;

(ii) pharmacists;

(iii) registered nurses, whose registration with the Queensland Nursing Council is current at the relevant time; and

(iv) watch-house managers, or persons performing the duties of watch-house managers (see ss. 34: 'Offence to buy or possess S4 or S8 medicines or hazardous poisons' and 51: 'Agents and carers supplying or administering medicines' of the MPA).

OPM Issue 113 Public Edition

A watch-house manager, or person performing the duties of a watch-house manager, may supply opioid treatment to a person detained at a watch-house only if a person authorised in subsections (i) to (iii) above is not available.

Administration of Opioid Medication

If an authorised person (see subsections (i) to (iv) above) supplies opioid medication to a person detained at a watch-house, a police officer or watch-house officer is to be present as an observer when that other person supplies opioid medication to the person.

When opioid medication is consumed by a person detained in a watch-house the:

(i) person consuming;

(ii) person administering; and

(iii) police officer or watch-house officer observing;

are to note the relevant QPRIME Custody Report (Full) Detention Log and/or QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' appropriate. If any person refuses to sign (electronically or otherwise) the register, no further opioid medication is to be supplied to that person. Any additional supplies of opioid medication held at the watch-house for the person are to be returned to the supplier and the relevant QPRIME Custody Report (Full) Detention Log and/or QP 0462: 'Confidential Prisoner Medication Register and Medical Record Sheet' noted accordingly. The person is to be monitored for reactions caused by ceasing the supply of opioid medications. See s. 16.13: 'Health of prisoners and persons in custody' of this chapter.

Police officers or watch-house officers present when a person is supplied with opioid medications are to ensure, before receiving their dose of opioid medication, the person:

(i) has their sleeves, where appropriate, rolled up;

(ii) is holding nothing in their hands;

(iii) has open clothing around the neck to ensure no plastic bags or similar items or containers are being secreted; and

(iv) has no absorbent material (e.g. foam from mattress) secreted in the mouth;

A person who has been supplied a single treatment dose of opioid medication is to be kept in isolation, if practicable for a period of ten minutes, until the:

(i) person consumes the complete dose of opioid medication;

(ii) person has a drink of water and speaks after consuming the complete dose of opioid medication; and

(iii) police officer or watch-house officer present as an observer is, or in the case of a watch-house manager supplying opioid medication both officers are, satisfied none of the dose of opioid medication has been secreted on the person of the person detained in the watch-house.

OPM Issue 113 Public Edition

Note: Different opioid medications have different dosage methods, ensure the correct dosage method is used for each particular medication.

The supply of opioid treatment to a person detained at a watch-house is to be recorded in accordance with the provisions of s. 16.13.4: 'Provision of medication' of this chapter. After the supply of opioid medications, the person is to be closely monitored for signs of side effects or other reactions such as sedation or nausea. Medical treatment is to be sought if necessary in accordance with the provisions of s. 16.13.2: 'Prisoner's medical condition' of this chapter.

Caution is to be exercised when other medications are prescribed for persons on opioid treatment programs as other medications can interact and cause reactions. Ensure the government medical officer or other doctor is aware the person in custody is in such a program and what opioid medication they are administered before other medications are prescribed.

When taking opioid medications, reactions can arise if persons in custody develop other conditions such as head injuries, abdominal complaints. Seek medical advice in accordance with the provisions of s. 16.13.2: 'Prisoner's medical condition' of this chapter, if necessary.

16.21.8 Personal duress alarms in watch-houses

Where personal duress alarms are provided for use in watch-houses, police officers and watch-house officers performing duty in these watch-houses are to use these alarms in accordance with the station/establishment instructions.

Station/establishment instructions relating to personal duress alarms are to take into account such issues as:

(i) use of alarms, including, procedures and training;

(ii) response to alarms, including procedures and training;

(iii) maintenance and servicing of alarms;

(iv) testing of alarms, including use and response;

(v) wearing of alarms, including when, and how;

(vi) storage of alarms when not in use; and

(vii) monitoring of alarms.

16.21.9 Communication with and by prisoners

POLICY

This section does not apply to persons detained under a Commonwealth preventative detention order under Chapter 5, Part 5.3, Division 105: 'Preventative detention orders' of the *Criminal Code Act* (Cwlth) and/or a State preventative detention order under the *Terrorism (Preventative Detention) Act*. For communication with and by persons detained on preventative detention orders see s. 17.3.26: 'Terrorist emergency' of this Manual.

In addition to the provisions of s. 1: 'Recording of interviews and other matters' of the Digital Electronic Recording of Interviews and Evidence Manual, the watch-house manager is to, subject to operational and/or security needs of the watch-house, and where appropriate with the consent of the prisoner:

(i) permit a prisoner reasonable access to a telephone to contact a solicitor, medical practitioner, a friend or a relative as soon as practicable (see also s. 16.4.5: 'Arrest of persons who have others in their care' of this chapter). Where a prisoner is permitted to use a telephone the officer in charge of the watch-house is to ensure that:

(a) a member dials the number requested to attempt to verify that the person being called by the prisoner is the person the prisoner wished to call, that person wishes to speak with the prisoner and that no orders or prohibitions exist in regards to the prisoner contacting that person e.g. domestic violence order; and

(b) a record of the number of telephone calls made by the prisoner is recorded against the relevant QPRIME Custody Report (Full) Detention Log entry;

(ii) permit a prisoner to be examined by a private medical practitioner on the request of that prisoner where practicable (the cost of the examination is the responsibility of the prisoner). See also s. 16.12.10: 'Requests by prisoners or legal representatives for attendance of doctor at watch-house' of this chapter;

(iii) permit parents, guardians or an officer from the Department of Communities to visit youth prisoners;

(iv) permit a prisoner to consult a legal representative of that prisoner's choice on request;

(v) permit a prisoner to communicate with a legal representative or medical practitioner in private while having due regard to security (see s. 16.12.10: 'Requests by prisoners or legal representatives for attendance of doctor at watch-house' of this chapter);

(vi) allow a legal representative to be present with a client during the time when the client is being charged, fingerprinted and photographed, and when consideration is being given to the question of bail;

(vii) afford a prisoner, arrested in pursuance of the provisions of the *Migration Act* (Cwlth), all reasonable facilities for the making of a statutory declaration under the *Migration Act* (Cwlth);

(viii) permit consular officers to visit an imprisoned foreign national, unless the national concerned expressly opposes that action (see s. 16.7: 'Foreign nationals' of this Manual);

(ix) permit consular officers to converse and correspond with, as well as arrange for legal representation of foreign nationals, unless the person concerned expressly opposes that action;

(x) provide a prisoner, who wishes to make a complaint under the *Ombudsman Act* (Cwlth) with facilities for preparing the complaint and for enclosing the complaint in a sealed envelope and forward such envelope without undue delay to the Commonwealth Ombudsman;

(xi) permit members of the clergy to visit a prisoner or a number of prisoners (in circumstances where a member of the clergy wishes to address a number of prisoners, a watch-house exercise yard may be used where appropriate);

(xii) permit any other person who has an interest in the health or welfare of a prisoner, to visit that prisoner, subject to that prisoner's consent; and

(xiii) if requested allow a prisoner to have assistance from a police officer or support person of the same gender in relation to matters of personal hygiene.

ORDER

Where access to the watch-house is granted, the watch-house manager is to record particulars of the visit, including the identity of the visitor, and record the reason for the visit against the entry relating to the prisoner on the QPRIME Custody Report (Full) Detention Log.

POLICY

Where access to a watch-house is not granted, the watch-house manager is to:

OPM Issue 113 Public Edition

(i) verbally explain the reason for denial to the person requesting access; and

(ii) record against the entry relating to the prisoner on the relevant QPRIME Custody Report (Full) Detention Log the:

(a) reason that access to the watch-house at that time is denied; and

(b) identity of the visitor, if known.

See ss. 16.8.6: 'Inquiries as to the location of a person suspected of being in custody' of this Manual and s. 3.21: 'Legal representatives at interviews' of the Digital Electronic Recording of Interviews and Evidence Manual.

16.21.10 Aboriginal and Torres Strait Islander Legal Service seeking information and interviews

POLICY

The watch-house manager is to:

(i) upon receiving an inquiry from a representative of the Aboriginal and Torres Strait Islander Legal Service, advise that representative of the names of all Aboriginal and Torres Strait Islander persons in custody;

(ii) fully cooperate with members of the legal profession and representatives of the Aboriginal and Torres Strait Islander Legal Service, wishing to interview any Aboriginal or Torres Strait Islander person in custody; and

(iii) upon a request by an Aboriginal or Torres Strait Islander prisoner for a representative of the Aboriginal and Torres Strait Islander Legal Service to be advised, make contact and provide facilities for the visiting and interviewing by such representatives.

See s. 16.8.7: 'Notification to the Aboriginal and Torres Strait Islander Legal Service' and s. 16.21.9: 'Communication with and by prisoners' of this Manual.

16.21.11 Arrangements for prisoners to attend court including a change of clothes, shaving and showering

POLICY

Watch-house managers are to allow a prisoner in custody, prior to an appearance in court, a change of clothing supplied by a legal representative, family members or friends, provided the clothing is supplied at a reasonable time prior to the prisoner's court appearance.

Wherever possible, watch-house staff are to ensure that prisoners who are required to attend court are given preferential access to shower facilities if available prior to attending court.

Watch-house managers are to allow a prisoner appearing for trial or sentence in the District or Supreme Court, to shave if the prisoner requests within a reasonable time prior to their court appearance. All prisoners are to be supervised and other safety precautions taken whilst shaving. Appropriate supervision of the prisoner and all other safety precautions are to be based on the individual circumstances in the watch-house and level of risk the prisoner poses whilst in custody. Prisoners may be considered to be an unacceptable risk and not allowed to shave when their present behaviour and demeanour includes:

(i) attempts or threats of suicide or self-harm;

(ii) violence or threats of violence;

(iii) attempts of concealing contraband while in custody; and

(iv) attempts or threats of escape.

ORDER

Watch-house managers are not to permit any article of any description to be received by a prisoner unless the watch-house manager, other police officer or watch-house officer delegated by the watch-house manager, has carefully examined the item to ascertain that nothing of a dangerous or otherwise undesirable nature is associated with it.

POLICY

Watch-house managers, other police officers or watch-house officers delegated by the watch-house manager, are to carefully examine all articles of any description before any such articles are passed to a prisoner.

Police officers or watch-house officers who locate an item of a dangerous or otherwise undesirable nature are to advise the watch-house manager immediately. If appropriate the item is to be seized for further inquiries regarding any offences which may have been committed. Property seized is to be dealt with as required by s. 622: 'Receipt for seized property' of the PPRA.

16.21.12 Meals for prisoners

ORDER

The watch-house manager is to provide prisoners with three main meals and two snacks per day.

OPM Issue 113 Public Edition

The watch-house manager is to:

(i) ensure that meals supplied to prisoners are wholesome and varied, including the provision of snacks between meals;

(ii) ensure that alcohol or alcohol-based products are not supplied to any prisoner, unless prescribed by a medical practitioner; and

(iii) ensure all watch-house staff complete all compulsory watch-house training (see s. 16.21.3: 'Watch-house training' of this chapter).

16.21.13 Deleted

16.21.14 Tendering for the supply of meals for prisoners

PROCEDURE

The officer in charge of a watch-house is to seek tenders, in June of each year, from local residents for the supply of meals to prisoners for the following financial year.

The watch-house manager or other member of the Service may supply the prisoners' meals if tenders supplied exceed the cost of meals as provided for in the Police Award—State or where no tender is submitted.

16.21.15 Sanitation and exercise

PROCEDURE

The watch-house manager is to:

(i) ensure that reasonable necessities are provided for prisoners including sufficient blankets, food and drinking water, as well as access to toilets and showers;

(ii) ensure that all linen, towels, blankets and mattresses provided are clean;

(iii) ensure that all materials used by unclean prisoners or prisoners suspected of being infected by contagious diseases are laundered after use;

(iv) where practicable, allow a prisoner one hour of exercise daily under supervision; and

(v) supply soap, toilet paper, towels, and sanitary napkins to prisoners, where necessary.

16.21.16 Deleted

16.21.17 Assistance provided to other agencies

POLICY

Subject to operational requirements, members are to assist with the custody of prisoners who are the responsibility of other agencies, as far as practicable.

PROCEDURE

Where Australian Federal Police officers or officers from any other government department are unable to attend court to take into custody offenders who have been sentenced, the watch-house manager is to:

(i) render all appropriate assistance;

(ii) take the prisoner into custody in terms of the court order; and

(iii) make arrangements for the removal of the prisoner by Australian Federal Police officers or other appropriate officers as soon as possible.

The watch-house manager is to contact the agency concerned as soon as possible and arrange for the prisoner to be delivered into the custody of the appropriate agency.

16.21.18 Expenses for deportees

PROCEDURE

The officer in charge of a watch-house is to forward a list of the prohibited non-citizens and deportees held in the watch-house to the regional finance officer. The list is to include the:

(i) name and date of birth of the prisoner;

(ii) previous residential address of the prisoner;

(iii) name and rank of the officer who lodged the prisoner in the watch-house;

(iv) date and time the prisoner was lodged at the watch-house;

(v) date and time the prisoner was transferred from the watch-house;

OPM Issue 113 Public Edition

(vi) location of the person into whose custody the prisoner was transferred;

(vii) status of the prisoner or the reason the prisoner was detained; and

(viii) details of expenses incurred as a result of the detention of the prisoner.

16.21.19 Use of watch-houses for private accommodation prohibited

POLICY

Watch-house managers are to ensure that persons, other than persons in lawful custody, are not permitted to be accommodated in any watch-house.

16.21.20 Prisoner breastfeeding child in watch-house

POLICY

Prisoner requests to breastfeed their child in a watch-house generally should not be granted. However, OIC of watch-houses may allow a prisoner to breastfeed an infant in a watch-house in exceptional circumstances (e.g. premature/ill infant). Consideration should also be given to other relevant issues before making this determination (i.e. the increased risk of contraband being brought into the watch-house, availability of female watch-house staff to supervise the prisoner, the increased risk to the health and safety of the child in a watch-house environment, the availability of a suitable area, etc.).

Should circumstances allow, officers may advise the prisoner that they may arrange for a friend or family member to deliver a breast pump and suitable receptacles to the watch-house.

Allowing breast milk to be stored at a watch-house until a friend or family member can collect it is at the discretion of the OIC of the relevant watch-house and will depend upon the availability of an appropriate refrigerated storage space. The alternative is to require the friend or family member to attend the watch-house while the prisoner is using a breast pump and collect the breast milk directly.

Prisoners should not be electronically monitored/video recorded while they are breastfeeding or using a breast pump.

Additionally, whether a prisoner has breastfeeding responsibilities may be a relevant factor when making a determination as to bail pursuant to s. 16.20.2: 'Prescribed police officer's (PPO) responsibilities' of this chapter. (See also s. 16(2)(b): 'Refusal of bail generally' of the *Bail Act*.)

16.21.21 Watch-house officers

For the purposes of this section:

Court precinct

means a court precinct as defined in s. 653: 'Power to use force—transfer etc. of person in custody to or from holding place' of the PPRA.

Holding place

means a holding place as defined in s. 653: 'Power to use force—transfer etc. of person in custody to or from holding place' of the PPRA.

Identifying particulars

means identifying particulars as defined in Schedule 6 of the PPRA.

Watch-house officers

Watch-house officers are staff members under s. 2.5(1)(b)(ii) of the *Police Service Administration Act*. Watch-house officers are able to exercise certain powers and functions pursuant to Chapter 21, Part 1, Division 2: 'Watch-house officer's functions and powers', ss. 641–659 of the PPRA. Even though under this section, watch-house officers have some of the same functions and powers as police officers, they are not police officers.

All the powers and functions conferred on watch-house officers by the PPRA are subject to any directions of the Commissioner or the relevant watch-house manager. As such, all watch-house officers must comply with all Service policy and procedures and all station/establishment instructions issued by the relevant watch-house manager relevant to their functions and duties.

Watch-house officers may perform functions of the receiving officer. The receiving officer is responsible for processing an arrested or detained person and completing most administrative tasks. Watch-house officers may perform all duties for processing prisoners except those duties where legislation or policy requires performance by a prescribed police officer or watch-house manager.

Watch-house officers are to be conversant with and comply with all the powers and functions conferred on them by the PPRA.

Section 657: 'Making entries in registers' of the PPRA requires watch-house officers to make entries of enforcement acts in the relevant register.

OPM Issue 113 Public Edition

Sections 2.1.2: 'Registers required to be kept' and 16.8.1: 'Introduction' of this Manual are to be complied with where relevant by watch-house officers.

Use of force

ORDER

Watch-house officers whilst exercising or attempting to exercise a power under the PPRA against a person are to only use reasonably necessary force to exercise the power and does not include force likely to cause grievous bodily harm to a person or the person's death.

The preservation of human life should remain a primary focus.

Watch-house officers are to comply with s. 14.3: 'Use of Force' of this Manual. See s. 652: 'Power to use force against individual at watch-house' and 653: 'Power to use force–transfer etc. of person in custody to or from court cell or other place' of the PPRA.

Search of person in custody

Section 649: 'Watch-house officer may search person in custody at watch-house' of the PPRA allows watch-house officers to search and re-search a person to whom Chapter 16: 'Search powers for persons in custody' ss. 442–444 of the PPRA applies if the person is in custody at a watch-house. Watch-house officers may also seize items found during the search that may provide evidence of the commission of an offence and take and retain while the person is in custody:

(i) anything that may endanger anyone's safety, including the person's safety; or

(ii) anything that may be used for an escape; or

(iii) anything else the watch-house officer reasonably considers should be kept in safe custody while the person is in custody.

Section 16.10: 'Search of persons' and Appendix 16.9: 'Guidelines for conducting personal searches' of this chapter are to be complied with by watch-house officers when exercising these powers.

Taking identifying particulars of a person in custody

A watch-house officer is taken to be a qualified person under Chapter 17 of the PPRA for the taking of identifying particulars and is authorised to take the identifying particulars of a person in the following circumstances:

(i) the person is in custody at a watch-house; or

(ii) the person reports to the watch-house to enable a police officer to take the person's identifying particulars under an identifying particulars notice or an order of a court.

See ss. 650: 'Watch-house officer may take identifying particulars of person at watch-house' of the PPRA and 2.26: 'Identifying particulars' of this Manual.

OPM Issue 113 Public Edition

Taking DNA samples of a person in custody

Section 651: 'Commissioner may authorise watch-house officer to take DNA samples of person at watch-house' of the PPRA allows watch-house officers if authorised to take DNA samples from persons in custody and persons who report to the watch-house to have their DNA samples taken under a DNA sample notice or an order of the court (see Delegation D 24.20).

Section 2.25: 'DNA' of this Manual is to be complied with by watch-house officers when exercising these powers.

Transfer of person in custody to or from holding place

A watch-house officer authorised by a watch-house manager may use reasonably necessary force to:

(i) transfer a person in custody from a holding place to another holding place;

(ii) ensure a person in custody at a court precinct appears before a court and is transferred to a holding place after the appearance, if the person is not otherwise released;

(iii) escort a person in custody to a place other than a watch-house to enable the person to receive medical, dental, optical or other health related treatment; and

(iv) escort a person in custody from a place where the person is taken to receive medical, dental, optical or other health related treatment to the watch-house; and

(v) ensure a person in custody does not escape from lawful custody while the person is being escorted to or from the watch-house and while the person is receiving any necessary treatment at the place to which the person is taken under escort.

The force a watch-house officer may exercise under this section does not include force likely to cause grievous bodily harm to a person or the person's death.

See ss. 653: 'Power to use force–transfer etc. of person in custody to or from holding place' and 659: 'Custody continues while person in custody is being transferred or escorted by watch-house officer' of the PPRA.

Assistance to police officers from watch-house officers

Section 615: 'Power to use force against individuals—police officers' of the PPRA makes it lawful for a police officer exercising powers under that or any other Act against an individual, and anyone helping the police officer, to use reasonably necessary force for exercising the powers.

Police officers who require assistance in exercising powers in relation to prisoners, where a watch-house officer would be acting outside their powers and functions conferred under the PPRA, are to formally request a watch-house officer to assist them in those duties. Such a request may be made of a watch-house officer where there is no other reasonably practicable assistance available from a police officer.

16.22 Cell visitors scheme

The objectives of a cell visitors scheme are to:

(i) assist with the observation of prisoners and to facilitate communication between prisoners and watch-house staff;

(ii) offer company, support and counselling to the prisoners;

(iii) prevent any attempt at self-inflicted injury;

(iv) identify symptoms suggesting the need for medical attention; and

(v) provide information about and refer support services to prisoners.

POLICY

A cell visitors scheme is seen as a desirable complement to careful prisoner supervision in order to meet the needs of prisoners.

The officer in charge of a watch-house is to encourage the implementation of a cell visitors scheme.

Frequent visitors to watch-houses, which may include clergy, Murri Watch, Diversionary Centre workers etc. are to be given the opportunity to make an application on the form QP 0602: 'Authorised Cell Visitor Application' found in QPS Forms Select.

16.22.1 Authorising cell visitors

PROCEDURE

The officer in charge of the watch-house is to, using discretion:

(i) arrange for the prospective cell visitor to complete the 'Authorised Cell Visitor Application' form;

(ii) arrange for the commissioned officer responsible for the watch-house to consider authorisation of cell visitors, after the vetting of applicants;

(iii) wherever security needs dictate, supply authorised cell visitors with photographic identification to be worn within police establishments;

(iv) recommend to the commissioned officer in charge of the watch-house, the revocation of the authorisation previously granted to any cell visitor where such circumstances warrant;

(v) file copies of completed 'Authorised Cell Visitor Application' forms at respective watch-houses (these completed forms are to be made accessible to all staff); and

(vi) conduct an orientation program for cell visitors.

POLICY

The commissioned officer responsible for a watch-house may authorise persons to be cell visitors and may revoke any such authorisation previously given.

16.22.2 Procedure to be adopted when allowing entry to authorised cell visitors

PROCEDURE

The watch-house manager is to, using discretion:

(i) request the attendance of authorised cell visitors at any time to assist in the management of prisoners where such assistance may be considered beneficial or necessary;

(ii) permit authorised cell visitors to visit a watch-house at any reasonable time;

(iii) arrange for the visitor and the visitor's property to be searched in line with security requirements;

(iv) ensure that each prisoner has the choice to meet a visitor or not;

OPM Issue 113 Public Edition

(v) ensure, when the authorised cell visitor is not the same sex as the prisoner, or the prisoner is a youth, that the authorised cell visitor is accompanied by an officer of the same sex as the prisoner;

(vi) ensure that all visits are recorded and that the visitors sign the Visitor's Register when entering and leaving the watch-house;

(vii) ensure that the authorised cell visitor has reasonable access to a telephone;

(viii) where appropriate, discuss the following items with the authorised cell visitor:

(a) bail;

(b) payment of warrants;

(c) advising the relatives of the prisoner; and

(d) arranging visits for long term prisoners;

(ix) ensure that authorised cell visitors do not pass items to prisoners without prior permission; and

(x) investigate or take action when any matter which may require investigation or action is reported by an authorised cell visitor.

16.23 Deaths in police custody

For the purpose of this section:

Death in police custody

means where a person's death occurs, or upon investigation is found to have occurred:

(i) in police custody or detention;

(ii) while the person is attempting to escape from police custody or detention;

(iii) in the process of that person trying to avoid being put into custody or detention by police (for example a person who dies in a traffic crash while being pursued by police); or

(iv) due to traumatic injuries which were contributed to or caused by a lack of proper care while the person was in police custody or detention.

The term 'death in police custody' will often include deaths in custody or deaths which happened in the course of or as a result of police operations. Such deaths are defined as reportable deaths in ss. 8(3)(g) and 8(3)(h) of the *Coroners Act*.

Examples of police operations provided in the *Coroners Act* are:

(i) a police motor vehicle pursuit for the purpose of apprehending a person; or

(ii) an evacuation.

The term 'death in police custody' does not include a death in the custody of the Australian Federal Police or of Australian Defence Force service police members. For deaths in these circumstances refer to s. 8.8: 'Deaths in custody' of this Manual.

16.23.1 Investigation of deaths in police custody

Deaths in police custody are to be investigated by Ethical Standards Command, subject to the Crime and Corruption Commission exercising its power to assume responsibility for the investigation. See s. 8.8: 'Deaths in custody' of this Manual.

In addition to the relevant provisions of s. 8.8: 'Deaths in custody' of this Manual, the following provisions are to be applied as appropriate to the investigation of deaths in police custody.

16.23.2 Additional first response procedures for deaths in police custody

A police officer or watch-house officer who finds a person in custody or in police company, in circumstances that lead that police officer or watch-house officer to believe that the person may be deceased, should:

(i) call for assistance and render necessary attention to the person;

(ii) take adequate precautions to limit the chances of prisoners escaping custody (police officers and watch-house officers should be aware that an incident may be a ploy for the prisoner to escape); and

(iii) attempt resuscitation when finding an apparently deceased prisoner, if appropriate.

When a death in police custody has occurred, first response officers should, in addition to the procedures contained in s. 8.8: 'Deaths in custody' of this Manual:

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(i) record and confirm as far as possible:

(a) the full name and date of birth of the person;

(b) the person's current residential and work telephone numbers and addresses;

(c) other information which may assist the investigator in contacting the next of kin of the person; and

(d) details of any person who had access to the deceased (e.g. cell visitors, prisoners);

(ii) record any relevant information including the position of the body if the body must be moved for any reason; and

(iii) secure all documentation relevant to the particular person.

All deaths in police custody are to be treated as a homicide until otherwise determined.

16.23.3 Additional responsibilities of officers investigating deaths in police custody

Investigating officers as part of their investigation should:

(i) advise the coroner and government pathologist;

(ii) treat the death in custody as a homicide until otherwise determined and are not to presume suicide or natural death regardless of whether it may appear likely (see s. 2.6.2: 'Homicide' of this Manual);

(iii) obtain statements from all witnesses, including police officers and watch-house officers, as soon as practicable after the incident and prior to any debriefing session where practicable, see s. 8.8: 'Deaths in custody' of this Manual;

(iv) include investigations into the general care, treatment and supervision of the deceased immediately before the death in line with Service policy, orders and procedures;

(v) inquire fully into the circumstances of the arrest or apprehension including any relevant activities of the deceased beforehand;

(vi) immediately arrange for the next of kin or person previously nominated by the deceased to be notified. Cultural interests of the person being notified should be respected by using the cross cultural liaison officer, if practicable. Where the deceased is an Aboriginal person or Torres Strait Islander and there is a delay or inability to notify the next of kin, efforts to notify the next of kin should be recorded;

(vii) in circumstances where the deceased is an Aboriginal person or Torres Strait Islander, notification should preferably be assisted by an Aboriginal person or Torres Strait Islander person known to those being notified;

(viii) if the deceased is an Aboriginal person or Torres Strait Islander, notify the:

(a) Inspector, Multicultural Affairs Unit, Domestic, Family Violence and Community Engagement Group; and

(b) Aboriginal and Torres Strait Islander Legal Service or other Aboriginal and Torres Strait Islander community organisation with responsibility for the area, as soon as possible, whether or not the relatives have been located;

(ix) identify and secure potential evidence and exhibits;

(x) apply to the Coroner to issue a search warrant in respect of any relevant medical records where the deceased was recently treated by a doctor;

(xi) provide such information as sought by the family of the deceased and/or lawyers representing the family, unless the Coroner directs otherwise, about the progress of the investigation and the preparation of the brief for the inquest (where the deceased is an Aboriginal person or Torres Strait Islander, the local cross cultural liaison officer should be consulted);

(xii) if requested, make all efforts to allow family members or their representative the opportunity to inspect the scene of the death, subject to police operational and security requirements, bearing in mind the cultural needs of the relatives;

(xiii) notify the Australian Institute of Criminology, see s. 16.23.5: 'Australian Institute of Criminology and Cultural Engagement Unit to be notified' of this Manual;

(xiv) ensure that officers involved in the incident are not given access to investigation documents (as defined in Schedule 2 of the *Coroners Act*) without the consent of the Coroner who is investigating the matter (see s. 54 of the *Coroners Act*), subject to s. 438: 'Access to electronic recordings of questioning etc.' of the PPRA and 'Procedural Guidelines' located within Professional Conduct of the Workforce Management & Wellbeing Division SharePoint page. See also 'Investigational information (coronial matters)' in s. 5.6.9: 'Requests by persons other than victims of crime for investigational information' of the MSM and 'Investigations against members of the Service' in s. 2.1.2: 'Registers required to be kept' of this Manual;

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(xv) provide briefings to the State Coroner and the Assistant Commissioner, ESC concerning the investigation as requested;

(xvi) complete the investigation covering report in accordance with Appendix 16.3: 'Suggested format for reports on deaths in custody or in police company', and the provisions of s. 8.8: 'Deaths in custody' of this Manual; and

(xvii) sign the completed investigation file and forward it through the chain of command to the Assistant Commissioner, Ethical Standards Command. See s. 16.23.4: 'Deaths in police custody (Investigation file)'.

See also Chapter 8: 'Coronial Matters' of this Manual, in particular ss. 8.3.2: 'Responsibilities for investigating and reporting on deaths' and 8.3.3: 'Additional responsibilities of investigating officers'.

16.23.4 Deaths in police custody (investigation file)

In cases of investigations of police related incidents involving a death in police custody, prior to any distribution of the investigation file within the Service, to the State Coroner or to any other external agencies, the completed investigation file is to be overviewed by the Assistant Commissioner, ESC or a senior officer appointed by the Assistant Commissioner, Deputy Commissioner, Specialist Operations or the Commissioner.

The overviewing officer is to ensure that the investigation is complete, investigated to the appropriate standard, and is to comment on the overview and make any necessary and relevant recommendations.

The investigation file, including recommendations by the overviewing officer and/or the Assistant Commissioner, ESC, is to be forwarded direct to the Office of the Deputy Commissioner, People and Assets for consideration and referral to the Director, QPS Legal Services.

QPS Legal Services, in consultation with the Office of the Deputy Commissioner, People and Assets, is to consider the investigation file and arrange for its delivery to the State Coroner.

Unless exceptional circumstances exist, a completed investigation report should be submitted to the State Coroner within six months of the date of a death in police custody (see s. 5: 'Time Frames' of the MOU contained in Appendix 16.12 of this chapter).

16.23.5 Australian Institute of Criminology and Cultural Engagement Unit to be notified

The officer responsible for investigating a death in police custody or in police company, or coordinating assistance to Crime and Corruption Commission investigators, should notify, or cause to be notified, the Australian Institute of Criminology (AIC) of the death as soon as practicable. See SMCD for the address of AIC.

Information provided to the AIC is to be on the form 'Australian Institute of Criminology—Deaths in Police Custody and in Related Police Operations 2001' (see Appendix 16.6 of this chapter). Officers are to forward the form via the Assistant Commissioner, Ethical Standards Command directly to the AIC. A copy of the form is to be forwarded for information to the Inspector, Multicultural Affairs Unit, Domestic, Family Violence and Community Engagement Group.

16.23.6 Coroner's findings and response to Coroner's findings

ORDER

The officer responsible for the investigation of a death in custody or in police company, on receipt of the Coroner's findings, is to provide a report responding to any relevant issues raised by the Coroner, to the officer in charge of the region, and the OIC, Safety and Wellbeing within a reasonable time and in any event, not later than two months of publication of those findings.

The officer in charge of the region is to forward the report to the Commissioner to enable a report reflecting the Service's response to the findings and recommendations, including a report as to whether any action has been taken or is proposed to be taken with respect to any person, to be forwarded to the Minister for Police and the Chief Executive Officer, Department of Justice (DJ) within three calendar months of publication of the findings.

The report is to be consolidated by the DJ with other reports from any other government agency involved to provide a whole-of-government response to the Coroner's findings.

The consolidated report will then be provided by the DJ to all other parties appearing at the coronial inquest, e.g. Coroner, other government agencies, next of kin, legal services.

16.24 Electronic monitoring (bail)

16.24.1 Court ordered bail condition to wear an electronic monitoring device

A court may impose any bail condition it considers necessary to enable the fitting and operation of an electronic monitoring device (EMD). This may include ordering the defendant to:

(i) remain in custody until the EMD is properly fitted; or

(ii) be released but return to the watch-house at a later nominated time and date.

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Defendant held in a correctional facility making application for bail

Where a defendant held in a correctional facility makes an application for bail and the court is considering a condition to wear a tracking device, the police prosecutor is to:

(i) request the court to order the person to attend the nearest 24 hour watch-house to be fitted for EMD; or

(ii) make application for an adjournment and a production order for the prisoner to appear in person at the relevant court,

(see s. 11(9B) and (9C): 'Conditions of release of bail' of the *Bail Act*).

Bail conditions the court may impose

An EMD electronically monitors a defendant's:

(i) exclusive (e.g. not to approach an address or named person etc.); or

(ii) other inclusive (e.g. location at a residential address or curfew conditions),

bail condition imposed by the court (see s. 11 of the *Bail Act*).

16.24.2 Action on granting bail with an electronic monitoring condition

Where a court orders a defendant to be fitted with an electronic monitoring device (EMD) and the defendant:

(i) is in custody; or

(ii) attends a watch-house in accordance with a bail condition,

the watch-house manager (see SMD) prior to the termination of shift or as soon as reasonably practicable after a bail order is made is to ensure a QP 1085: 'Electronic monitoring profile request and checklist' (including any inclusion or exclusion zones imposed by the court) is completed.

The completed QP 1085 is to be:

(i) emailed to the monitoring centre (as detailed in the QP 1085);

(ii) uploaded to the defendant's QPRIME Custody Report,

and a QPRIME fitting task created for the EMD.

Fitting an electronic monitoring device

When fitting an EMD to a prisoner, a watch-house member is to ensure:

(i) a device is fitted in accordance with the QP 1088 'Electronic tracking checklist' (see 'EMD Fitting Walkthrough' on the Service Intranet);

(ii) a QPRIME flag is created;

(iii) all necessary steps are taken to ensure the device is fully operational and activated;

(iv) the QP 1088 and bail undertaking (i.e. Form 7) is uploaded to the defendants QPRIME occurrence; and

(v) they seek approval from the monitoring centre before releasing the prisoner.

Electronic monitoring device fitted in another watch-house

If an EMD is to be fitted in another watch-house, a QPRIME fitting task is to be forwarded to the relevant watch-house.

Non-appearance of defendant to a watch-house

Where a defendant fails to attend a watch-house in compliance with the bail conditions, the watch-house manager is to ensure a Breach of bail report is created in accordance with the QPRIME user guide.

16.24.3 First response officers

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

16.24.4 Electronic monitoring device alerts

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

16.24.5 Police communications centre responsibilities when an alert has been generated and imminent risk to another person

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

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16.24.6 Defendant held in a watch-house wearing an electronic monitoring device

Where a defendant is fitted with an electronic monitoring device (EMD) and held in custody for less than 24 hours, the watch-house keeper is to advise the monitoring centre via email (see SMCD).

Releasing the defendant

Prior to the release of a defendant from custody, the watch-house keeper is to:

(i) ensure the EMD is fully charged; and

(ii) confirm with the monitoring centre that the EMD is functioning correctly.

Electronic monitoring device to be removed

Where the defendant is fitted with an EMD and held in custody for more than 24 hours, the watch-house keeper is to:

(i) email a completed QP 1086: 'Electronic monitoring equipment remove/exchange document' to the monitoring centre (as detailed in the QP 1086);

(ii) confirm with the monitoring centre the EMD alerts have been suspended;

(iii) remove the EMD; and

(iv) ensure the EMD remains fully charged.

If the defendant is being transferred to a correctional facility, a QPB 32A: 'Field property receipt' is to be issued to the defendant (see s. 4.2.1: 'Property receipt' of this Manual) and all equipment is returned to the monitoring centre.

If the EMD has been ordered to be refitted, the EMD is to be refitted in accordance with the QP 1088 'Electronic tracking checklist'.

Variation to a defendant's bail

An OIC of a station or establishment may grant a change to a defendant's bail (e.g. residential address) only if specifically provided for in the bail conditions. Where an OIC grants a change in a bail condition, the OIC is to ensure the relevant watch-house manager (see SMD) is advised.

Where a watch-house manager is advised of a change to a bail condition, the watch-house manager is to ensure:

(i) an amended QP 1085: Electronic monitoring profile request and checklist' is uploaded into the relevant QPRIME Occurrence; and

(ii) the QP 1085 is emailed to the monitoring centre (as detailed in the QP 1085).

16.24.7 Electronic monitoring device removal

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

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16.24.8 Actions on court varied bail

Defendant is not in custody

Where a defendant is not in custody, the prosecutor is to ensure:

(i) an amended a QP 1085: 'Electronic monitoring profile request and checklist' and varied undertaking is uploaded into the occurrence; and

(ii) the QP 1085 is emailed to the monitoring centre (as detailed in the QP 1085).

Defendant is in custody

Where a defendant is in custody, the prosecutor is to ensure a verdict and judgement record (VJR) is given to the watch-house manager.

The watch-house manager upon receiving the VJR is to ensure:

(i) an amended QP 1085 and varied undertaking is uploaded into the occurrence; and

(ii) the QP1085 is emailed to the monitoring centre (as detailed in the QP 1085).

16.24.9 Actions on electronic monitoring device fault

Where an electronic monitoring device (EMD) or any other associated equipment fails or is suspected of not operating correctly, the defendant is to be directed to a relevant watch-house to have the EMD assessed.

ORDER

Where a defendant reattends a watch-house to have an EMD assessed, the fitting officer is to:

(i) assess if a fault exists;

(ii) if appropriate, remove the EMD and/or associated failed equipment;

(iii) upload a completed QP 1086: 'Electronic monitoring equipment remove/exchange document' into the relevant QPRIME custody report;

(iv) fit the replacement EMD (see subsection 'Fitting an electronic monitoring device' of this section);

(v) ensure the monitoring centre has cleared the fault; and

(vi) email the completed QP 1086 to the monitoring centre (as detailed in the QP 1086).

Defendant to be kept in custody

Where a defendant attends a watch-house due to an EMD failure, the defendant is to be kept in custody until the monitoring centre confirms the EMD is fully operational. Any faulty equipment is to be returned to the monitoring centre.

16.24.10 Officers requiring electronic monitoring data for court or tracking purposes

ORDER

Breaching condition of bail

Officers requesting information for a breach of bail or an offence related to an electronic monitoring device (EMD) (e.g. wilful damage of the EMD) are to forward a request via email to the monitoring centre containing:

(i) defendant's details;

(ii) requesting officer's details;

(iii) the condition of bail breached or similar offence relating to an EMD;

(iv) a brief summary of facts; and

(v) time and dates of required mapping and report information.

The required information will be returned to the requesting officer via email.

A request for large volume of data

Where there is a request for a large volume of information from the monitoring centre, the requesting officer is to create a request in Evidence.com 'Axon Citizen' as outlined on the Body Worn Cameras 'Axon Community' SharePoint page.

Secondary information

If the request for information relates to an offence not associated with the bail conditions, and there is no imminent risk of harm to a person or the community, the investigating officer is to:

(i) make application for a search warrant (see s. 150 of the PPRA); and if granted,

(ii) forward a scanned copy of the search warrant (ensure 'copy' is clearly marked across the warrant) to the monitoring centre via email emqps@ventia.com; and

(iii) create a request in Evidence.com 'Axon Citizen' as outlined on the Body Worn Cameras 'Axon Community' SharePoint page with a list of information requested.

Releasing requested information where imminent risk of harm

A commissioned officer has the authority to release information where there is imminent risk of harm to a person or the community.

All requests relating to a Queensland Corrective Services parolee, should be made via email Intelinfo@corrections.qld.gov.au.

16.24.11 Travel advice from a defendant wearing an electronic monitoring Device

A defendant is to provide written notice at least two working days prior to travelling by aircraft to the OIC of the watch-house where the electronic monitoring device was fitted.

Where travel advice is received from a defendant fitted with an EMD, the OIC of the watch-house is to ensure:

(i) the monitoring centre is advised via email (see SMCD); and

(ii) a QPRIME flag is generated and includes the following details:

(a) date and times of travel;

(b) flight details;

(c) carrier and flight details; and

(d) return details.

OPM Issue 113 Public Edition

OPM Issue 113
Public Edition

Appendix 16.1 The assessment of persons in police custody

(s. 16.13.1)

There is no expectation that officers can successfully diagnose an individual's medical condition based on observations and basic questioning. The questions and observations as part of the QPRIME risk assessment process are to determine if a reasonable degree of suspicion (see Definitions of this Manual) exists with regard to the health condition of a person in custody.

If during the process of assessment and reassessment a reasonable degree of suspicion does come to exist then a professional healthcare provider must be contacted (see 'Order' in s. 16.13.1: 'Assessment of prisoners' of this Manual).

Healthcare information supplied by a person in custody

If a person in custody states they:

(i) require medication or treatment, officers including watch-house officers must;

(a) make enquiries with a forensic physician/government medical officer (GMO), nominated doctor or hospital to confirm the need for the person to have medication or treatment; and

(b) obtain appropriate medication or treatment as advised; and

(c) determine the time the medication or treatment is next required to be provided; and

(d) obtain consent from the prisoner to use Medicare and health care card details; and

(e) record the results of these enquiries. This needs to be done in the next convenient opportunity unless advised the medication or treatment needs to be obtained immediately (see s. 16.12.1: 'Segregation of prisoners' of this chapter).

(ii) are suffering from, or appear through observation to be showing symptoms or behaviours outlined within the checklist of this Appendix, seek professional healthcare advice as soon as practicable;

(iii) are suffering from an infectious disease, or such disease is thought to exist through observation (see s. 16.12.1: 'Segregation of prisoners' of this chapter);

(iv) are wearing a medical or prosthetic device, if the device may be broken or used as a weapon consider segregation of the person or consider removing the device whilst in custody. Seek professional healthcare advice before removing;

(v) are pregnant and have any concerns regarding their condition, seek professional healthcare advice; or

(vi) have medical reasons for special dietary requirements (such as food allergies) obtain appropriate food to suit the person's requirements.

Drug and alcohol assessment

If a person in custody answers yes to any of the drug and alcohol questions, or exhibits signs or behaviours suggestive of withdrawal, overdose or intoxication, ensure the person is closely observed and monitored as per compliance with the provisions of the subsection titled: 'Preventing illness or death from alcohol or drug intoxication, overdose or withdrawal' in s. 16.13.1: 'Assessment of Prisoners' of this chapter.

If the person in custody states they are on a methadone or subutex programme, refer to s. 16.21.7: 'Prisoners registered on the opioid treatment program or on prescribed opioid medication' of this chapter.

Professional healthcare advice or attention is to be sought as soon as possible if the person in custody states they:

(i) are suffering from, or appear to be exhibiting the signs and symptoms of drug or alcohol withdrawal as outlined in Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this chapter;

(ii) have taken an overdose of drugs, or more than normal dose in the preceding twenty-four hours, even though the person may not show symptoms, signs or behaviours of such overdose affecting them;

(iii) have consumed drugs in the preceding twenty-four hours, especially opioid (e.g. heroin, morphine), cocaine or other stimulant (e.g. amphetamine, methamphetamine) even though the person may not show symptoms, signs or behaviours of drug consumption; or

(iv) are pregnant or may be pregnant and any of (i) to (iii) above apply to them.

Checklist 1: Other factors that may give rise to a reasonable suspicion as to a person in custody's health condition

Conditions, symptoms, behaviours or signs that should give rise to suspicion include:

General:

(i) fever, chills and/or sweats; or

(ii) appears unwell.

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Neurology:

(i) headache;

(ii) neck pain;

(iii) weakness or pins and needles;

(iv) inability to move part of their body;

(v) light headedness/dizziness/vertigo;

(vi) shaking or trembling uncontrollably or seizure capacity;

(vii) unintelligible or meaningless speech;

(viii) hallucinations, paranoia, agitation, confusion or disorientation;

(ix) persistent or increasing drowsiness;

(x) reduced or reducing conscious state, unconsciousness;

(xi) difficulty or inability to wake from sleep; or

(xii) recent loss of consciousness.

Cardiac:

(i) chest pain;

(ii) shortness of breath;

(iii) palpitations (sensation of rapid heart rate); or

(iv) light-headedness.

Respiratory:

(i) shortness of breath;

(ii) poor response to routine asthma medication;

(iii) gagging or choking; or

(iv) coughing up blood.

Gastro:

(i) abdominal pain;

(ii) vomiting or nausea;

(iii) vomiting blood; or

(iv) diarrhoea.

Gynaecology:

(i) vaginal bleeding not associated with menstruation;

(ii) abdominal pain with or without hiccoughing; or

(iii) back pain.

Trauma:

(i) actively bleeding cuts or abrasions;

(ii) broken bones;

(iii) recent head injury; or

(iv) fall from a height over 2 metres.

Vision:

(i) loss of vision;

(ii) eye pain; or

(iii) possible penetrating injury.

Mental health:

(i) previous suicide or self-harm attempt;

(ii) ongoing suicidal tendency; or

OPM Issue 113 Public Edition

(iii) severe agitation.

Skin:

(i) unexplained rash.

History of:

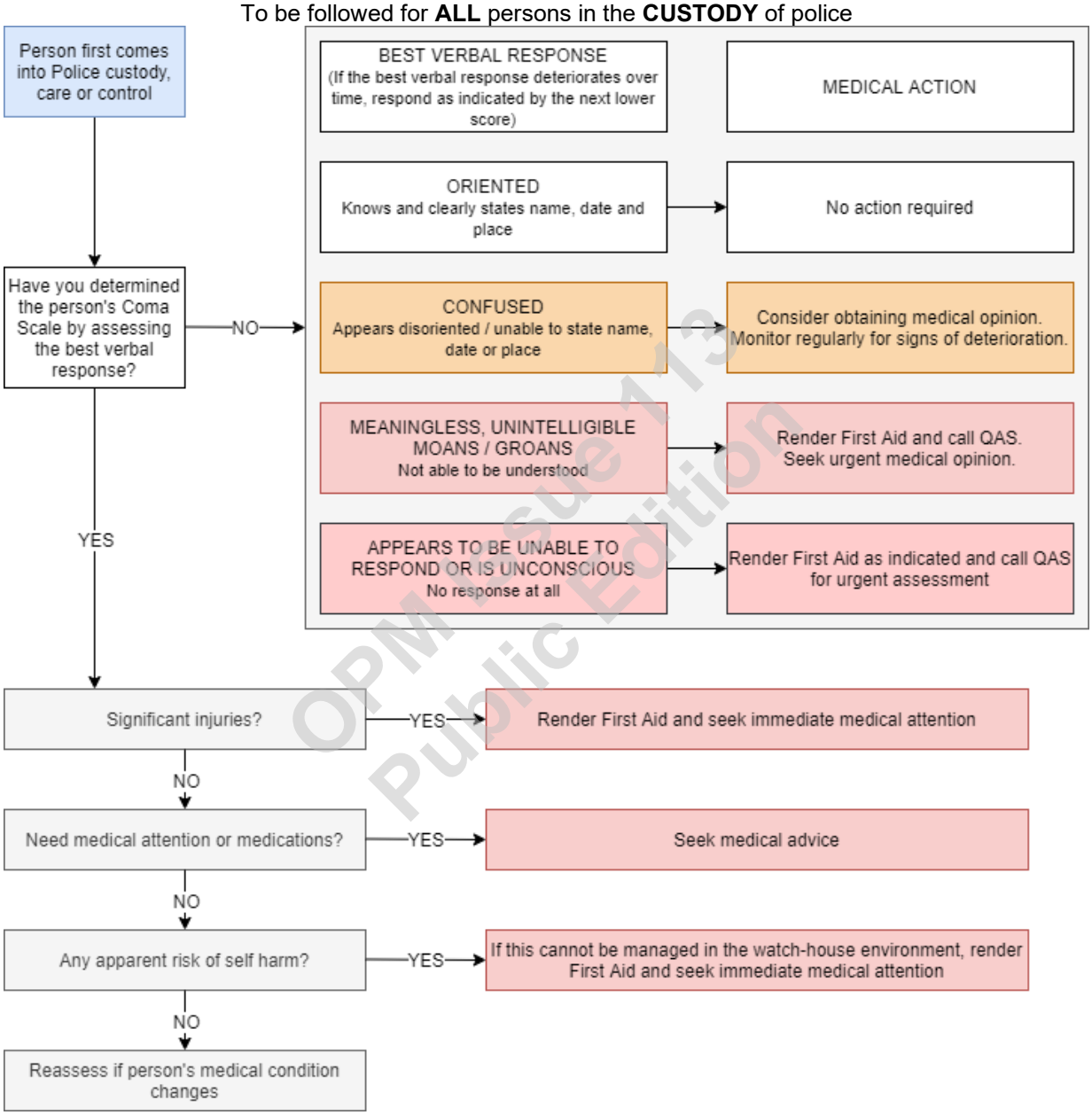
(i) recent self-discharge from hospital/health facility; or

(ii) new medication first taken in the preceding 24 hours.

REMEMBER: If a degree of reasonable suspicion exists with regards to the health of a person in custody, then a professional healthcare provider **must** be contacted.

MEDICAL CHECKLIST

To be followed for **ALL** persons in the **CUSTODY** of police



OPM Appendix 16.1: 'The assessment of persons in police custody'

POLICE OFFICERS AND WATCH-HOUSE OFFICERS ARE TO BE AWARE THAT IN SOME CASES OF SEVERE ALCOHOL OR DRUG DEPENDENCY OR INTOXICATION; WITHDRAWAL MAY RESULT IN DEATH IF THE PERSON DOES NOT RECEIVE MEDICAL TREATMENT.

Checklist 2: Health Questionnaire and Observations Checklist (for prisoners in police custody who are to be held in a watch-house)

The health questions and observation checklist for prisoners are available in QPRIME through the Custody Report (Full), Risk Assessment tab. These questions and observations are to be completed for any person who is to be held in custody in a watch-house. Depending upon the responses provided and/or the observations made when completing this checklist, the following actions are to be taken:

Medical condition assessment

If a prisoner or person in custody states they:

(i) require medication or treatment;

(a) make enquiries with a Forensic Physician/GMO, nominated doctor or hospital to confirm the need for the person to have medication or treatment;

(b) where necessary obtain appropriate medication or treatment;

(c) determine the time the medication or treatment is next required to be provided; and

(d) record the result of these inquiries.

This is to be done at the next convenient opportunity unless the medication or treatment needs to be obtained immediately. See also s. 16.13.4: 'Provision of medication' of this Manual;

(ii) are suffering from, or appear through observation to be showing symptoms, signs or behaviours outlined within:

(a) Checklist 3 of this Appendix, seek medical attention or treatment as soon as possible; or

(b) Checklist 4 of this Appendix, seek medical advice at the first convenient opportunity;

(iii) are suffering from an infectious disease, or the signs of such disease are observed, see s. 16.12.1: 'Segregation of prisoners' of this Manual;

(iv) are wearing a medical or prosthetic device, if the device may be broken or used as a weapon, consider segregation of the person, or consider taking the device off them whilst in custody;

(v) are pregnant and have any concerns regarding their condition, seek medical advice; or

(vi) have special dietary requirements or food allergies, obtain appropriate food to suit the person's requirements where possible.

Drug and alcohol assessment

If a prisoner or person in custody answers yes to any of the drug and alcohol questions, or exhibits signs or behaviours suggestive of withdrawal, overdose or intoxication, ensure the person is observed closely and comply with the provisions of the subsection titled: 'Preventing illness or death from alcohol or drug intoxication, overdose or withdrawal' in s. 16.13.1: 'Assessment of prisoners' of this chapter.

If the prisoner or person in custody states they are on a methadone or subutex program, see s. 16.22.7: 'Prisoners registered on the opioid treatment program or on prescribed opioid medication' of this chapter.

Medical advice or attention is to be sought as soon as possible if the person in custody states they:

(i) are suffering from, or appear to be exhibiting the signs and symptoms of drug or alcohol withdrawal, as outlined in Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this chapter;

(ii) are suffering from, or appear to be exhibiting the signs and symptoms of a drug or alcohol overdose, as outlined in Appendix 16.10: 'Drug and alcohol intoxication, overdose and withdrawal' of this chapter;

(iii) have taken an overdose of drugs, or more than a normal/usual dose in the last 24 hours, even though the person may not show symptoms, signs or behaviours of such overdose affecting them;

(iv) have consumed drugs in the last 24 hours, especially opioid, heroin, cocaine, amphetamine or methamphetamine-based drugs, even though the person may not show symptoms, signs or behaviours of drug consumption; or

(v) are pregnant or may be pregnant.

Suicide/self-harm assessment

If a person in custody answers yes, fails to answer, or refuses to answer any questions as to their risk of self-harm or suicidal ideations and there is a reasonable belief that the person may self-harm or attempt suicide whilst in police custody, the watch-house manager should consider appropriate risk mitigation strategies.

In addition to any relevant courses of action specified above, officers are to ensure such persons are closely observed and monitored with other appropriate action taken according to their level of risk. Refer to the subsection titled: 'Managing risk of suicide and self-harm for all prisoners' in s. 16.13.1: 'Assessment of prisoners' of this chapter.

Checklist 3: When medical attention or treatment is to be sought (for all prisoners in police custody)

If a person states they are suffering the following conditions or symptoms and/or the following behaviours or signs are observed, medical attention or treatment is to be sought for the person as soon as possible.

Conditions, symptoms, behaviours or signs include:

(i) unconscious or deteriorating conscious state;

(ii) difficulty or impossibility to rouse from apparent sleep;

OPM Issue 113 Public Edition

(iii) persistently or unusually intermittently drowsy/sleepy;

(iv) only making or able to make meaningless unintelligible groans;

(v) extreme physical weakness or paralysis;

(vi) suffering hallucinations, disoriented or confused;

(vii) shaking and trembling uncontrollably for no apparent reason;

(viii) having convulsions or seizures;

(ix) severe paranoia;

(x) severe chest, abdominal, limb or head pain;

(xi) persistently vomiting;

(xii) rapid respiration, laboured breathing, shortness of breath, hyper-ventilation or the fearful gasps of air hunger;

(xiii) not recovering from an asthma attack (with or without medication) after 10 minutes;

(xiv) gagging, coughing, or choking lasting more than 4 minutes after OC spray exposure;

(xv) deep cuts or abrasions, excessive bleeding;

(xvi) vaginal bleeding in females who are or may be pregnant;

(xvii) suspected broken bones; or

(xviii) having suffered a fit or seizure in last 24 hours or is likely to suffer a fit or seizure in custody;

Checklist 4: When medical advice is to be sought (For all prisoners in police custody)

If a person states they are suffering the following conditions or symptoms and/or the following behaviours or signs are observed, medical advice is to be sought for the person at the first convenient opportunity. Where medical advice is not obtained, close observation of the person is to be made until released from police custody to ensure the person's condition does not deteriorate to those signs, symptoms and behaviours contained in Checklist 3.

Conditions, symptoms, behaviours or signs include:

(i) showing signs of recent self-harm;

(ii) previous attempts at suicide or self-harm, discussing or threatening suicide or self-harm;

(iii) severely depressed;

(iv) vomiting or nausea;

(v) severe agitation;

(vi) cold sweats or excessive sweating;

(vii) light headedness or dizziness;

(viii) severe irritability;

(ix) highly emotional behaviour not appropriate to the environment and circumstances;

(x) severe anxiety;

(xi) severe aggression;

(xii) drowsiness;

(xiii) intense headache;

(xiv) shallow breathing;

(xv) minor pain or discomfort;

(xvi) minor injuries not covered in checklist 1;

(xvii) needing assistance to stand or walk;

(xviii) having difficulty making sensible conversation; and

(xix) having difficulty understanding what is happening (confused).

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Appendix 16.2 Rights and responsibilities of children whilst in custody in a watch-house

(s. 16.17.3)

Rights of children

To be informed of your situation in relation to bail, court appearance and transfer to a youth detention centre.

To be provided with the necessaries of life, these may include:

(i) food/water;

(ii) appropriate clothing;

(iii) toilet/shower facilities;

(iv) bedding;

(v) exercise; and

(vi) medication and medical treatment where necessary.

Safeguarding of your personal property.

Segregation from the opposite sex and violent child prisoners and in normal circumstances from adult prisoners.

Receive visits by Department of Communities/legal representative whenever practicable.

Receive other visitors and to make and receive phone calls subject to operational and security needs.

Make a complaint if you feel a member of the Service has behaved wrongly or inappropriately.

To be treated with dignity and respect.

Responsibilities of children

To abide by the law and not act in a disruptive or unacceptable manner.

To provide watch-house staff with all relevant information to ensure adequate provision can be made for your medical and dietary requirements and any other vulnerability, disability or cultural needs.

Treat watch-house staff with dignity and respect.

Obey any reasonably necessary directions given by watch-house staff for the good management and control of the watch-house.

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Appendix 16.3 Suggested format for reports on deaths in custody or in police company

(s. 8.8)

1. Introduction—Investigation by ....., of ..... into death of–

Full name of deceased.

Date and place of birth.

Usual residential address.

Time and place of death.

Identification process regarding the deceased.

2. Summary of circumstances—focus on the issues that require special attention as the coroner is reading through the report

3. Principal investigators—including name, rank and contact numbers

4. Nature of custody or company—

Circumstances of the arrest.

Watch-house or lockup. Charged with offence, on remand, held on warrant, awaiting transfer to prison.

Prison. On remand. If convicted, length of sentence.

Hospital—circumstances of transfer from prison or watch-house. Entries in the relevant QPRIME Custody Report or Custody Report (Full), and by whom?

Police station or establishment where deceased was being questioned.

5. Circumstances surrounding the discovery of body of deceased—If the body of the deceased was discovered by another prisoner or custodian.

Initial observations and actions.

Further action by custodians, superiors advised.

Attendance by ambulance officers, nurse, medical practitioner. First aid, attempts at resuscitation.

Preservation of the scene. Notification of specialist sections.

Doctor pronouncing life extinct.

If prison or security patient's hospital, time and circumstances of attendance by police.

5.1 Death scene Investigation

Examination of body and surroundings by scientific officers.

Preservation of exhibits. Noose, cutting implement, tablets.

Photographs by Photographics or Scenes of Crime officer—of scene and of body 'in situ'.

Removal of body of deceased by ambulance/undertaker to which hospital/morgue.

Identification of deceased by whom? To whom?

5.2 Pathology

Post-mortem examination.

Date and particulars of post-mortem. Conducted by Government Forensic Pathologist, Dr .....

Name of the police officer who attended the post mortem.

Analysis of specimens. Blood, urine, stomach contents. Any suspicion of drug use?

Preservation of exhibits. Rope noose, tie, socks, belt.

Results of examination. Death registered. Arrangements for funeral, coroner's approval for cremation.

6. General care and treatment of the deceased—Observations of deceased by custodian before death. Written statements obtained from all arresting or detaining officers or custodians, before termination of their shifts unless the process subjects them to unnecessary distress.

6.1 Supervision of the deceased

The watch-house **routine**—Procedures for accepting prisoners.

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Classification of and recording of a prisoner as a person at risk. Supervision enhanced.

Inspections of cells, single-person or multi-person cells.

Meals—Duties of prisoners, trusty prisoners.

Times of lock-up and release, segregation.

Change of shifts, handover procedure, completion of the relevant QPRIME Custody Report or Custody Report (Full). Successor advised of illness, injury, incidents involving prisoners, persons at risk and requiring extra supervision, notations made in the relevant QPRIME Custody Report or Custody Report (Full), Detention Log, Confidential Prisoner Medication Register and Medical Record Sheet (QP 0462) and Watch-house Inspection Register.

7. Further inquiries into circumstances of death—Any note left? Signs of preparation to take own life. If weapon used, where was it obtained and hidden? If watch-house prisoner, any signs upon admission to the watch-house, of injury, illness or of having been involved in an altercation?

Statements obtained from custodians are to include details of the assessment made.

Interviews of, and statements obtained from other prisoners, without delay and before release where practicable.

Location of prisoners since released, and statements obtained. Interview of family members, where necessary.

If deceased ill or injured before detention, ascertain movements on the day(s) before custody. Statements from associates, companions, workmates.

8. Medical history—Apply to the Coroner to issue a subpoena for the medical records.

Prison infirmary hospital. Any medication prescribed or taken? Any chronic conditions? Any prior attempts on life? Any medication requested or given during custody? Police or Corrective Services medical records—last entry, and by whom?

Mental state, as ascertained from statements by custodians, fellow prisoners, medical personnel. If prisoner suspected of being a person at risk, what measures were taken to increase security through surveillance and more frequent inspections?

What procedures were followed and what observations were made before eliminating deceased as a possible person at risk?

9. Antecedents of deceased—Personal particulars and description, family, employment.

Criminal history, including photographs and fingerprint classifications where available.

9.1 History as a prisoner—Movements of body of deceased after death. Ambulance centre, hospital, morgue.

9.2 Notification of next of kin and/or Aboriginal and Torres Strait Islander Legal Services—Name and address. Advised how, when and by whom? If necessary, identification of body of deceased.

10. Exhibits—Location availability, arrangements for production at inquest.

11. Was death preventable—indicate whether it is in the view of the investigating officer that any deliberate act or omission, or error of judgement by any person may have contributed to the death.

Conclusions and Recommendations—Medical opinion as to causes.

Self-inflicted injury, taking of own life.

Accident, foul play, negligence, criminal negligence, neglect of duty.

Person(s) charged. Charges of disciplinary action against custodians where recommended.

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Appendix 16.4 Deleted

Appendix 16.5 Deleted

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Appendix 16.6 Example form: Australian Institute of Criminology

(s. 16.23.5)

CONFIDENTIAL

AUSTRALIAN INSTITUTE OF CRIMINOLOGY

DEATHS IN POLICE CUSTODY AND IN RELATED POLICE OPERATIONS 2006

N.B. Please ensure that this form applies to the current year.

Office use only

Type of Case:

1. **Institutional or close contact custody, i.e. deaths in institutional settings or in close contact settings, e.g. most raids and shootings by police.**

☐ PCAT

2. **Other custody-related police operations, i.e. most sieges and most cases where officers were attempting to detain the person, e.g. pursuits.**

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Personal Identification:

☐ IDN

Name of Deceased: Surname: _____

Other Name(s): _____

Gender: Male ☐ Female ☐

☐ GEN

Ethnic Background: Aboriginal Torres Strait Islander Other

☐ ABL

Date of Birth: ____/____/19___

☐ AGE

GRP

Location of Death:

Place of death: (name of station, hospital, street address, etc.)

LOC

CUS

Place of custody prior to death: (if death occurred elsewhere)

ST

Specific environment at time of death: (e.g. alone in single cell, exercise yard, in van en route to court, emergency ward in a hospital, etc.).

ENV

When Death Occurred:

WEE

DAY

Date of death: ____/____/20___ **Time of death** (24 hour clock): _____ hrs

MTH

YR

(If the precise date and time of death are unknown, give date and time when the person was found dead.)

TIM

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Custodial Circumstances:

Legal status:

STA

- Under sentence: no appeal current ☐
- Under sentence: awaiting determination of any appeal (verdict or sentence) ☐
- Detained as unfit to plead, not guilty on grounds of insanity ☐
- Unconvicted: awaiting court hearing/trial extradition, purging of contempt, etc. ☐
- Convicted but awaiting sentence ☐

Awaiting deportation ☐

Protective custody (i.e. for drunkenness where not an offence) ☐

Held for questioning/inquiries ☐

Unknown ☐

Other (please specify) e.g. escorting under mental health legislation, a siege or pursuit situation.

_____

Had this person been granted bail? Yes ☐ No ☐

If not, why was this person not granted bail, e.g. too intoxicated; seriousness of offence; bail refused by court.

☐ NOB

_____

_____

Full details of most serious offence relating to final period of custody or police operation, e.g. theft from dwelling, importing illegal drugs, assault with weapon.

(Note: In some cases this would be the offence for which the person would most likely have been charged had he or she not died..)

☐ MSO

☐ CAT

_____

_____

Length of time in custody (where applicable):

☐ SPE

☐ SCAT

_____

Date and time that the person was taken into custody (24hr clock) hrs _____

____/____/ __

☐ PC

☐ UN1

☐ UN2

☐ LEN

For sentenced prisoners only, estimated earliest date of release ____/____/20___

☐ LCAT

For sentenced prisoners only, length of sentence bestowed by the court

_____

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Details of Death: _____

_____

Narrative explaining cause and manner of death:

_____

_____

_____

_____

_____

Please indicate below the apparent **general cause of death:**

suicide/self-inflicted ☐

natural causes ☐

accident ☐

homicide ☐

other (please specify)

_____

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Was the above cause of death determined by a Coroner?

Yes ☐ No ☐

Please enclose where available (tick if attached):

Coroner's Finding/Report ☐

Post-Mortem Report ☐

Toxicology Report ☐

Criminal record or criminal history ☐

☐ CAU

☐ RESP

☐ NAT

☐ ACC

☐ SHO

☐ DEF

☐ DET

☐ COR

☐ HIV

☐ SUB

☐ PRE

Please provide any further relevant details.

Contact person for further information:

Name: _____

Position _____

Organisation: _____

Phone number: ( ) _____

Date _____

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Enquiries should be directed to:
Mathew Lyneham
National Deaths in Custody Monitoring & Research Program
Australian Institute of Criminology
GPO BOX 2944
CANBERRA ACT 2601
Phone: (02) 6260 9232
Fax: (02) 6260 9201

Appendix 16.7 Deleted

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Appendix 16.8 Watch-houses where children are not to be kept in custody overnight

(s. 16.17.5)

Schedule 'A'

Watch-houses where, subject to reasonable operating resources at the time, children are never to be kept in custody overnight:

North Brisbane:

Brisbane City

Petrie

Sandgate

Pine Rivers

South Brisbane:

Cleveland*

Inala

Wynnum*

Northern Region:

Townsville#

Southern Region:

Goodna (not 24 hour)

Ipswich

South Eastern Region:

Beenleigh

Schedule 'B'

Watch-houses where, subject to reasonable operating resources at the time, a child is never to be kept in custody longer than overnight:

Northern Region: Ayr Palm Island**	**Southern Region:** Toowoomba
Southern Region: Caboolture Redcliffe	**South Eastern Region:** Coolangatta Southport
Brisbane Region: Dunwich	

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* Only to be kept in custody overnight where operational resourcing requirements prevent earlier transportation.

** Flights six a day to Townsville

The provisions of Schedules A or B do not apply to young women remanded in custody as there is no accommodation for young women at the Cleveland Youth Detention Centre.

Appendix 16.9 Guidelines for conducting personal searches

(s. 16.10)

Introduction

Members conducting personal searches may be exposed to a variety of hazards, including hypodermic syringes, body fluids, contaminated materials and violent or aggressive persons. Adoption of safe searching practices will eliminate or reduce the risk of injury or illness by members involved. Additionally, adoption of ethical searching practices will eliminate or reduce the number of complaints made by persons subjected to personal searches.

Whenever it is necessary to conduct a personal search of a person, the following guidelines and procedures generally should be adopted in addition to any station or establishment instructions relating to personal searches which have been implemented at a particular workplace. Wherever practicable, any variance from the guidelines and reasons for variance should be recorded by the responsible officer in an appropriate place such as the Custody Report or Custody Report (Full) of QPRIME, see the QPRIME User Guide or an official police notebook.

With respect to searches other than searches of persons, see s. 2.8.2: 'Search of a place' of this Manual.

General Health and Safety considerations

'First Aid in Workplace' within the Safety and Wellbeing SharePoint contains general health and safety advice for members and should be read in conjunction with these guidelines.

During the conduct of a personal search, the health and safety of police officers, watch-house officers, other people in the vicinity or involved in the search, and the person to be searched, should be the main concern. Accordingly, prior to a search being conducted, the responsible officer should consider the likelihood of the person to be searched reacting violently or aggressively during the search, or carrying any article that may be used as a weapon or otherwise posing a risk to the health and safety of any person.

Even when circumstances may indicate otherwise, all personal searches should be conducted with the assumption that hazardous objects such as hypodermic syringes, weapons and/or items contaminated with body fluids may be located during the search. Also, the assumption that every person they search may have a communicable disease. However, such assumption is not sufficient justification to conduct an unclothed search of a person, in the absence of any supporting reasons which may indicate an unclothed search is necessary (see the subsection titled 'General considerations in determining whether to conduct an unclothed search' of s. 16.10.2: 'Unclothed searches of persons' of this chapter).

Except where otherwise provided for in this chapter regarding unclothed searches, personal searches should, wherever practicable, be conducted in the presence of a second police officer or watch-house officer.

When conducting a personal search, members should use search techniques that remove or significantly reduce the risk to them or others involved in the search from being injured or exposed to contaminated materials.

Consideration should also be given to the nature of the item suspected of being in possession of the person being searched, bearing in mind that:

(i) small quantities of drugs may be secreted in belts, collars, seams, hat bands etc.; and

(ii) weapons may be hidden under clothing.

Common hiding places include the shoulder, back, side, inside thigh, ankle and forearm.

Additionally, care should be taken when handling and examining drugs or weapons located. Where there is any doubt, specialists or experts should be called upon to handle or examine such items.

Unless the search must be conducted immediately and gloves are not readily available, any person conducting a personal search should wear latex gloves, regardless of whether the search will require them to touch the clothing or body of the person to be searched. The use of gloves should be explained to the person to be searched prior to the search commencing as a health and safety measure for both themselves and the person conducting the search. Gloves should be put on in the presence of the person to be searched and disposed of safely after each search.

Other general considerations

When available:

(i) a metal detector should be used at the beginning of every search, but should never be relied upon as being able to detect all relevant items that may contain metal; and

(ii) tongs or forceps should be used instead of hands to check for and retrieve items from pockets and other recesses in clothing.

Members involved in the search of a person should remain mindful of any sensitivities of the person to be searched, such as those which may be held through cultural, physical, psychological, medical or intellectual characteristics. At no stage before, during or after the search should personal remarks (or sounds or gestures meaning the same) be made about the person's background, body, appearance or presentation (smell, cleanliness etc.).

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A female person to be searched should be asked discreetly before the search whether she is menstruating. If she says yes, every reasonable opportunity should be provided for the woman to attend to her personal hygiene needs before the search. A woman should never be asked to remove a tampon for inspection. However, if deemed necessary, a woman should be asked to remove a sanitary napkin. In such a case, a fresh napkin or tampon should be immediately provided.

Procedures for conducting searches

For all searches, officers are to comply with gender safeguards for search of persons, see ss. 16.10.1: 'General requirements concerning searches of persons' of this chapter, and 624A: 'Gender safeguard for searches of persons' of the PPRA.

For all personal searches, the following paragraphs (i) to (xxiii) apply. For unclothed searches, the following paragraphs (xxiv) to (xxx) below also apply.

Pat-down search

The following procedures, where applicable, should be adopted when conducting a pat-down search of a person:

(i) ask the person if they have any item including needles and/or syringes on their body or in their clothing that may injure a person conducting the search;

(ii) ask the person to remove jewellery including watches and place the items where they can be seen by the searching police officer or watch-house officer. Body rings attached to any place other than the face should not be removed in a public area. No force should be used to remove an item connected to the body such as rings unless they would be taken possession of pursuant to section (xix) below. Remove belts and headwear (which does not involve the removal of any clothing that would reveal underwear or expose bare skin normally expected to be covered by underwear);

(iii) where practicable and considered appropriate, ask the person to remove any prosthetic device/s which may be used as a weapon, or may conceal an item which would normally be seized or taken and retained, and search and/or seize or retain the device. If not seized or required to be taken and retained, prosthetic devices which have been removed should be returned to the person as soon as practicable;

(iv) ask the person to stand still with arms and legs apart while a metal detector (where available) is waved over the entire body;

(v) if at any stage of the search it is believed that the person being searched has secreted a dangerous item such as a syringe or a razor blade in a seam of clothing or other place that may injure the searching police officer or watch-house officer, proceed to an unclothed search of the person in accordance with points (xxiv)–(xxx) below;

(vi) ask the person to face the charge counter or a wall with:

(a) legs at least shoulder width apart and toes pointed out; and

(b) arms extended out with hands on the charge counter or against the wall;

(vii) position yourself slightly to one side at the rear of the person. Where applicable, the second police officer or watch-house officer present during the search should assist by maintaining control of the person throughout the search (i.e. hold person's arm);

(viii) pat the person's hair without pulling the hair, or ask the person to run their fingers vigorously through their own hair;

(ix) starting with one side of the person, visually inspect the person's clothing, this includes looking inside the person's pockets before touching. Carefully check the neck and collar or the neck seams in the person's clothing. Do not place your fingers inside the prisoner's mouth, remembering the prisoner's potential to spit;

(x) using a grab, squeeze and pat technique (remember the potential for needle stick injury), proceed to search the person from the top to the bottom covering the shoulder and down the arm to the hand, under the armpit and down the front of the trunk of the body, checking pockets, seams and other recesses in the clothing ending at the waistline. If the person is wearing a jacket or coat have him/her remove it for the purpose of the search. For female persons, search over and under the breast;

(xi) search the person's back in the same manner;

(xii) ask the person to loosen waistbands, if necessary. Always remove belts, ties and any other article which has the potential for injury;

(xiii) turn over and visually inspect waistbands prior to patting to detect items secreted in the bands or waistline seams and in belt loops;

(xiv) search around the person's waist and proceed down the buttocks and legs. Use one hand to search whilst controlling the prisoner with your other hand. When searching the legs pay particular attention to the seams and cuffs;

(xv) when searching the trunk and legs of a person, do not pass your hands over the person's genital area;

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(xvi) lift the person's leg up behind them (to control it so that the person cannot kick) and place the person's shin over your thigh to enable you to control them. Undo the lace and remove the shoe and sock to enable you to inspect under the foot and between the toes. Socks can be removed by placing two fingers in the top of the sock and pulling it downwards, turning it inside out;

(xvii) once one side has been searched position yourself to the other side at the rear of the person and repeat steps (ix) to (xvi) above;

(xviii) if there is no intention to conduct an unclothed search, inspect further removed items in the presence of the person. Ensure socks are turned completely out. Pay special attention to the soles and heels of the persons footwear, which may include the removal of inserts from shoes (use tongs or forceps when available);

(xix) take possession of any item:

(a) considered to be evidence of the commission of an offence; or

(b) found in the possession of a person who should remain in custody and it is considered that:

- the item may be used to facilitate an escape;
- the person intends to use the item to harm themselves or another person, (as an example, such items that could be removed include bras, socks, underwear, shoe laces, hair clips, toothbrushes, dental appliances and bandages);
- the item may be used to damage property; or
- the item should be kept in safe custody while the person remains in custody (e.g. valuables);

(xx) take care not to damage property and ensure that any property taken possession of is protected and not damaged;

(xxi) permit persons who should remain in custody to retain spectacles where considered necessary (lens can be used as a cutting instrument and wire as a stabbing instrument), having due regard to the safety of that person and other prisoners (this should be recorded in the Custody Report or Custody Report (Full) of QPRIME);

(xxii) consider retention of any clothing which may contain metal or hard material which could be used as a weapon or to cause self-harm if swallowed. As an example, bras which contain underwires. This decision will depend on the perceived risks associated with the person; and

(xxiii) on completion of the search, consider washing hands and any unprotected areas that may have been exposed to the person being searched or their clothing or property.

Unclothed search

Section 16.10.2: 'Unclothed searches of persons' subsections 'Special requirements for searching children and persons with impaired capacity' and 'Video recording of unclothed searches' of this chapter, should be read in conjunction with these guidelines (see also QPS internet website: 'LGBTQIA+ communities' for additional information).

When conducting an unclothed search, no more than 2 police officers or watch-house officers should be present unless the person to be search may be violent or may try to escape. If reasonably practicable tell the person to be searched why it is necessary for them to remove their clothing. The search should be conducted as quickly as reasonably practicable.

The following additional procedures to those relating to pat-down searches outlined above should also, where applicable, be adopted:

(xxiv) ask the person to remove all upper clothing and to raise their arms above their head and to turn around and check armpits;

(xxv) check upper clothing before asking the person to put their upper clothing back on, paying special attention to seams, cuffs and linings. Consider retention of any bras which contain underwires;

(xxvi) ask the person to remove all lower clothing for a visual examination. Have the person lean against a wall with legs apart (police officers or watch-house officers may require the person being searched to bend forward to enable a visual examination to be made). Have the person turn around;

(xxvii) if considered necessary and where applicable, ask the person to lift:

(a) their penis and scrotum;

(b) their breasts; and

(c) any large folds of skin.

Officers conducting the search **are not** to request persons in custody roll back their foreskin or make physical contact with the genital and anal areas of the person being searched.

(xxviii) if considered necessary, and if the person appears to be physically capable of doing so, ask the person to squat. Do not ask the person to 'waddle' or perform any other manoeuvre while squatting;

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(xxix) check lower clothing before asking the person to put their lower clothing back on. Pay special attention to seams, cuffs and linings;

(xxx) if considered necessary to seize clothing, the person should be left with or given reasonably appropriate clothing. See s. 630: 'Protecting the dignity of persons during search' of the PPRA.

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Appendix 16.10 Drug and alcohol intoxication, overdose and withdrawal

(s. 16.13.1)

Some of the information contained in this appendix is based on the article 'Medical aspects of police custody' by Dr I. Curtis.

Police officers and watch-house officers should be aware when assessing persons that a person who is apparently intoxicated may in fact be displaying symptoms of a more serious injury or condition.

Conditions which may be consistent with, and which are similar to, those symptoms generally associated with intoxication include:

(i) a head injury (clot or stroke);

(ii) hypoglycaemia (low blood sugar);

(iii) hyperglycaemia (uncontrolled diabetes);

(iv) mixed alcohol and drug overdose;

(v) low blood pressure from excess treatment of high blood pressure;

(vi) hypoxia from asthma or respiratory blockage or infection;

(vii) schizophrenia and manic depression psychosis; and/or

(viii) abuse of volatile glues, coolants and/or wood alcohols.

Persons who are suffering from drug or alcohol intoxication may display:

(i) extreme agitation or panic;

(ii) unusually large or small pupil size that does not change with environmental conditions;

(iii) impulsive behaviour;

(iv) rapid rate of speech;

(v) easily startled and strong reaction to any stimuli (e.g. noises, unexpected movement);

(vi) delusions;

(vii) appearing to talk to people who are not present, or to respond to verbal commands that no one else can hear;

(viii) increased physical strength;

(ix) aggressive behaviour;

(x) lack of response to usual 'talk down' communication techniques; and/or

(xi) behaviour that may escalate, despite appropriate and calming verbal interaction.

Police officers and watch-house officers should be aware that in some cases alcohol or drug intoxication may result in:

(i) harm to self and others;

(ii) seizures;

(iii) psychosis;

(iv) overheating;

(v) heart attack;

(vi) coma; and

(vii) death; if the person does not receive medical treatment.

Suggestions for preventing disruptive behaviour of a person due to intoxication

When assessing the person:

(i) introduce yourself;

(ii) orientate the prisoner and establish rapport;

(iii) ask specific questions about the presenting illness or injury; and

(iv) exclude other conditions which may cause the prisoner to behave as if intoxicated.

When talking to the person:

(i) use the person's name;

(ii) speak slowly and distinctly;

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(iii) use simple sentences;

(iv) repeat information if necessary;

(v) avoid emotional topics and involved discussions;

(vi) maintain eye contact;

(vii) explain your actions;

(viii) adjust your pace to the person's as much as possible;

(ix) reduce the possibility of accidents;

(x) approach the person professionally and politely;

(xi) avoid authoritarian attitudes which often cause anger and make people aggressive (aggression is a common response to a threat to dignity and self-respect); and

(xii) offer relevant information and explanation.

When instructing the prisoner:

(i) give clear, unambiguous directions;

(ii) if necessary, guide them to and from their destination.

Persons suffering from drug or alcohol withdrawal may display:

(i) anxiety and/or aggression;

(ii) irritability and/or highly emotional behaviour;

(iii) insomnia;

(iv) tremor;

(v) psychotic behaviour;

(vi) delirium;

(vii) hallucinations and/or paranoia;

(viii) coarse tremor and aimless fiddling; and/or

(ix) fever, sweating, or rapid weak pulse.

Police officers and watch-house officers should be aware that in some cases severe alcohol or drug withdrawal may result in death if the person does not receive medical treatment.

Persons who are suffering from drug or alcohol overdose may display:

(i) unusually large or small pupil size that does not change with environmental conditions;

(ii) hot, flushed and sweaty skin which may indicate a fever;

(iii) rapid breathing;

(iv) jerky movements of limbs or shaking;

(v) pounding heart;

(vi) chest pain;

(vii) jaw clenching;

(viii) intense headache;

(ix) panic;

(x) seizures; and/or

(xi) body stiffness and rigid limbs.

Police officers and watch-house officers should be aware that in some cases alcohol or drug overdose may result in death if the person does not receive medical treatment.

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Appendix 16.11 Deleted

See the ‘Death or detention of a foreign national in Australia’ webpage on the Department of Foreign Affairs and Trade website.

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Appendix 16.12 MOU—Coroner reporting timeframe

(s. 16.23.6)

Text of Memorandum of Understanding.

Memorandum of Understanding between

The Commissioner of the Queensland Police Service

And

State Coroner

And

Crime and Misconduct Commission

Investigation of deaths arising from police related incidents

Contents:

Introduction

1. Recitals.
2. Terms of use in this MOU.

Operative Provisions for the investigation of deaths arising from police related incidents

3. Notification.
4. Call out and scene attendance.
5. Responsibility for investigation.
6. Information exchange and confidentiality.
7. Public comment.
8. Dispute resolution.

Other

9. References
10. Variation and review.

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THIS MEMORANDUM OF UNDERSTANDING (hereinafter referred to as the "MOU") is made on the [First] day of [July] 2008.

BETWEEN

THE COMMISSIONER OF THE QUEENSLAND POLICE SERVICE (hereinafter referred to as the "QPS")

and

THE STATE CORONER (hereinafter referred to as the "SC")

and

CRIME AND MISCONDUCT COMMISSION (hereinafter referred to as the "CMC")

Recitals

a) In accordance with legislation the Parties have the following responsibilities that may arise in respect of deaths arising from police related incidents:

- The SC is to receive reports and to investigate and hold inquests into such deaths: *Coroners Act 2003* (the Act);
- Under section 2.3 of the *Police Service Administration Act 1990* the QPS has certain functions including that of upholding the law, the detection of offenders and bringing offenders to justice;
- Additionally, the QPS has a duty to assist coroners in the performance of a function or exercise of a power under the *Coroners Act*: s. 794 *Police Powers and Responsibilities Act*; and
- Pursuant to the *Crime and Misconduct Act 2001*, the CMC has the primary responsibility to combat and reduce major crime and to continuously improve the integrity of and to reduce the incidence of misconduct in the public sector.

In performance of this function the CMC may assume responsibility to investigate and otherwise deal with, particular incidents of misconduct or suspected misconduct.

b) This MOU is intended to generally outline agreed cooperation between the Parties for the following purposes:

i. the implementation of a coordinated response regarding the investigation of deaths arising from police related incidents; and

ii. to build upon existing cooperative arrangements between the three Parties in regard to such investigations;

c) It is not intended that this MOU create any contractual relationship or that it is legally binding on the Parties.

d) The Guiding Principles of this memorandum will be accountability, transparency, expertise and public confidence.

e) The Parties agree to act in the spirit of mutual cooperation with each other and agree to provide assistance to each other where reasonably practicable, in achieving the purposes outlined in paragraph a) of the Recitals.

f) This MOU should be read in conjunction with, and is subject to, the requirements, policies and guidelines of the QPS, State Coroner and CMC and relevant State legislation.

OPERATIVE PROVISIONS:

THE PARTIES TO THIS MOU AGREE AS FOLLOWS

Terms in use in this MOU

- **Death in custody**
  s. 10 of the Act
- **Police Related Incidents**
  OPM 1.17 definition
- **Public Comment**
  Includes: Media comment, media release
- **The Act**
  Coroners Act 2003
- **The Parties**
  The Commissioner of the Queensland Police Service, the State Coroner and the Crime and Misconduct Commission
- **Officers**
  "Police officers" as defined in s. 2.2(2) of the *Police Service Administration Act 1990*
- **SC**
  State Coroner
- **QPS**
  Queensland Police Service
- **CMC**
  Crime and Misconduct Commission
- **ESC**
  Ethical Standards Command

Operational Provisions for the Investigation of Police Related Deaths

1. Notification

- The SC will be notified in accordance with the Act.
- The ESC will be notified in all cases.
- The CMC will be notified in all cases.
- A police related death will be treated as a homicide until otherwise determined in accordance with this MOU.

2. Call out / scene attendance

- In all cases QPS personnel called out to attend the scene of death arising from a police related incident will be determined by the Assistant Commissioner, ESC, subject to any specific requirement of the SC and the deployment of these personnel will be arranged pursuant to QPS policy.

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- The attendance at the scene, by any person deemed necessary by any of the Parties of this MOU, will be coordinated by the Assistant Commissioner, ESC in consultation with the SC and the CMC.

3. Responsibility for investigation

- In the event of a death arising from a police related incident the incident is to be investigated by the ESC subject to the CMC exercising its power to assume responsibility for the investigation.
- Where a death arising from a police related incident is to be investigated by the QPS the ESC have the following roles:
  - Consult with the SC to determine the appropriate unit within the QPS to conduct the investigation.
  - Appoint an experienced senior officer as the lead investigator to conduct the investigation in accordance with the QPS Operational Procedures Manual.
- The Assistant Commissioner, ESC will in consultation with the SC ensure an appropriately qualified and independent investigator
  - will be responsible for the investigation
  - provide appropriate and frequent briefings to the SC and the Assistant Commissioner, ESC
- Specialist units within the QPS will be utilised in the investigation of police related deaths to ensure that the best expertise available is used.
- In the event of any identified or suspected misconduct from a death arising from a police related incident the reporting and investigation of that conduct will be coordinated by the CMC and the ESC in accordance with existing legislative obligations and protocols.

4. Information Exchange and Confidentiality

- During the investigation of a death arising from a police related incident, dissemination of investigating documents by the investigation unit will be permitted by the SC for the purposes of that investigation. This does not extend to the release of information to officers involved in the incident under investigation.
- The QPS will ensure that officers involved in the incident are not given access to investigation documents (defined in schedule 2 of the Act) without the consent of the coroner who is investigating the matter (s. 54 of the Act) subject to s. 438 of the *Police Powers and Responsibilities Act 2000* and s. 18.2.4.4.7 of the QPS Human Resource Management Manual.
- The SC undertakes to give consideration to the release of certain documents to such officers in the same manner that would normally be given to civilians similarly involved.
- It is agreed that for the purposes of fulfilling their statutory responsibilities the Parties will be provided access to information disclosed during the investigation of police related deaths.
- The parties acknowledge that exchanges of information pursuant to this MOU may involve information that is confidential and or subject to privacy and secrecy laws.

5. Time frames

- The QPS undertakes, subject to exceptional circumstances, to provide a completed investigation report to the SC within six (6) months of the date of death arising from a police related incident.
- The SC undertakes, subject to exceptional circumstances, to conduct an inquest and deliver findings within six (6) months of receiving the completed investigation report from the QPS.

6. Public comment

- Media releases related to a death arising from a police related incident are to be restricted to a brief description of the factual circumstances leading up to the death accompanied by advice that the matter has been reported to the SC and the CMC.
- Prior to the finalisation of the investigation the Parties will consult before any of them makes any public comment about the investigation.

7. Dispute resolution

For any matter in relation to this MOU that may be in dispute, the Parties:

- Agree to result any dispute through negotiation between the nominated representatives of the Parties:
  - QPS—Chief Superintendent, ESC
  - SC—Detective Inspector, Coronial Support Unit
  - CMC—Director, Complaints Services, Office of the Assistant Commissioner, Misconduct.

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- Agree that during the time when the Parties attempt to resolve the matter the parties will continue to comply with the MOU.
- The parties acknowledge that if no resolution is reached the State Coroner will make the final determination subject to statutory requirements.

8. References

QPS Operational Procedures Manual (s. 1.17)

Coroners Act 2003 (ss. 5(2), 7, 8, 10, 16, 39, 52, 54)

Police Powers and Responsibilities Act 2000 (ss. 601, 794)

Crime and Misconduct Act 2001.

9. Variation and Review

a. This MOU may be varied by agreement between the Parties in writing.

b. The Parties will review this MOU at such intervals as agreed in writing between the parties.

10. Notwithstanding 9(a) the Parties will review this MOU in the event there are any statutory changes affecting its operation.

[Signature]
Robert ATKINSON
Commissioner of the Queensland Police Service
Dated: [26.6.] 2008

[Signature]
Michael Allan BARNES
State Coroner
Dated: [18 June] 2008

[Signature]
Steven Homer LAMBRIDES
Assistant Commissioner Misconduct
Crime and Misconduct Commission
Dated: [18 June] 2008

OPM Issue 113 Public Edition

Appendix 16.13 Release checklist

(s. 16.19.2)

All prisoners managed by external agencies (QCS, Youth Justice) are not to be released without the approval of the Lawful Detention Unit (LDU) or relevant Courts Processing Team (CPT) at the individual Youth Detention Centre.

1. Physical Check to confirm:

- ☐ Name
- ☐ Date of birth
- ☐ Current residential address
- ☐ Cross check with photo from QPRIME

2. Confirm managing agency by checking arrest details section of QPRIME:

- ☐ Queensland Police Service
- ☐ Queensland Corrective Services (await release advice from LDU)
- ☐ Department of Youth Justice (await release advice from CPT)

3. Confirm Verdict and Judgment Record is accurate:

- ☐ Name
- ☐ Date of birth
- ☐ Date of judgment
- ☐ Correct court location
- ☐ Signed and sealed
- ☐ Ensure all matters listed for mention are listed under 'Judgment or Order of the Court'

*If a second VJR is provided by the court, review the printed date and time at the bottom left hand corner and use the most recent version.

**QPS person in custody—Contact the relevant court to raise concerns if any discrepancies are found. If outside of business hours, please see LDERG Out of Hours Contacts available in paragraph 3.3 LDERG Instruction to establish contact with the relevant delegate.

4. Confirm all outstanding court matters have been heard:

- ☐ Cross check VJR/Bail Undertaking against QPRIME to confirm no MAG# are outstanding

*QCS or QCS eligible person in custody—Contact the LDU to raise concerns if any discrepancies are found. If outside of business hours, please see LDERG Out of Hours Contacts to establish contact with the relevant delegate.

5. Determine if the prisoner has received a non-custodial order/sentence or custodial sentence:

- ☐ If the prisoner received a parole eligibility date, they are not to be released

*Please see Possible Sentencing Results table to confirm if a judgment is custodial or non-custodial.

6. Confirm if the prisoner is held on other matters:

- ☐ Return to Prison Warrant (Form 39) & Parole Suspension/Cancellation (Form 38)
- ☐ Serving a current sentence
- ☐ Recommendation for assessment (*Mental Health Act*)

7. Is the release conditional:

- ☐ Sign on to relevant Order
- ☐ Surety (OPM s. 16.20.3)
- ☐ Electronic monitoring (OPM ss. 16.20.3, 16.24)
- ☐ Surrender passport (s. 11AA of the *Bail Act*, and OPM s. 16.20.2)

8. Review any outstanding flags or cautions on QPRIME:

- ☐ Wanted for questioning
- ☐ Outstanding warrants
- ☐ Notify Australian Border Force

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9. Provide person with post release support information (if applicable).

10. Return of property as per OPM s. 16.11:

- Medical Officer to update prisoner medication register to approve release of medication upon discharge
- Ensure approved medication is returned to the person as per OPM s. 16.3.4

OPM Issue 113
Public Edition

Chapter 17—Major Incidents

17.1 Introduction 1401

17.1.1 Abbreviations for this chapter 1401
17.1.2 Definitions 1401
17.1.3 References to legislation 1401

17.2 Disaster Management 1401

17.2.1 District Disaster Management Group members' responsibilities 1404
17.2.2 Declaration of a disaster situation 1405
17.2.3 Responsibilities of the Service in disaster management 1408
17.2.4 Earthquakes 1409
17.2.5 Exotic diseases in animals 1409
17.2.6 Bushfires 1410
17.2.7 Cyclones, floods or storm tides 1412
17.2.8 Space debris 1413
17.2.9 Deployment of specialist units in disaster events 1415
17.2.10 Disaster management capability management 1415

17.3 Incident management 1417

17.3.1 Emergency situations 1417
17.3.2 Major transport incidents 1417
17.3.3 Aircraft incidents 1417
17.3.4 Rail incidents 1419
17.3.5 Brisbane underground network 1420
17.3.6 Marine incidents 1420
17.3.7 Tactically dangerous situations 1420
17.3.8 Suspect devices, bomb threats and bomb hoaxes 1422
17.3.9 Crowd management incidents 1422
17.3.10 Demonstrations 1423
17.3.11 Disturbances at correctional centres 1423
17.3.12 Planning for future crowd management events 1423
17.3.13 Hazardous materials 1424
17.3.14 Radioactive substances 1425
17.3.15 Liquid Petroleum Gas 1426
17.3.16 Industrial incidents 1426
17.3.17 Mining incidents 1426
17.3.18 Chemical, biological or radiological (CBR) incidents 1427
17.3.19 Critical incidents involving Education Queensland 1427
17.3.20 Significant security operations for visits by dignitaries 1427
17.3.21 Public health emergencies 1427
17.3.22 Restriction of the flight of aircraft in air space or the declaration of a danger area due to incident 1429
17.3.23 Public Service employees deployed for a critical incident 1430
17.3.24 Active armed offender/s 1431
17.3.25 Extraordinary emergency situations 1431
17.3.26 Terrorist emergency 1432

17.4 Evacuation 1432

17.4.1 Shelter in place 1433
17.4.2 Decision to evacuate 1433
17.4.3 Conducting an evacuation 1434
17.4.4 Evacuation plan 1434

17.5 Search and Rescue 1436

17.5.1 Service responsibilities 1436
17.5.2 State Search and Rescue Coordinator 1437
17.5.3 Senior Search and Rescue Operators, Search and Rescue Operators and Field Search Coordinators 1438
17.5.4 Search and rescue operation 1439
17.5.5 Conclusion of SAR operations 1443
17.5.6 Search and rescue operational areas of responsibility 1445

OPM Issue 113 Public Edition

17.5.7 Multi-agency SAR consultative committees and exercises 1445
17.5.8 Other SAR authorities 1445
17.5.9 Commonwealth-State agreement 1445
17.5.10 Fuel reimbursement 1446
17.5.11 Cost recovery by the State Emergency Service 1446

17.6 Emergency warnings and alerts 1446

17.6.1 Standard emergency warning signal 1446
17.6.2 Emergency alerts 1448

17.7 Major events 1449

17.7.1 Planning for a major event 1450
17.7.2 Major event provisions 1450
17.7.3 Authorised persons for major events 1451

17.8 Landing of a suspect illegal entrant vessel on Australian Territory 1452

17.8.1 Notification responsibilities following a suspect illegal entrant vessel incident 1453
17.8.2 Search and rescue operation 1455
17.8.3 Release of information relating to a suspect illegal entrant vessel incident 1455

17.9 Biosecurity Act 2015 (Commonwealth) 1455

17.10 Specialist Response Group (SRG) 1455

17.10.1 Explosive Ordnance Response Team (EORT) 1457
17.10.2 Negotiators 1458
17.10.3 Public Safety Response Team (PSRT) 1459
17.10.4 Special Emergency Response Team (SERT) 1460

Appendix 17.1 Evacuation plan aide memoire 1462

Appendix 17.2 Deleted 1467

Appendix 17.3 Deleted 1467

Appendix 17.4 Hazchem Aid Interpretation 1468

Appendix 17.5 Top Priority Urgent Safety Message 1469

Appendix 17.6 Chemical, biological or radiological threat evaluation guide 1470

Appendix 17.7 Chemical, biological or radiological indicators 1471

Appendix 17.8 Powers of Responders under their Legislation (generally) 1472

Appendix 17.9 Powers of responders under Public Safety Preservation Act 1986 (generally) 1473

Appendix 17.10 Abbreviations used in this chapter 1474

Appendix 17.11 Table comparing the declaration of a 'Disaster Situation', an 'Emergency Situation', a 'Chemical, Biological or Radiological Emergency' and a 'Terrorist Emergency' to various operational criteria 1476

OPM Issue 113 Public Edition

17.1 Introduction

This chapter deals with the processes and procedures for the police response to major incidents. For the purpose of this chapter, major incidents include situations related to disaster and incident management.

Disaster management involves situations where the normal operating environment and infrastructure in which emergency services operate is destroyed or severely limited. Disaster management is beyond the scope of coordinated police and emergency service response alone, requiring a total government and community response.

Incident management involves situations where the economic activities and social routines of the community continue to operate with limited disruption. The Service and other emergency services manage the situation within the limits of the normal operating environment, see s. 1.12: 'Incident command' of this Manual.

Information concerning the first response procedure or other incident scene responsibilities and specialist police functions including call out procedures are contained in Chapter 2: 'Investigative Process' of this Manual.

For information regarding the release of information to the media whilst engaged in a major incident, members are to comply with the appropriate provisions of s. 5.6.11: 'Information sought by media for public broadcast' of the MSM. See also 'Media guidelines for employees of the Queensland Police Service' on the QPS Media and Public Affairs SharePoint page of the Service Intranet.

17.1.1 Abbreviations for this chapter

For the list of abbreviations used in this chapter, refer to Appendix 17.10: 'Abbreviations used in this chapter' of this chapter.

17.1.2 Definitions

For the purpose of this chapter:

Disaster situation

means a disaster situation declared under ss. 64(1) or 69 of the *Disaster Management Act*.

Politically motivated violence

To assist in determining if incidents or threats are, or may be, politically motivated, the following factors should be considered:

(i) Identity and nationality of the victim. If the victim is a representative of the government or a commercial enterprise of a country subject to targeting overseas, or an activist in some organisation with foreign political associations subject to targeting by the governments they oppose;

(ii) Circumstances of the incident. Is the location of an office or residence of a foreign government/company representative within the immediate vicinity of a bomb or hoax bomb attack?;

(iii) Nature of demands or statements. Have demands been made against a government (Australian or foreign) or interests or employees of a government, or a statement which indicates a political objective on the part of the perpetrator(s)?;

(iv) Modus operandi. Do the activities of the perpetrator/s indicate that the purpose behind the incident is political rather than criminal?;

(v) Political environment. The existing political environment, including government policies and initiatives, which may have prompted the action of the perpetrator(s); and

(vi) Perpetrator. Identity, nationality or any other relevant information on the known or suspected perpetrator(s) (e.g. a national from a country with terrorist links or activity).

For other definitions see SMD.

17.1.3 References to legislation

Airspace Regulations 2007 (Cwlth)

Migration Act 1958 (Cwlth)

17.2 Disaster Management

The *Disaster Management Act* and Disaster Management Regulation provide a framework of management groups to administer the functions of the Act for a disaster situation.

Officers may also refer to the District Disaster Management Guidelines available on the Queensland Government Disaster Management website.

OPM Issue 113 Public Edition

Queensland Disaster Management Committee

The functions of the Queensland Disaster Management Committee (QDMC) (referred to as 'the State group' in the *Disaster Management Act*) are contained in s. 18: 'Functions' of the *Disaster Management Act*.

In accordance with s. 20: 'Chairperson and deputy chairperson' of the *Disaster Management Act*, and Part 2: 'Disaster management groups—membership and other matters' of the Disaster Management Regulation, the Premier is the chairperson of the QDMC, and the Minister administering the *Local Government Act* is the deputy chairperson. The Commissioner is to assist the QDMC in carrying out the group's function.

The executive officer of the QDMC is appointed by the Commissioner and is to provide support as directed by the Chairperson to help the QDMC perform its functions (see s. 21A: 'Executive officer to provide support' of the *Disaster Management Act*).

State Disaster Coordinator

The chairperson of the QDMC is to appoint a deputy commissioner, or another person possessing the necessary expertise or experience to perform the function, as a State Disaster Coordinator to coordinate disaster operations for the QDMC after consultation with the Commissioner (see s. 21B: 'State disaster coordinator' of the *Disaster Management Act*).

The appointment is to be in writing and may only be terminated in writing. A State Disaster Coordinator is to be appointed at all times.

Generally, a deputy commissioner will be appointed to the position of State Disaster Coordinator. However, an appropriately qualified person may be appointed to the role if the chairperson of the QDMC considers appointment of that person would be appropriate, having regard to the nature and circumstances of the event.

The functions of the State Disaster Coordinator are contained within s. 21C: 'Functions of State disaster coordinator' of the *Disaster Management Act*.

State Recovery Coordinator

The chairperson of the QDMC may, if satisfied it is necessary, appoint a person as a State Recovery Coordinator to coordinate disaster recovery operations for the QDMC (see s. 21D: 'State recovery coordinator' of the *Disaster Management Act*).

The appointment is to be in writing and may only be terminated in writing.

The functions of the State Recovery Coordinator are contained within s. 21E: 'Functions of State recovery coordinator' of the *Disaster Management Act*.

State Disaster Coordination Group

The State Disaster Coordination Group (SDCG) is established to support the QDMC through the State Disaster Coordinator in preparation, response and recovery for disaster events.

The SDCG coordinates the operational delivery of the QDMC's legislative responsibilities for the purpose of facilitating disaster operations and disaster management for Queensland communities. The SDCG is chaired by an assistant commissioner of the Service.

The SDCG reports to the State Disaster Coordinator, who is accountable to the QDMC.

For a list of membership agencies of the SDCG, refer to the State Disaster Management Plan, available on the Queensland Government Disaster Management website.

District Disaster Management Group

Twenty-three disaster districts for Queensland have been prescribed under the *Disaster Management Act*. A District Disaster Management Group (DDMG) (referred to as 'the district group' in the *Disaster Management Act*) has been established under s. 22: 'Establishment' of the *Disaster Management Act* for each disaster district.

The functions of a DDMG are contained in s. 23: 'Functions' of the *Disaster Management Act*. Membership of a DDMG is established by regulation under s. 24: 'Membership' of the *Disaster Management Act*. In accordance with s. 5: 'Membership of district groups—Act, s 24' of the Disaster Management Regulation, the following DDMG positions are to be appointed by the Commissioner:

(i) a chairperson;

(ii) a deputy chairperson; and

(iii) an executive officer;

Additionally, the DDMG includes:

(i) a person appointed by a local government;

OPM Issue 113 Public Edition

(ii) a number of persons, each of whom represents a department, the chief executive of the department considers appropriate to be a member of the DDMG, having regard to effective disaster management of the disaster district. These persons are to be appointed by the chief executive of the department the member represents; and

(iii) any other person appointed by the chief executive of the department considered appropriate to be a member of the DDMG, having regard to the effective disaster management of the disaster district.

The functions of the chairperson are contained in s. 26: 'Functions of chairperson of district group' of the *Disaster Management Act*. The chairperson is the District Disaster Coordinator of the DDMG and their function is to coordinate disaster operations in the disaster district for the group (see ss. 25A: 'District disaster coordinator' and 26A: 'Function of district disaster coordinator' of the *Disaster Management Act*). District Disaster Management Group members' responsibilities are outlined in s. 17.2.1: 'District Disaster Management Group members' responsibilities' of this chapter.

Local Disaster Management Group

A Local Disaster Management Group (LDMG) (referred to as 'the local group' in the *Disaster Management Act*) is established by a local government for the local government's area. Membership of a LDMG is established by s. 33: 'Membership' of the *Disaster Management Act*. In accordance with s. 9: 'Membership of local groups—Act, s 33' of the Disaster Management Regulation, a LDMG consists of:

(i) a chairperson, who is:

(a) the mayor of a local government or local government comprising a combined local government; or

(b) a councillor of a local government or local government comprising a combined local government nominated by the mayor,

as appointed by the relevant local government for the LDMG under s. 34: 'Chairperson and deputy chairperson' of the *Disaster Management Act*;

(ii) a deputy chairperson, as appointed by the relevant local government for the LDMG;

(iii) a local disaster coordinator, who is either the chief executive officer or an employee of the relevant local government, as appointed by the chairperson of the LDMG under s. 35(1): 'Local disaster coordinator' of the *Disaster Management Act*; and

(iv) other persons appointed as members of the group by the local council, one of which is to be a person nominated by the Commissioner.

Generally, LDMGs are comprised of members of the relevant local council plus representatives from local or district police, ambulance and Queensland Fire Department. The functions of the chairperson are contained in s. 34A: Functions of chairperson of local group' of the *Disaster Management Act*. The functions of the local disaster coordinator are contained in s. 36: 'Functions of local disaster coordinator' of the *Disaster Management Act*.

OPM Issue 113 Public Edition

Temporary District Disaster Management Group

A Temporary District Disaster Management Group (TDDMG) (referred to as 'the temporary district group' in the *Disaster Management Act*) is established by the chairperson of the QDMC, in consultation with the Commissioner, where the chairperson is satisfied that a disaster has happened, is happening, or is likely to happen, in two or more adjoining disaster districts (see ss. 28A–28F of the *Disaster Management Act*).

A TDDMG is responsible for the management of the disaster for the districts as directed by the chairperson. Members of a TDDMG have the same functions and responsibilities of members of a DDMG appointed under the *Disaster Management Act*. Membership of a TDDMG is established by s. 28B: 'Membership' of the *Disaster Management Act*. In accordance with s. 7: 'Membership of temporary district groups—Act, s 28B' of the Disaster Management Regulation, a TDDMG consists of:

(i) a chairperson, appointed by the chairperson of the QDMC, after consultation with the Commissioner, under s. 28C: 'Chairperson and deputy chairperson' of the *Disaster Management Act*;

(ii) a deputy chairperson, appointed by the chairperson of the QDMC, after consultation with the Commissioner, under s. 28C of the *Disaster Management Act*;

(iii) a person nominated by each local government whose local government is entirely or partly in a disaster district for which the TDDMG is established and is appointed by the chairperson of the TDDMG under s. 28B of the *Disaster Management Act*;

(iv) a number of persons, each of whom represents a department, the chairperson of the TDDMG considers appropriate to be represented on the group under s. 28B of the *Disaster Management Act*; and

(v) any other person appointed by the chairperson of the TDDMG who the chairperson considers appropriate to be a member of the group (see s. 28B of the *Disaster Management Act*).

The person appointed as chairperson of a TDDMG is also the District Disaster Coordinator of the TDDMG. The functions of the appointee are outlined in s. 28D: 'Functions of chairperson of temporary district group' of the *Disaster Management Act*.

An officer appointed as a chairperson for a TDDMG is to ensure that all members of the TDDMG for whom they are responsible for appointing are appointed as soon as practicable.

Suitable persons for appointment as members of the TDDMG include some or all members of local and district groups whose area is wholly or partially within the area of the TDDMG.

Inspector-General of Emergency Management

In accordance with Part 1A: 'Office of the Inspector-General of Emergency Management' of the *Disaster Management Act*, the office of the Inspector-General of Emergency Management (IGEM) is to, amongst other duties:

(i) review and assess the effectiveness of various entities responsible for disaster management;

(ii) make, review and assess disaster management standards; and

(iii) monitor compliance by departments with their disaster management responsibilities,

(see s. 16C: 'Office's functions' of the *Disaster Management Act*).

17.2.1 District Disaster Management Group members' responsibilities

Chairperson

In accordance with s. 25: 'Chairperson and deputy chairperson' of the *Disaster Management Act* and s. 6: 'Chairperson and deputy chairperson of district groups—Act, s 25' of the Disaster Management Regulation, district officers have been appointed as chairpersons of District Disaster Management Groups (DDMG) (referred to as 'the district group' in the *Disaster Management Act*) except for the Brisbane metropolitan area where the Assistant Commissioner, Brisbane Region, has been appointed to that role.

The chairperson of a DDMG is also the district disaster coordinator (DDC) during an activation under s. 25A: 'District disaster coordinator' of the *Disaster Management Act*.

POLICY

The chairperson of a DDMG is to perform the functions as outlined in s. 26: 'Functions of chairperson of district group' of the *Disaster Management Act*.

In accordance with s. 48A: 'Essential service providers' of the *Disaster Management Act*, the chairperson of the DDMG is to liaise with providers of essential services (e.g. gas, electricity, telecommunications and sewerage infrastructure) where the provider may be able to assist with the functioning of the group.

There is no provision under the *Disaster Management Act* for the delegation of the functions of the chairperson of a DDMG.

District Disaster Coordinator

The DDC is also the chairperson of the DDMG and is responsible for coordinating the disaster operations in the disaster district for the group (see s. 26A: 'Function of district disaster coordinator' of the *Disaster Management Act*).

The DDC of a DDMG may delegate the DDC's functions to an appropriately qualified member of the Service under s. 143(7): 'Delegations' of the *Disaster Management Act*.

PROCEDURE

When individual officers are serving in the capacity of DDC, officers in charge of regions or commands should ensure that another police officer is appointed to carry out the duties of district officer during the time the district officer is serving as the DDC in response to, in preparation for or during recovery from a disaster.

Deputy Chairperson

In accordance with s. 25 of the *Disaster Management Act* and s. 6 of the Disaster Management Regulation, the Commissioner is to appoint a person as deputy chairperson for each DDMG.

POLICY

Deputy chairpersons are responsible for assisting the chairperson to manage and coordinate the business of the DDMG. For the duties a deputy chairperson is responsible for, refer to the District Disaster Management Guidelines available on the Queensland Government Disaster Management website.

Executive officers

In accordance with s. 27(1): 'Executive officer of district group' of the *Disaster Management Act*, the Commissioner is to appoint a person as an executive officer for each DDMG.

POLICY

The executive officer of a DDMG is to support the group in the performance of its functions, as directed by the chairperson of the DDMG. For a comprehensive list of duties an executive officer is responsible for, refer to the District Disaster Management Guidelines available on the Queensland Government Disaster Management website.

OPM Issue 113 Public Edition

17.2.2 Declaration of a disaster situation

A disaster situation may be declared under the *Disaster Management Act*:

(i) for the State, or part of the State, by the Minister and the Premier under s. 69: 'Declaration'; or

(ii) for a disaster district, or part of it, and with the approval of the Minister, by a district disaster coordinator (DDC) under s. 64: 'Declaration',

if satisfied that:

(i) a disaster has happened, is happening or is likely to happen; and

(ii) it is necessary to prevent or minimise:

(a) injury, illness or loss of human life; or

(b) damage or loss to property or the environment.

POLICY

A DDC for a disaster district may, with the approval of the Minister, declare a disaster situation for the district or part of it, if satisfied the provisions of under s. 64: 'Declaration' of the *Disaster Management Act* have been fulfilled.

Before declaring a disaster situation the DDC is to take reasonable steps to consult with the district group and each local government whose area is in, or partly in, the declared area for the disaster situation. The DDC is to also consult with the assistant commissioner responsible for the area where the disaster situation is intended to be declared and advise the State Disaster Coordinator;

(i) complete section 1 of a Form DM2: 'Declaration of a disaster situation—district level' (available on the Queensland Government Disaster Management website which can be accessed through QPS Forms Select. Search for 'Disaster Management—Policies, Guidelines and Forms').

(ii) email the completed form to the State Disaster Coordination Centre (SDCC) (see SMCD);

(iii) send copies of the Form DM2 to the Duty Officer Police Communications Centre (PCC), Brisbane, the relevant deputy commissioner and the officer in charge of the relevant region; and

(iv) when Ministerial approval is given and upon receipt of Form DM2, with sections 2 and 3 completed, implement the relevant provisions of the *Disaster Management Act* to deal with the disaster situation and exercise declared disaster powers as required.

Oral declaration of a disaster situation

A DDC may make an oral declaration of a disaster situation if the DDC considers it necessary to exercise declared disaster powers before an approved form can be obtained and completed (see s. 65(5): 'Form and notice of declaration' of the *Disaster Management Act*). A disaster situation cannot be declared orally where the DDC considers that it is only reasonably likely to be necessary to exercise declared disaster powers under s. 64(1)(b): 'Declaration' of the *Disaster Management Act*. The need to exercise powers must exist at the time of making an oral declaration.

POLICY

Ministerial approval is still required before an oral disaster situation declaration takes effect. To obtain Ministerial approval, the DDC should contact the SDCC by phone and urgently request that the Minister's approval be sought (see SMCD). The contact number for the DDC should be provided at this time to enable the Minister to contact the DDC directly if required.

If practicable, prior to making an oral declaration the DDC is to consult with the assistant commissioner responsible for the area where the disaster situation is intended to be declared and advise the State Disaster Coordinator.

Where a DDC makes an oral declaration of a disaster situation under s. 65(5) of the *Disaster Management Act*, the declaration of the disaster situation must be recorded in the approved form as soon as reasonably practicable after the oral declaration is made.

Declared disaster powers (declared disaster officers)

The following definitions apply in respect to powers for declared disaster situations:

Declared disaster officer

for a disaster situation, means:

(i) a police officer; or

(ii) a person authorised under s. 75(1): 'Authorisation for disaster situation' of the *Disaster Management Act* to exercise declared disaster powers for the disaster situation.

Declared disaster powers

means the powers of a DDC or declared disaster officer under ss. 77: 'General powers' and 78: 'Power to give direction about property' of the *Disaster Management Act*.

OPM Issue 113 Public Edition

Section 75(2) of the *Disaster Management Act* provides that a police officer may exercise declared disaster powers for the disaster situation. Also as a declared disaster officer, a police officer, for the disaster situation has the powers given under Part 4, Division 2, Subdivision 3: 'Powers of district disaster coordinators and declared disaster officers', ss. 76-79 of the *Disaster Management Act*.

POLICY

A relevant DDC for the disaster situation may authorise persons to exercise declared disaster powers for the disaster situation under s. 75(1) of the *Disaster Management Act* (see s. 75(1) of the Act for a list of these persons).

An authorisation by a DDC is described under s. 75(1) of the *Disaster Management Act*. A failure to put an authorisation in writing does not invalidate the authorisation or anything done under the authorisation (see s. 75(4) of the *Disaster Management Act*).

Section 76 of the *Disaster Management Act* outlines how the declared disaster powers may be exercised. A declared disaster officer may exercise a power only subject to the conditions, on which the person is authorised under s. 76(3) of the *Disaster Management Act*.

The powers that can be exercised are contained in ss. 77: 'General powers' and 78: 'Power to give direction about property' of the *Disaster Management Act*.

In a disaster situation, the relevant DDC, if appropriate, is to invoke the provisions of s. 1.12: 'Incident command' of this Manual, and is to:

(i) continually monitor the disaster situation and liaise with other agencies responding to the disaster situation. Provide the Duty Officer, Police Communications Centre, Brisbane with regular situation reports (SITREPs);

(ii) as the need arises, authorise persons under s. 75(1) of the *Disaster Management Act*, to exercise declared disaster powers, or give directions about the circumstances in which a power under another Act may be exercised during the period of the disaster situation. When issuing any authority or giving directions the following forms are to be used, where appropriate, and the directions contained in the forms are to be followed in their completion. (These forms are available on the Queensland Government Disaster Management website which can be accessed through QPS Forms Select. Search for 'Disaster Management—Policies, Guidelines and Forms'):

(a) Form DM1: 'Direction about the exercise of powers under other Acts during a disaster situation' (see s. 9 of the *Disaster Management Act*). This form allows a relevant DDC for the disaster situation to give directions about the circumstances in which a power under another Act may be exercised during the period of the disaster situation;

(b) Form DM8A: 'Authorisation for an individual to exercise declared disaster powers' (see Part 4, Division 2: 'Authorising persons, and powers, for disaster situations', ss. 74-79 of the *Disaster Management Act*). This form allows a relevant DDC for the disaster situation to authorise individuals to exercise declared disaster powers for the disaster situation under ss. 77 and 78 of the *Disaster Management Act*;

(c) Form DM8B: 'Authorisation for a category or class of persons to exercise declared disaster powers' (see s. 75(1)(d) of the *Disaster Management Act*). This form allows a relevant DDC for the disaster situation to authorise persons who are members of a class of persons the DDC is satisfied has the necessary expertise or experience to exercise the powers, to exercise declared disaster powers for the disaster situation;

(d) Form DM9: 'Notice to remove or demolish or destroy a building or other structure in a disaster situation'. This form is intended for a DDC to approve that a declared disaster officer exercise a power under s. 77(1)(h) of the Disaster Management Act; and

(e) Form DM10: 'Notice of direction about property'. This form is to be given to the owner of property when directed to put the property under the control or at the disposal of a person stated in the form under ss. 78 and 79 of the *Disaster Management Act*. Where the property is a residential or business premises, a declared disaster officer may give a direction under s. 78(1) only with written approval of the relevant DDC. When giving the direction the DDC must warn the person that it is an offence to fail to comply with the direction unless that person has a reasonable excuse;

(iii) advise the SDCC, at any time a declaration of a disaster situation requires to be extended or when it is no longer necessary to exercise declared disaster powers for the disaster situation. In relation to declaration of disaster situations by a DDC, Forms:

(a) DM3: 'Extension of a disaster situation—district level' and

(b) DM4: 'Request to end a disaster situation—district level',

are to be used as appropriate. In relation to the extension of a declaration of a disaster situation by the Minister and Premier, the SDCC is to be advised so that a Form DM6: 'Submission to the Minister and Premier for an extension of a disaster situation—State level' can be completed as appropriate;

(iv) immediately after:

(a) the disaster situation has ended under ss. 66 or 71 of the *Disaster Management Act*; or

OPM Issue 113 Public Edition

(b) receiving a completed Form DM4, including the Minister's approval to end the disaster situation declaration from the SDCC;

inform the relevant declared disaster officers, regional assistant commissioner and the State Disaster Coordinator of the ending of the declaration; and

(v) at a suitable time and place as soon as practicable following the ending of a disaster situation, conduct a debrief of all key personnel and support agencies, and ensure that any necessary amendments are made to the district disaster management plans.

Rescue powers

POLICY

An emergency situation may occur where rescue powers may be required to be exercised in particular circumstances to deal with the situation (an emergency situation in this policy is a situation other than one declared under the *Public Safety Preservation Act*). As the need arises DDCs are to:

(i) authorise under s. 110: 'Authorising persons to exercise rescue powers' of the *Disaster Management Act*, a person to exercise rescue powers in relation to an emergency situation that may arise during the disaster situation. For this purpose a Form DM11: 'Authorisation of persons to exercise rescue powers' (available on the Queensland Government Disaster Management website which can be accessed through QPS Forms Select. Search for 'Disaster Management—Policies, Guidelines and Forms) may be used.

Prior to any authority being given, the DDC is to be satisfied on reasonable grounds it is necessary to authorise a person to exercise rescue powers in relation to an emergency situation to ensure the following are carried out effectively:

(a) rescue or similar operations in an emergency situation;

(b) other operations in an emergent situation to:

- help injured persons; or
- protect persons or property from danger or potential danger associated with the emergency situation;

(ii) if the authorisation under paragraph (i) is given orally, ensure that the authorisation is put in writing as soon as reasonably practicable thereafter, refer s. 110(3) of the *Disaster Management Act*; and

(iii) ensure that a person authorised under paragraph (i) exercises the rescue powers in accordance with the authorisation, subject to any conditions contained therein and subject to the provisions of ss. 111: 'Power to enter places' and 112: 'General powers' of the *Disaster Management Act*.

Compensation

POLICY

A person who suffers loss or damage because of the exercise, or purported exercise, of a power under ss. 77, 78, 111 or 112 of the *Disaster Management Act* may apply to the Chief Executive for compensation for the loss or damage. When a Form DM9: 'Notice to remove or demolish or destroy a building or other structure in a disaster situation' or Form DM10: 'Notice of a direction about property' (available on the Queensland Government Disaster Management website which can be accessed through QPS Forms Select. Search for 'Disaster Management—Policies, Guidelines and Forms') is given, officers are to ensure that a person who suffers loss or damage is advised of the provisions of Part 11: 'Provisions about compensation and policies of insurance' of the *Disaster Management Act*, and where appropriate provide that person with a copy of Form DM12: 'Application for compensation' (available on the Queensland Government Disaster Management website which can be accessed through QPS Forms Select. Search for 'Disaster Management—Policies, Guidelines and Forms) or alternatively advise the person that Form DM12 can be obtained from the Queensland Government Disaster Management website www.disaster.qld.gov.au.

Relationship to other Acts

Emergency situations (ES), terrorist emergencies (TE) and chemical, biological and radiological emergencies (CBRE) may be declared under the following:

(i) s. 5: 'Declaration of emergency situation';

(ii) s. 8G: 'Terrorist emergency may be declared'; and

(iii) s. 12: 'CBR emergency may be declared',

of the *Public Safety Preservation Act* (see ss. 17.3.1: 'Emergency situations', 18.6.2: 'Terrorist emergencies' and 17.3.18: 'Chemical, biological or radiological incidents' of this Manual).

Section 6: 'Effect of declaration under Disaster Management Act 2003' of the *Public Safety Preservation Act* provides that a declaration pursuant to s. 5 of the Act which is in force when a disaster situation is declared under the *Disaster Management Act* shall be revoked:

(i) by the emergency commander; or

OPM Issue 113 Public Edition

(ii) if the emergency commander is unavailable, by a commissioned officer of the same or more senior rank,

unless the emergency commander or commissioned officer believes on reasonable grounds that it is necessary for the declaration under s. 5 of the *Public Safety Preservation Act* to remain in force.

Section 43A: 'Emergency situation' of the *Public Safety Preservation Act* provides that if an emergency situation is later declared to be a TE or CBRE, the declaration of the emergency situation has no effect for the area or part of the area or for all or part of a situation to the extent to which the TE or CBRE has been declared to exist. This means, all the powers that come with an ES also apply to the TE or CBRE area, however, the TE or CBRE commander overrides any powers of the emergency commander in the TE or CBRE area for the extent of the declaration.

Section 6: 'Relationship to other Acts about particular declarations' of the *Disaster Management Act* provides that nothing in the *Disaster Management Act* prevents a person declaring an emergency under another Act (e.g. *Public Safety Preservation Act*), and that the existence of such a declaration does not prevent the declaration of disaster situation under the *Disaster Management Act*.

Section 7: 'Public Safety Preservation Act 1986, pt 3, not affected' of the *Disaster Management Act* provides that the *Disaster Management Act* is in addition to, and does not limit, the *Public Safety Preservation Act*, Part 3: 'Chemical, Biological and Radiological Emergencies'.

Also, for a person exercising declared disaster powers or rescue powers under the *Disaster Management Act*, the declared disaster powers and rescue powers are in addition to and do not limit the powers the person may have under another Act (see s. 8: 'Powers under this Act and other Acts' of the *Disaster Management Act*).

Refer also to s. 17.3.1 and Appendix 17.11: 'Table comparing the declaration of a 'Disaster Situation', an 'Emergency Situation', a 'Chemical, Biological or Radiological Emergency' and a 'Terrorist Emergency' to various operational criteria' of this Manual.

17.2.3 Responsibilities of the Service in disaster management

POLICY

In addition to the powers and responsibilities included in ss. 17.2.1: 'District Disaster Management Group members' responsibilities' and 17.2.2: 'Declaration of a disaster situation' of this chapter, the Service's responsibilities in relation to disaster management can be located within the State Disaster Management Plan available on the Queensland Government Disaster Management website and include:

(i) providing executive support to the Queensland Disaster Management Committee;

(ii) coordinating the disaster response operations for the Queensland Disaster Management Committee when a police officer is appointed as a State Disaster Coordinator;

(iii) providing executive support to the District Disaster Management Groups;

(iv) establishing and management of District Disaster Coordination Centres;

(v) coordinating disaster operations in the disaster district for the district group, including the provision of appropriate resources and support to help local groups carry out disaster operations;

(vi) managing and coordinating the business of District Disaster Management Groups;

(vii) ensuring, as far as practicable, that District Disaster Management Groups perform their functions;

(viii) providing membership on each Local Disaster Management Group;

(ix) preserving peace and good order;

(x) prevention of crime;

(xi) maintaining any site as a possible crime scene;

(xii) coronial investigation procedures;

(xiii) disaster victim identification;

(xiv) establishing temporary mortuaries;

(xv) traffic control, including assistance with road closures and maintenance of road blocks;

(xvi) coordinating evacuation operations;

(xvii) coordinating search and rescue operations;

(xviii) coordinating evacuations and receptions;

(xix) registering evacuees and assisting with inquiries regarding evacuations in conjunction with Red Cross. The Service and Red Cross will undertake this role via the National Registration and Inquiry System;

(xx) security of damaged premises;

(xxi) responding to and investigating traffic, rail and air accidents; and

OPM Issue 113 Public Edition

(xxii) guidance on counter-terrorism issues.

17.2.4 Earthquakes

Technical information about earthquakes can be obtained from Geoscience Australia, Canberra (see SMCD).

District officers are to:

(i) establish a police forward command post (PFCP) and where practicable, a public inquiry centre;

(ii) consider the safety of members of the public and emergency service personnel in the affected area;

(iii) establish contact with the Duty Officer, PCC, Brisbane who has a contact telephone number for Geoscience Australia, Canberra which can provide technical information concerning earthquakes. Information on aftershocks and other related matters can then be monitored and communicated to the PFCP;

(iv) where appropriate, evacuate all persons not involved in rescue, response, or recovery efforts to a place of safety (see s. 17.4: 'Evacuation' of this chapter);

(v) prepare for the probability and likely effects of aftershocks;

(vi) coordinate the rescue of any persons trapped. The Queensland Fire Department (QFD) is the lead agency in urban search and rescue situations;

(vii) liaise with the State Emergency Service (SES) or local council concerning barricading and support equipment;

(viii) ensure that personal particulars of persons entering areas affected by the earthquake are registered;

(ix) assess the damage to emergency services facilities or equipment;

(x) liaise with other organisations such as:

(a) the local electricity authority;

(b) the works department of the local government authority;

(c) Department of Transport and Main Roads concerning road disruptions; and

(d) Queensland Rail concerning rail disruptions;

(xi) determine if any special plans or sub-plans contained in the local disaster management plan should be activated;

(xii) request attendance of the Disaster Victim Identification Squad (DVIS) in cases of multiple deaths;

(xiii) secure affected areas while the disaster response take place; and

(xiv) coordinate local government authorities regarding:

(a) clearing of debris from public areas;

(b) repairing damaged drainage systems;

(c) assessing safety of damaged buildings through the local authority, planning or works department inspectors;

(d) assistance in establishing evacuation areas for those persons displaced by the earthquake; and

(e) provision of barricading and support equipment such as lighting.

The Duty Officer, PCC, Brisbane is to:

(i) establish contact with and seek advice from Geoscience Australia, Canberra;

(ii) where applicable, remain as the point of contact between the advisory organisation and the police forward commander (PFC); and

(iii) communicate all information in relation to the earthquake, its aftershocks or any predictions to the PFCP.

17.2.5 Exotic diseases in animals

Biosecurity Queensland manages threats to primary industries including potentially harmful pests and diseases which pose a risk to the Queensland economy and lifestyle. The management and control of risks is governed by the *Biosecurity Act* and are conducted through:

(i) animal disease control (eradication) programs; and

(ii) controlling emergency animal diseases.

Emergency animal diseases

Emergency animal diseases can be exotic, emerging or endemic diseases which, if allowed to spread, pose a significant risk to Queensland's animal trade and animal product markets.

OPM Issue 113 Public Edition

Where an emergency animal disease is confirmed, Biosecurity Queensland is prepared to mount a response, in most cases based on the Australian Veterinary Emergency Plan (AUSVETPLAN). Emergency control procedures include restricted movement controls imposed on livestock to prevent the spread of the infection. For some emergency animal diseases, a livestock standstill may be imposed, preventing livestock movement throughout the country. Additionally, restricted and control areas may apply where specific and purposeful control, containment and eradication activities are implemented.

Members of the Service receiving advice of a suspected outbreak of an exotic disease are to:

(i) notify the following:

(a) the Biosecurity inspector, local government veterinary officer or private veterinary practice; or

(b) the Department of Primary Industries (DPI) Customer Service Centre (see SMCD); or

(c) the National Disease Watch hotline (see SMCD); and;

(ii) immediately advise the district officer and report what activities have been undertaken; and

(iii) advise and liaise with the Inspector, State Coordinator, Major and Organised Crime Squad (Rural), Crime Command.

Members of DPI will attend the scene to provide a diagnosis and decide whether or not to initiate emergency control procedures.

When an emergency animal disease has been identified, DPI will establish a Local Disease Control Centre (LDCC) as near as practicable to the outbreak site. A State Disease Control Headquarters (SDCHQ) will be established in Brisbane.

The chief executive may, by written notice, impose a movement control order for managing, reducing or eradicating the Biosecurity matter. Officers are to assist inspectors in enforcing the powers and functions of the movement control order.

Service responsibilities with regard to incidents related to emergency animal diseases include:

(i) traffic control where it may be necessary to divert traffic flow around an infected area;

(ii) ensuring that the provisions of s. 16: 'Helping public officials exercise powers under other Acts' of the PPRA are complied with when police have been called to assist an inspector under the *Biosecurity Act*;

(iii) obtaining sufficient staff to perform the functions required by an inspector;

(iv) stock movement control to monitor the movement of animals to and from a controlled area;

(v) establishing security patrols, interception sites and check points. These locations should be manned by teams consisting of at least one officer and one inspector from DPI;

(vi) tracing of suspected stock, infected material and persons (e.g. refrigerated semi-trailers loaded with suspected infected meat);

(vii) assisting DPI officers with the investigation of offences;

(viii) assisting with the destruction of stock under the direction of the veterinarian in charge of the infected premises or property; and

(ix) ensuring radio communications operate effectively, (depending upon the magnitude of the operation, it may be advisable to arrange for deployment of the operational command vehicle).

OPM Issue 113 Public Edition

District officers are responsible for collating information as to the costs incurred by the Service in assisting DPI. Details of the costs incurred are to be forwarded to the officer in charge of the region or command, in order to recover those costs from DPI.

17.2.6 Bushfires

The location and circumstances of a bushfire will determine which authority will be the lead agency. The lead agency may also be designated in a disaster plan for a disaster district. Authorities responsible for fire control duties in bushfires includes:

(i) Queensland Fire Department (QFD)—urban and rural operations;

(ii) the Department of Primary Industries and the Queensland Parks and Wildlife Service for state forests;

(iii) local government authorities.

The control of fires in Queensland is legislated in the *Fire Services Act* (FSA) and the *Forestry Act* which contains provision for the prevention, control and suppression of fires and for the mitigation of dangers resulting from fires.

Where it has been identified that a bushfire is encroaching upon and potentially threatening a community, the Service and lead agency officers are to coordinate a planned and appropriate response in relation to ordering the evacuation of impacted homes or allowing the identified residents to remain within their properties to defend against fire (see s. 149X: 'Person acting at direction of authorised fire officer' of the FSA and s. 17.4: 'Evacuation' of this chapter).

The police forward commander is to:

(i) establish communications with the local bush fire control centre to monitor the fires movement and intensity (one of the greatest dangers associated with such fires is the possibility of being trapped following a change in wind direction);

(ii) in consultation with the OIC of the lead agency, consider a request to the local electricity authority to disconnect power to the affected area;

(iii) where appropriate, alert the local controller of the SES, local government, hospitals, relevant statutory authorities and volunteer organisations; and

(iv) ensure that all volunteers and staff under their control are accounted for.

Police at the scene are to assist and give reasonably necessary help to lead agency officers. In providing this assistance officers are to comply with the provisions of s. 793: 'Helping at fire or hazardous materials emergency' of the PPRA, where appropriate. Other responsibilities include:

(i) consulting with the OIC of the lead agency to identify the access route and parking area for emergency vehicles (uphill and upwind if possible);

(ii) ascertaining the number of persons in or likely to be in the area. Account for all casualties (estimated and confirmed number) including deceased and injured. This information is to be transmitted to the local PCC; and

(iii) compiling a list of affected properties. Consider:

(a) use of GPS, street numbers and property names; and

(b) populate with names of tenants, owners and persons who occasionally reside at the property (e.g. sheep shearers, casual maintenance staff, etc).

There are additional first response and investigative responsibilities for bushfire occurrences. Officers attending a bushfire are to make inquiries to determine if any reasonable suspicions exist with regard to the origin and cause of the fire.

Whilst at a bushfire scene, officers are to:

(i) note any relevant information obtained from witnesses who first saw the fire is passed onto the fire investigator from QFD State Fire Investigation Unit or Rural Fire Service Queensland (RFS). The information may assist in reducing the time it takes to eliminate other areas of fire development enabling quicker identification of the area of origin in a large bushfire scene;

(ii) seek descriptions of any suspects if the cause of the fire is deemed to be deliberately lit or the cause undetermined. Ensure an investigative response is deployed as soon as reasonably practical;

(iii) take comprehensive contemporaneous notes in police notebook including observations of scene, witnesses approaching police, exhibits located and/or seized, scene guarding and initial fire spread observations;

(iv) secure evacuated areas to guard against unauthorised entry;

(v) comply with s. 2.6.1: 'Fire Investigation' of this manual;

(vi) utilise Personal Protective Equipment and be aware of the following WHS issues:

(a) airborne contaminates;

(b) water borne contaminates;

(c) structural, water, gas, chemical, sharps and electrical risks;

(d) drug laboratories and illegal plantations;

(e) land slip, falling trees and debris;

(f) heat exposure, flame exposure and dehydration; and

(g) geographic confinement (being lost or disorientated in bushland).

Additional investigative responsibilities include:

(i) if a fire has been deemed to be deliberately lit or the cause undetermined, investigative officers are to be deployed to the suspected fire origin and exercise crime scene powers if appropriate. Consider:

(a) crime scene warrant, owner/occupier consent;

(b) extent of the crime scene;

(c) multiple crime scenes; and

(d) aerial imaging.

OPM Issue 113 Public Edition

(ii) engage with QFD State Fire Investigation Unit or the Rural Fire Service to ensure a qualified and experienced fire investigator has established the origin of the fire. Engage with Scenes of Crime or Forensic Services Group (FSG) and ask for assistance in documenting the scene and seizure of exhibits in consultation with the fire investigator;

(iii) if required request specialist resources such as FSG, RFS, QFD Fire Investigation Unit, Accelerant detection K-9 (contact NSW police service), Interactive Forensic Imaging System, Disaster Victim Identification Squad (DVIS), RPAS (drone), Government Pathologist, Bureau of Meteorology, etc;

(iv) deploy officers to general area of suspected origin to conduct immediate inquiries and identify witnesses and persons of interest:

(a) identify interested parties such as the owner of the land or premise (past and present), tenant, boarder, financial stake in the business or property, etc;

(b) conduct a physical canvas of surrounding areas, National Parks, Crown Land, rural property, major arterial roads, truck stops and major service stations; and

(c) attempt to identify the time of ignition. This will assist with narrowing down relevant between times for CCTV and activities of relevant parties.

(v) Conduct an extended canvass:

(a) railway stations, service stations, ANPR photographs, speed cameras, toll passes and private properties for CCTV; and

(b) service stations (fuel purchases), hospitals (injuries), media (footage of the fire and bystanders), members of the community (phone videos or photographs), aircraft videos or photos and any other related locations that may have peripheral relevance to the investigation.

(vi) If dwelling/premise is cause of or subject to bushfire. Consider:

(a) details of insurer;

(b) history of insurance;

(c) increases in insurance;

(d) value of insurance;

(e) recent claims;

(f) personal particulars of policy holders;

(g) history of land clearance, back burns and associated permission documents; and

(h) thorough financial investigation of interested parties including finances, debts owed, bank account analysis, income, expenditure, business interest, shares and assets.

(vii) Obtain typed witness statements as soon after the event as possible:

(a) consider all witnesses including fire fighters and support staff, National Park employees, aerial attack crew observers/pilots, local residents, employees at nearby businesses, etc; and

(b) consider a mail drop and/or social media post to identify further witnesses or additional lines of inquiry.

(viii) if safety issues do not allow the scene to be entered for examination, it is still the investigators responsibility to make all reasonable efforts to determine the cause of the fire.

OPM Issue 113 Public Edition

17.2.7 Cyclones, floods or storm tides

POLICY

Generally, incidents which involve cyclones, floods or storm tides are handled by local authorities. In disaster situations, the Local Disaster Management Group ‘local group’ is usually given operational responsibility for these incidents. However, officers are to consider these situations in the context of existing disaster management framework e.g. District Disaster Coordinators (see ss. 17.2: ‘Disaster management’ and 17.3: ‘Incident management’ of this chapter).

Officers should consider the following hazards and where practicable take appropriate precautions in a cyclone, flood or storm tide situation:

(i) fallen or exposed power lines, including those which may be in or under water;

(ii) the danger of power lines coming into contact with boats or boat occupants as a result of rising water levels;

(iii) snakes and spiders seeking refuge in hollow walls, rafters, ceilings of houses and vessels;

(iv) sheets of roofing iron or other debris being blown about by strong winds;

(v) the volume and force of water involved; and

(vi) the potential danger to life of any person entering the water.

Police forward commanders (PFCs) should:

(i) determine priorities for assisting the community;

(ii) ensure that measures are taken to protect the public from fallen power lines, wash-outs, unsafe bridges, unsafe places and flooded areas;

(iii) ensure sufficient staff are available to assist in the implementation of any local disaster management plans;

(iv) where necessary, consult with:

(a) the chair of the local group;

(b) engineers and storm tide technical advisors from the relevant local government authority; and

(c) the Bureau of Meteorology;

(v) coordinate all evacuations (see s. 17.4: 'Evacuation' of this chapter);

(vi) liaise with the Department of Transport and Main Roads regarding road conditions and Queensland Rail regarding rail conditions if appropriate (if the road and rail links to an affected area are impassable, all evacuations would need to be carried out by air);

(vii) deploy personnel to make local checks of changing flood or tide heights in accordance with local storm tide plans. Information concerning changing flood or tide heights are to be reported to the local group and to the Bureau of Meteorology;

(viii) where required, establish and update the relevant QPRIME occurrence; and

(ix) arrange regular media releases to the local community concerning the situation.

17.2.8 Space debris

While most space debris disintegrates and burns up entirely on re-entry into the atmosphere, it is possible for pieces of considerable size and weight to reach the Earth's surface. Over recent years, thousands of objects have been placed in space orbit, varying in size from a few cubic centimetres to complete space laboratories equipped with nuclear reactors and weighing many tonnes.

Some orbiting space vehicles were designed with safety mechanisms to allow components to separate from the craft before re-entry. This may facilitate the burning-up process. However, the trajectory of these detached components may vary from the forecast path of the main vehicle and multiple re-entry events could occur over a period of days or even weeks. This could result in multiple activations of this plan for a single space vehicle.

The Australian Contingency Plan for Space Re-Entry Debris (AUSCONPLAN-SPRED) has been prepared to coordinate the activities of the Commonwealth, and support State and Territory departments or authorities involved in neutralising any threat arising from the re-entry of space debris.

The Commonwealth Government, through Emergency Management Australia (EMA), has the responsibility for the location and safe removal of radioactive space debris. The Emergency Services Division, Department of Community Safety, on behalf of the Central Control Group (CCG), is responsible for development and maintenance of threat-specific special plans. The State Disaster Coordination Centre will advise the Service as to the forecasted re-entry of any space debris.

Warning phase

Police involvement will commence with a warning of the forecasted re-entry indicating the possibility of the impact of space debris on Australia in seven days' time. The warning is characterised by the issue of the codeword SPRED-WHITE from the AUSCOMPLAN-SPRED.

Where the Service is advised of a codeword SPRED-WHITE the Duty Officer, Police Communications Centre (PCC), Brisbane will receive Sitreps from the State Disaster Coordination Centre on the progress of the projected re-entry of space debris.

The Duty Officer, PCC, Brisbane is to ensure that regular SITREPs are provided to the:

(i) Superintendent, Manager, Police Communications Centre and Policelink;

(ii) Inspector, Principal Policy Officer, Disaster Management;

(iii) Inspector, Strategy and Performance, Emergency Response and Coordination Command (ERCC); and

(iv) officers in charge of regions that may be affected by the re-entry of space debris.

Officers in charge of any region which may be affected by the re-entry of space debris upon being advised, are to ensure that district officers under their control:

(i) are advised to make plans for the preparatory and post impact phases; and

OPM Issue 113 Public Edition

(ii) appoint PFCs to establish incident management teams in their area of responsibility.

Preparatory phase

The preparatory phase begins when the forecasted re-entry indicates a probability of impact of space debris in Australia in two days' time. The preparatory phase is characterised by the issue of the codeword SPRED-YELLOW from the AUSCOMPLAN-SPRED.

The Inspector, Strategy and Performance, ERCC is to:

(i) appoint a member from ERCC to act as a liaison officer to:

(a) the State Disaster Coordination Centre;

(b) officers in charge of likely to be affected regions; and

(c) the Inspector, Strategy and Performance, ERCC;

(ii) seek approval of the Assistant Commissioner, ERCC for the issue of a warning order regarding the predicted impact; and

(iii) request PFCs to report the impact of any suspected space debris to the Inspector, Principal Policy Officer, Disaster Management.

The liaison officer is to provide SITREPs to the Inspector, Principal Policy Officer, Disaster Management.

The Inspector, Principal Policy Officer, Disaster Management is to:

(i) assume the role of police commander for the overall coordination of the policing response. Operational control of the police response is the responsibility of the PFCs in the relevant regions;

(ii) ensure that radiation monitoring personnel from the Radiation Health, Queensland Health have been placed on standby and where necessary assist with their deployment to an affected area;

(iii) collate all information forwarded from the regions on possible sightings or re-entry of suspect objects. This information should be forwarded to the State Disaster Coordination Centre (SDCC); and

(iv) ensure the SDCC is consulted in relation to the following arrangements:

(a) the arrival of the Australian Space Debris Emergency Search Team (ASDEST);

(b) the progress of Emergency Management Australia (EMA) in analysing tracking data and sightings to locate all possible space debris;

(c) deployment of search aircraft to commence delineation of the estimated impact site; and

(d) where the ASDEST field headquarters is to be established.

OPM Issue 113 Public Edition

Post impact phase

The post impact phase begins when there is impact of space debris in Australia. The post impact phase is characterised by the issue of the codeword SPRED-RED from the AUSCOMPLAN-SPRED.

PFCs should:

(i) ensure that sufficient police and other emergency support personnel, equipment and facilities are available for deployment and use as required at the incident scenes;

(ii) ensure sufficient radio communications equipment is available;

(iii) assist the local counter disaster committee to implement any threat specific plan;

(iv) advise the district officer;

(v) record and confirm all reports of debris impact (there may be more than one);

(vi) notify the Duty Officer PCC, Brisbane of the impact locations;

(vii) establish an outer cordon at a distance around the point of impact as directed by EMA. The amount and level of radioactive material will determine the distances selected;

(viii) advise on, or establish a suitable site for a helipad and landing facilities for fixed wing aircraft and consider refuelling sites for aircraft;

(ix) consider a declaration of an emergency situation under s. 5: 'Declaration of emergency situation' of the *Public Safety Preservation Act*;

(x) ensure security measures are implemented to stop unauthorised persons entering the outer cordon or other restricted areas;

(xi) take up with and brief members of the ASDEST upon their arrival;

(xii) ensure security of any temporary storage area for radioactive debris if established by ASDEST;

(xiii) provide or arrange an escort for the movement of radioactive debris in conjunction with the officers in charge of divisions through which the material will be transported;

(xiv) ensure regular SITREPs are despatched to the Duty Officer, PCC, Brisbane; and

(xv) comply with the provisions of s. 1.4.6: 'Responsibilities of regional duty officer, district duty officer, and shift supervisor' of this Manual.

17.2.9 Deployment of specialist units in disaster events

Where concerns are held for the safety and location of a proportionate number of persons, members should be aware of internal Service deployment opportunities that may assist. (See s. 12.7: 'Missing persons during disaster events' of this Manual).

17.2.10 Disaster management capability management

In accordance with s. 23: 'Functions' of the *Disaster Management Act* (DMA), the district disaster management group (DDMG) is responsible for developing effective disaster management for the district, including developing a district disaster management plan and regularly reviewing and assessing disaster management.

The responsibility to build the district disaster management capability is further outlined in the Emergency Management Assurance Framework (EMAF) which has been developed by the Office of the Inspector-General Emergency Management (IGEM). To discharge the responsibilities under the DMA, the Service undertakes and evaluates targeted exercises. Any issues identified as a result of an exercise evaluation can be considered as risk to the disaster district as they adversely impact disaster management response and planning.

ORDER

Disaster districts are to conduct at least one disaster management exercise each financial year in line with themes and identified needs of the disaster district.

POLICY

The district disaster coordinator (DDC) is to ensure any disaster management exercise developed in the district is based on an identified need and evaluated against identified objectives. The need can be identified a number of ways including through activation in response to an incident and post event debrief/evaluation, a previous exercise, or a change in the operational environment.

Executive officers (see s. 27: 'Executive officer of district group' of the DMA) are to ensure exercises for their disaster district:

(i) are needs based and objective driven;

(ii) address known risks and identify gaps in their disaster district management plan or any identified current theme or trend within disaster management which the DDC considers appropriate;

(iii) are designed, written and managed in line with contemporary exercise management methodologies (Australia-New Zealand Counter Terrorism Committee (ANZCTC) or Australian Emergency Management Institute (AEMI);

(iv) are evaluated/validated against the P_2OST_2E model (available in the 'Australian Emergency Management Handbook Series' on the Attorney General's Department website); and

(v) are conducted in line with the requirements of the State as communicated through the Disaster Management Unit, Specialist Services Group.

The Inspector, Disaster Management Unit is to:

(i) chair a committee to overview capability development across the State;

(ii) ensure exercises address areas and agencies with a disaster management role;

(iii) ensure executive officers undertake training to enable them to write, conduct and evaluate exercises;

(iv) facilitate support of less experienced exercise writers with more experienced officers;

(v) maintain a database of exercises that can be shared as appropriate across disaster districts;

(vi) provide guidance on broad issues or themes which require exercising in line with evaluation of exercises, state operations or national/international trends identified;

(vii) appoint a suitable officer to guide, mentor and evaluate capability development and to evaluate exercises, operations and events to identify trends and gaps in disaster management capability;

(viii) liaise with the Inspector-General Emergency Management to ensure the Service meets its Tier 2 obligations under the Emergency Management Assurance Framework and seek input on the development of themes for exercising; and

(ix) ensure findings relating to partner agencies are forwarded to the agency for action as appropriate.

OPM Issue 113 Public Edition

The Senior Sergeant, Disaster Management Unit (Exercise Management) is to:

(i) evaluate operations across the state and where appropriate nationally/internationally to identify trends;

(ii) monitor the issues and findings identified at district level to identify trends;

(iii) report to the Inspector, Disaster Management Unit on trends identified and provide suggested courses of action to address these issues; and

(iv) provide support and advice to the district in planning and conducting exercises.

The Secretariat, Queensland Disaster Management Committee (QDMC) is to:

(i) maintain a record of evaluation findings, resolutions and lessons learned from disaster management exercises; and

(ii) provide advice to the QDMC on trends and lessons learnt arising from exercising.

Evaluation, validation and resolution

POLICY

For the purpose of this section:

Evaluation

is the structured examination of an event to determine how the capability to respond can be improved.

Where an evaluation identifies an issue, it becomes a risk and is to be:

(i) recorded in the district risk register (as part of the disaster district management plan) and reported against until the issue has been resolved;

(ii) validated to ensure it is accurately analysed and the root cause/s identified (the Service preference is the P_2OST_2E model).

Initial validation is conducted at the district level and is undertaken by the evaluator, the executive officer, the DDC and where the finding relates to an external agency, with a suitable representative of the agency.

During validation, a risk assessment is undertaken and an issue may be classified as:

(i) rejected, as the basis of the issue was flawed and the result would not be replicated (an exercise flaw);

(ii) accepted without further action, as the risk is deemed to be so low it does not warrant further action;

(iii) accepted with local controls, as the issue can be resolved through local action; or

(iv) escalated, as local controls cannot mitigate the risk to an appropriate level and further support is required by the State to resolve the issue.

Where an issue can be resolved at district level, the resolution options are to be identified and proposals outlined in the corrective action plan which is to be forwarded to the chairperson of the DDMG for approval. The risk assessment is to be recorded in the district risk register and the resolution reported in line with Service risk reporting (see Chapter 3: 'Risk Management' of the Management Support Manual).

After a disaster management exercise or following an activation, an exercise report or post event analysis (as applicable) outlining the results of the evaluation, including resolution strategies for issues identified, is to be forwarded to the Disaster Management Unit, Specialist Services Group.

ORDER

All issues, assessments, risks and strategies including individual evaluator reports and minutes of any meeting where the issue was considered, are to be forwarded to the Senior Sergeant, Disaster Management Unit (Exercise Management) for filing.

Where an issue cannot be resolved at district level, it is to be identified in the exercise report or post event analysis for the consideration of the Disaster Management Unit. The Disaster Management Unit will:

(i) rate the risk on behalf of the State; and

(ii) provide an updated classification to the issue identified with regard to the ability of the State to resolve the issue.

The Disaster Management Unit is to record all validation and resolution findings in the State Validation and Resolution Register.

Service Disaster Management Validation and Resolution Panel

POLICY

The Service has formed the Disaster Management Validation and Resolution Panel (DMVRP) to monitor the resolution of all issues identified as a result of evaluations. The DMVRP is to consider the resolution strategies to ensure they

OPM Issue 113 Public Edition

meet a suitable threshold for managing risk to the Service. The DMVRP will provide strategic guidance to the districts to enhance capability development across the state.

The DMVRP consists of the:

(i) State Disaster Coordination Group Chair (assistant commissioner);

(ii) Superintendent, Specialist Services Group; and

(iii) Inspector, Disaster Management Unit.

Secretariat duties are undertaken by the Senior Sergeant, Disaster Management Unit (Exercise Management).

See also Appendix 17.12: 'Flowchart of the validation/resolution process' of this chapter.

17.3 Incident management

17.3.1 Emergency situations

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

17.3.2 Major transport incidents

Major transport incidents are incidents involving transport or passenger vehicles such as rail and road vehicles, aircraft or marine vessels.

The member of the service receiving information concerning a major transport incident should:

(i) obtain information in accordance with s. 1.6.1: 'Recording initial demand' of this Manual;

(ii) advise other emergency services where required; and

(iii) advise other specialist police who can assist in the response to or investigation of the incident.

Officers at the scene of a major transport incident should consider:

(i) where necessary, requesting the attendance of a senior officer in order to declare an 'emergency situation' under the provisions of the *Public Safety Preservation Act* and assume the role of emergency commander where appropriate;

(ii) the provisions of Chapter 5: 'Traffic Crashes' of the Traffic Manual where appropriate;

(iii) obtaining specialist support from:

(a) sections from the Department of Transport and Main Roads such as the Dangerous Goods Branch or the Heavy Vehicle Squad;

(b) the Queensland Fire Department Scientific Branch who can provide advice for chemical emergencies; or

(c) Airservices Australia—for a request to restrict the flight of aircraft in air space or the declaration of a danger area for aircraft over the scene of the incident; see s. 17.3.22: 'Restriction of the fight of aircraft in air space or declaration of danger area for aircraft due to incident' of this chapter;

(iv) obtaining the particulars of victims from the relevant hospital administration or from the Queensland Ambulance Service (QAS);

(v) making arrangements for the transport or escort of MEDIVAC teams to the scene;

(vi) advising the Queensland Health where there is a potential threat to the health of the wider community;

(vii) requesting the activation of a common services channel on the Service radio network. This will assist in the coordination of other emergency services and local authorities;

(viii) obtaining any passenger or load manifest, where available; and

(ix) the provisions of s. 793: 'Helping at fire or hazardous materials emergency' of the *Police Powers and Responsibilities Act*, where appropriate.

Major transport incidents resulting in injury (including death) are to be recorded in QPRIME.

17.3.3 Aircraft incidents

Definitions

For the purposes of this section:

OPM Issue 113 Public Edition

Aircraft

means a powered aircraft, glider, hang glider, manned balloon, dirigible or parachute.

Aircraft incident

means any incident involving an aircraft while taking off, landing or in flight.

Officer's responsibilities

Officers attending an aircraft incident where a person has been killed, seriously injured, property destroyed or seriously damaged should:

(i) ensure notification is passed to:

(a) the Duty Officer, Australian Transport Safety Bureau (ATSB) (see SMCD);

(b) the Duty Officer, Directorate of Defence Aviation and Airforce Safety, where a military aircraft is involved in the incident (see ss. 8.4.1: 'Military aircraft' and 11.11.2: 'Location of members of the Australian Defence Force' of this Manual); and

(c) if the aircraft incident occurred at a workplace, a local Workplace Health and Safety inspector (see s. 8.13.3: 'Fatal workplace or electrical incidents' of this Manual),

who will advise if they will be conducting an investigation into the incident; and

(ii) preserve the incident scene, including any wreckage and marks made by the aircraft at the scene, until the arrival of:

(a) a forensic officer;

(b) the appropriate investigating officer (see 'Role of police investigators' of this section) and

(c) any attending external investigator (see 'Role of external investigator' of this section).

Officers should not remove or otherwise interfere with an aircraft involved in an aircraft incident without the approval of an ATSB investigator except as is necessary for:

(i) extricating persons, animals and mail from the wreckage;

(ii) protecting the wreckage from destruction by fire or other causes;

(iii) preventing immediate danger to the safety of persons or property;

(iv) removing the aircraft to a place of safety when the aircraft crashes on water or is wrecked on water; or

(v) removing goods and baggage to protect them from damage or loss (in the case of an aircraft which has come from outside Australia, goods and baggage are only to be removed on a clearance by or with the consent of an Australian Border Force officer).

OPM Issue 113 Public Edition

Wherever practicable a sketch, video or photographic record should be made of any wreckage or marks prior to disturbing the wreckage or marks.

Aircraft incidents resulting in death (see s. 8.13.6: 'Aircraft incidents resulting in death' of this Manual) or injury are to be recorded in QPRIME.

The ATSB document 'Hazards at aircraft accident sites: Guidance for police and emergency personnel' (see www.atsb.gov.au/firstresponders) contains useful information for officers attending and investigating aircraft incidents.

Where appropriate, investigators should consider requesting an air space restriction or the declaration of a danger area for aircraft over the incident scene (see s. 17.3.22: 'Restriction of the flight of aircraft in air space or the declaration of a danger area for aircraft due to incident' of this chapter).

Role of police investigators

Aircraft incidents involving death or serious injury to any person should be investigated by:

(i) a Forensic Crash Unit trained investigator; or

(ii) an officer from the CIB,

if an above investigator has carried out sufficient investigations to determine that no criminal acts have occurred in the incident, responsibility for finalising the investigation may be reassigned to another officer.

Officers investigating aircraft incidents are to:

(i) conduct a thorough investigation into possible criminal offences; and

(ii) where appropriate, into the cause and circumstances of any death for reporting to the coroner;

(iii) always maintain investigative responsibilities, though they are encouraged to liaise with other agencies, they cannot abrogate their responsibilities to any other agency;

(iv) where external investigators attend an aircraft incident, investigating officers should conduct their investigation in consultation with the external investigators. Where external investigators have advised that they will not attend the incident, the appropriate investigating officer should commence an investigation of the incident without delay; and

(v) where a non-fatal aircraft incident does not involve any criminal offences, the investigating officer should finalise the relevant QPRIME occurrence and submit a general report on the incident for referral to their district officer through the normal chain of command. A district officer receiving such a report should, if satisfied that the investigation and report are adequate, file the report at the district office.

Role of external investigators

If external investigators advise they will attend the incident, officers should preserve the scene until their arrival.

The ATSB:

(i) investigate the circumstances surrounding any aircraft incident to prevent the occurrence of other incidents;

(ii) will not apportion blame or liability;

(iii) in practice review the nature and circumstances of any reported aircraft incident;

(iv) determine the safety value in conducting an on-site investigation;

(v) investigators report may not address the issues of interest to an investigating officer;

(vi) investigators do not appear in a court to give evidence, other than for coronial inquests; and

(vii) generally, does not investigate:

(a) sports aviation accidents; or

(b) those involving amateur built or experimental category aircraft, and

the ATSB Duty Officer will provide information about the appropriate body to provide specialist advice to investigating officers.

See s. 8.13.3: 'Fatal workplace or electrical incidents' of this Manual for the conduct of investigations in liaison with Workplace Health and Safety inspectors.

OPM Issue 113 Public Edition

17.3.4 Rail incidents

Rail corridor safety

Members who are advised of an incident on or near rail transport infrastructure or other rail infrastructure (see Schedule 6: 'Dictionary' of the *Transport Infrastructure Act*) which may pose a threat to the safety of rail operations or emergency services personnel responding to the incident, should ensure that Queensland Rail (QR) is immediately advised.

Prior to entering rail transport infrastructure or other rail infrastructure approval should be obtained from the relevant QR Train Control Supervisor. Where practicable, the police forward commander should provide:

(i) the location and number of police personnel attending;

(ii) the reason for entering the QR rail network;

(iii) advice of any obvious safety hazards present;

(iv) the expected time of entry and exit to the rail network; and

(v) the actual time of entry and exit to the rail network,

to the QR Train Control Supervisor via the local police communications centre or directly to the QR Train Control Supervisor where the local police communications centre cannot be contacted.

Officers should not walk on or near a railway track or attempt to enter a train which has been involved in a collision, derailment or other incident until advised by the QR Rail Commander at the scene, who will be wearing a red hard hat and vest marked 'Rail Commander' that the train has been rendered safe.

ORDER

Officers are to wear reflectorised safety vests when attending a rail incident.

Police response at rail incidents

Officers attending a rail incident where a person has been killed or seriously injured or property has been damaged should ensure notification is passed to:

(i) the Duty Officer, Australian Transport Safety Bureau (ATSB) (See SMCD); and

(ii) if the rail incident occurred at a workplace, a local Workplace Health and Safety inspector (see s. 8.13.3: 'Fatal workplace or electrical incidents' of this Manual),

who will advise whether they will be conducting an investigation into the incident.

Where an incident involves a:

(i) QR Citytrain Network passenger train, the OIC, Railway Squad is to be advised (see ss. 2.19.16: 'Railway Squad' and 8.13.11: 'Fatalities on Queensland Rail, Citytrain Network' of this Manual); or

(ii) freight train, officers are to:

(a) establish whether hazardous materials are being carried on the train; and

(b) ascertain from QR how many crew members or passengers are on the train.

Where hazardous materials are involved in a rail incident, the Queensland Fire Department is the lead agency and the Environment Protection Authority is responsible for any clean-up operation (see s. 17.3.13: 'Hazardous materials' of this chapter).

The appropriate officer to investigate a rail incident which involves a suspicious or accidental death or serious injury to any person is a forensic crash unit trained investigator or an officer from the criminal investigation branch.

Rail incidents resulting in death or injury are to be recorded in QPRIME.

Suicide

Where the rail-related death of a person, after consultation between the senior officer and forensic officer at the scene, is determined to be a suicide, the incident is to be investigated and cleared in accordance with Railway Squad procedures (see s. 8.12: 'Suicide' of this Manual).

Role of external investigators

If external investigators advise they will attend the incident, officers should preserve the scene until their arrival.

The function of the ATSB is to investigate the circumstances surrounding any rail incident to prevent the occurrence of other incidents. The ATSB will not apportion blame or liability. In practice the ATSB reviews the nature and circumstances of any reported rail incident and determines the safety value in conducting an on-site investigation. Consequently the report of an ATSB investigator may not address the issues of interest to an investigating police officer. Other than for coronial inquests, ATSB investigators do not appear in a court to give evidence.

See s. 8.13.3: 'Fatal workplace or electrical incidents' of this Manual for policy and procedures relating to conducting investigations in liaison with Workplace Health and Safety inspectors.

OPM Issue 113 Public Edition

17.3.5 Brisbane underground network

In the event of a rail incident in the Brisbane underground network, officers should consider secondary hazards or incidents at the scene. As a result of the primary incident officers may need to consider:

(i) crowd congestion at Central Railway Station and in the streets in the vicinity of the entrances;

(ii) traffic congestion in surrounding streets which may impede the flow of emergency vehicles to and from the incident scene;

(iii) congestion caused by additional buses etc. which would be required to transport the intended train travellers to and from the city. This problem may exist for days or even weeks until the rail system returns to normal;

(iv) if fire is involved the impact of smoke on the safety and evacuation of all persons at the scene; and

(v) possible structural damage to the tunnel.

17.3.6 Marine incidents

POLICY

Officers are to comply with s. 13.8.3: 'Investigation of offences and marine incidents under the Transport Operations (Marine Safety) Act or the Transport Operations (Marine Safety) Regulation' under the heading 'Marine incidents' of this Manual.

17.3.7 Tactically dangerous situations

Tactically dangerous situations include armed offenders involved in criminal activities, hijacking, terrorism, explosions, suspect devices, siege situations or crowd management incidents.

When responding to tactically dangerous situations officers should consider the following issues:

(i) safety:

(a) conduct a risk assessment:

- assess all situations with regard to any threat from any PERSON, OBJECT or PLACE;
- categorise as either HIGH or ASSESSED RISK;

- prior to approach, consider and apply relevant major incident sections as specified within this chapter (e.g. s. 17.3.8: 'Suspect devices, bomb threats and bomb hoaxes'); and
- consider the Situational Use of Force Model and choose an appropriate option (see s. 14.3.2: 'Situational Use of Force Model (2016)' of this Manual); and

(b) where appropriate, consider evacuating persons in the vicinity (see s. 17.4: 'Evacuation' of this chapter);

(ii) tactical:

(a) establish inner and outer cordons in accordance with s. 2.4.9: 'Guarding an incident scene' of this Manual;

(b) where an 'active armed offender/s' incident is underway, consider first response actions (see s. 17.3.24: 'Active armed offender/s' of this chapter);

(c) where applicable notify:

- the Special Emergency Response Team (see s. 17.10.4: 'Special Emergency Response Team (SERT)' of this chapter);
- negotiators (see s. 17.10.2: 'Negotiators' of this chapter); and
- other emergency services including any requirement for a doctor, clergy or an interpreter, etc.; and

(d) where appropriate prepare offender or victim reception plans. A reception plan includes:

- identifying who will receive the offender or victim;
- the verbal instructions for the offender or victim to follow in order to come safely to the police;
- where the offender or victim is to be taken for interviewing; and
- who will be in charge of the offender or victim;

(iii) investigative:

(a) identify and question witnesses before they leave the scene. In situations involving criminal activity, officers should obtain detailed statements in their notebooks from all witnesses, including the:

- description of the property or money stolen;
- full description of the offender(s) including clothing worn;
- exact conversation used by the offender(s);
- description of any firearm or weapon used; and
- description of any getaway vehicle(s);

(b) preserve the scene (identify areas for scientific examination and secure exhibits) in accordance with ss. 2.4.6: 'Preservation of incident scenes' and 2.4.9: 'Guarding an incident scene' of this Manual;

(c) where security camera footage is available comply with s. 2.4.11: 'Video and photographic evidence recorded during the commission of offences' of this Manual; and

(d) where any get-away vehicle(s) are located:

- preserve the scene for scientific examination;
- arrange for the attendance of forensic officers; and
- if the vehicle is reported stolen, contact the owner and make arrangements to obtain a statement; and

(iv) intelligence:

(a) the reasons for action or behaviour. Information concerning the suspect's background should be obtained;

(b) description of the suspect(s):

- the exact location of the suspect(s);
- behaviour and clothing; and
- weapons or devices;

(c) where applicable, the exact location, number and description of hostages (including the psychological or medical condition and relationship to suspect(s));

(d) record any demands or messages;

OPM Issue 113 Public Edition

(e) identify possible methods of communicating with suspects;

(f) the likelihood of violence or damage to property or persons; and

(g) draw a site plan identifying features of the surrounding location such as the streets, fences, vehicles, buildings or potential hazards. In terms of buildings, officers should obtain from witnesses a room layout of the premises, including the location of entrances and windows.

Where necessary, complete a significant event message (see s. 1.18.1: 'Significant Event Messaging System (SEMS)' of this Manual).

Officers should assess all tactically dangerous situations to establish whether it is politically motivated violence (see s. 17.1.2: 'Definitions' of this chapter). In circumstances where an incident is identified as politically motivated violence officers are to immediately advise their relevant police communications centre and comply with the provisions of s. 1.4.6: 'Responsibilities of regional duty officer, district duty officer, and shift supervisor' of this Manual.

The police forward commander at a tactically dangerous situation which has been categorised as a high risk situation should:

(i) wherever practicable, complete a QPB 69: 'Siege Intelligence Handbook' (available from Supply Services—General Stores Requisition—Forms); and

(ii) ensure intelligence officers are deployed to the police forward command post at the earliest opportunity.

17.3.8 Suspect devices, bomb threats and bomb hoaxes

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

17.3.9 Crowd management incidents

POLICY

For the purposes of this section:

Crowd management incident

includes:

(i) a gathering of persons for the purpose of a demonstration or an event (which may include an event declared under the *Major Events Act* to be a major event); or

(ii) incidents that have the propensity to escalate out of control or are out of control, due to a gathering of persons and their behaviour; and

(iii) where an incident is beyond the capability of officers at the scene to safely or effectively control the situation.

OPM Issue 113 Public Edition

Officers should exercise tact and restraint when responding to crowd management incidents and carefully consider the available options to control the situation. Officers should act professionally at all times and avoid making hasty decisions when provoked or threatened.

Officers in charge of regions should ensure that district instructions relating to crowd management issues are prepared by district officers within their area of responsibility.

First response officers attending incidents involving crowd management incidents or crowd control situations are to contact their respective Police Communications Centre (PCC):

(i) with a SITREP containing the following information:

(a) the number of persons forming the gathering and its purpose;

(b) the participants behaviour;

(c) an assessment as to the likelihood for violence or confrontation; and

(ii) requesting that the relevant regional duty officer (RDO), patrol group inspector (PGI) or district duty officer (DDO) is advised of the situation.

Regional duty officers, patrol group inspectors, district duty officers or officers appointed as police forward commanders (PFCs) for the particular crowd management incident should:

(i) assess the situation and decide whether further assistance is required for the officers responding to the incident (i.e. notifying the local watch-house and requesting the assistance of the Public Safety Response Team or additional officers);

(ii) ensure that the crowd or gathering has a means of withdrawal from the area in order to allow them to disperse;

(iii) ensure that officers:

(a) have access to radio equipment and where practicable establish a radio channel reserved for the incident;

(b) are properly equipped with their accoutrements and where appropriate ensure all firearms are left at a secure location; and

(c) refrain from using chemical agents including the use of oleoresin capsicum spray;

(iv) where applicable, establish:

(a) a police forward command post (PFCP);

(b) a marshalling area for police and emergency services; and

(c) a holding area where specialist police units such as the Special Emergency Response Team (SERT), Public Safety Response Team (PSRT) or arrest teams can assemble independently;

(v) consider traffic control and closure of roadways;

(vi) where required, comply with the provisions of the subsection titled 'Use of police dogs for crowd management incidents' of s. 2.19.4: 'Dog Squad' of this Manual; and

(vii) where appropriate, consider activating the Field Charge Sheet System in accordance with local instructions (see s. 3.7.14: 'Field Arrest Sheets' of this Manual).

17.3.10 Demonstrations

POLICY

When attending a demonstration, regional duty officers (RDOs), patrol group inspector (PGI), district duty officers (DDOs) and officers appointed as police forward commanders (PFCs) should:

(i) identify the leaders of the crowd or representatives to establish from them their intentions and establish a process of consultation which:

(a) defines the limits of acceptable behaviour from the demonstrators;

(b) identifies the route of any march or the locations of other demonstrations.

(ii) where possible, make arrangements to videotape the demonstration for evidentiary purposes;

(iii) where a demonstration is able to be predicted and organisers are contactable, consideration should be given to have a qualified negotiator engage with the organiser beforehand and during the event;

(iv) where required, issue instructions with megaphone or public-address system; and

(v) where applicable consider and apply:

(a) the provisions of s. 13.4.2: 'Peaceful Assembly Act 1992' of this Manual; and

(b) ss. 50: 'Dealing with breach of the peace' and 51: 'Prevention of riot' of the *Police Powers and Responsibilities Act*.

OPM Issue 113 Public Edition

17.3.11 Disturbances at correctional centres

POLICY

When attending disturbances at correctional centres, regional duty officers, patrol group inspectors, district duty officers or officers appointed as police forward commanders are to comply with the provisions of s. 13.5: 'Correctional centres and incidents involving Queensland Corrective Services' of this Manual.

17.3.12 Planning for future crowd management events

POLICY

Officers who are responsible for preparing operation orders in respect of major events (including events declared under the *Major Events Act*) or major incidents which require crowd management activities should:

(i) establish, as a basis for further planning, a psychological profile of crowd participants and the likely stimuli which would create a situation with potential for violence or unlawful behaviour. Relevant factors for consideration include:

(a) crowd demographics;

(b) type of entertainment provided, if applicable;

(c) the presence of alcohol;

(d) publicity and the expectations surrounding the event or incident;

(e) the presence of dangerous drugs;

(f) the effects of weather; and

(g) the levels of violence or unlawful activity previously observed at the event or similar events;

(ii) ensure that wherever possible, a Safety Committee including the event organisers and representatives from other organisations having a licensing, controlling or supporting role for the event is formed prior to the event and is consulted on safety and security issues relevant to the event or incident;

(iii) prepare instructions to manage major evacuations and other emergencies which may arise during the event or incident. These instructions are to form part of the operation order;

(iv) ensure that wherever possible, a senior officer is specifically assigned to oversee the event or incident;

(v) consider videotaping the major event or major incident, especially in situations where confrontation with members of the crowd is likely;

(vi) ensure that the operation order provides details of marshalling areas where police and other support services are able to regroup in the event of potentially dangerous or volatile situations;

(vii) ensure that the operation order contains instructions that in volatile situations staff members and any private security providers are directed to withdraw behind police lines;

(viii) consider communication issues to ensure that all police involved in the policing of a crowd management incident, including additional units called to assist in the event of a major disturbance arising, operate on the same radio channel;

(ix) consider the deployment of the Public Safety Response Team (PSRT) at all crowd management incidents at which confrontation with members of the crowd is likely or a significant law enforcement response is required;

(x) consider suitable procedures for the processing of persons arrested at the event or incident, including making arrangements for sufficient numbers of officers and Service vehicles to be available to ensure that any persons arrested are not detained for extended periods in unsuitable conditions;

(xi) ensure that megaphones or similar equipment are available to allow members of the crowd to be given instructions should it be necessary to evacuate an event venue or for any other purpose;

(xii) ensure that copies of the operation order are provided to the relevant regional duty officers, patrol group inspectors or district duty officers in adjacent regions, where applicable, and the relevant police communications centre (PCC); and

(xiii) where applicable, request the event organiser to nominate a liaison officer with whom the officer in charge of police at the event can liaise. Where appropriate, obtain a copy of the event management plan from the event organiser. An adequate method of communication which caters for the peculiar difficulties created by the nature of the event or incident or by a volatile crowd situation should be agreed upon.

OPM Issue 113 Public Edition

17.3.13 Hazardous materials

For the purposes of this section:

Hazardous material (HAZMAT)

means:

(i) all dangerous goods, combustible liquids and chemicals; or

(ii) any other substance with potential to cause harm to persons, property or the environment because of one or more of the following:

(a) the chemical properties of the substance;

(b) the physical properties of the substance; or

(c) the biological properties of the substance.

Hazardous material (HAZMAT) emergency

means a situation involving hazardous materials or suspected hazardous materials that includes a loss of control, or an imminent risk of loss of control, of the materials or a loss of control of anything that may impact on the materials if the loss of control causes, or the loss of control or imminent risk of loss of control has the potential to cause, material harm to persons, property or the environment.

Fire officer

means a person employed in the Queensland Fire Department (QFD) who has the functions of fire prevention and fire control, and includes a person employed under the *Fire Services Act* (FSA) who is undergoing training as a fire officer.

See Schedule 2: 'Dictionary' of the FSA.

It is the duty of a police officer who is present at hazardous material emergency to give a fire officer who is performing the functions and exercising powers under the FSA reasonably necessary help. See s. 793: 'Helping at fire or hazardous materials emergency' of the *Police Powers and Responsibilities Act*.

Officers attending a HAZMAT emergency should:

(i) ensure that QFD has been advised;

(ii) locate and ascertain the extent of the emergency;

(iii) approach the scene from an upwind direction;

(iv) identify the HAZMAT material from:

(a) the information panel on the vehicle, or

(b) goods manifest or building placard;

(v) where appropriate, interview the driver or building owner and obtain information regarding the emergency;

(vi) where appropriate, consider evacuation (see s. 17.4: 'Evacuation' of this chapter);

(vii) determine from QFD the level of danger from gases, liquids, chemicals, explosives or fire;

(viii) prohibit smoking, drinking or eating at the scene;

(ix) where appropriate, advise the media to notify the public to avoid the area;

(x) where applicable advise and seek assistance from:

(a) other emergency services (e.g. Queensland Ambulance Service or the State Emergency Service);

(b) the local government authority;

(c) the port or river authority;

(d) the local electricity authority;

(e) local hospitals;

(f) the local gas company or authority;

(g) the water authority;

(h) Department of Transport and Main Roads Transport Machinery Inspectors advising them of incidents involving buses or vehicles with a gross vehicle mass of more than 4.5 tonnes which result in fatalities or serious injury, or which may have been caused by a mechanical defect;

(i) Inspector of Explosives;

(j) Queensland Rail;

(k) QFD Scientific Branch;

(l) the supplier of the HAZMAT material involved in the incident; and

(xi) where the HAZMAT emergency occurs as the result of a traffic incident, comply with the provisions of s. 5.4: 'Duties at traffic crashes involving hazardous materials' of the Traffic Manual.

Officers should refer to Appendix 17.4: 'Hazchem Aid Interpretation' of this chapter for procedures concerning identification and interpretation of information contained on emergency information panels.

17.3.14 Radioactive substances

The government agency responsible for the control of radioactive substances is the Radiation Health Unit, Queensland Health. Personnel attached to this section can provide expert advice to officers at any time.

At present, a variety of radioactive substances are used in medicine, industry and science. These substances are packaged and transported in special containers. Radioactive material can be liquid, gaseous or in solid form and is generally contained in special shielded (e.g. lead) pots. The containers are generally cylindrical in shape but they may also be rectangular. They can range in diameter from a few centimetres to metres and in weight, from a few hundred grams to many kilograms, or in some cases to tonnes.

The smaller shielded (usually lead) pots are the most common. They are generally sealed, with shock and moisture absorbent material, in metal cans (which resemble unlabelled cans of food). These containers carry warning signs and are usually packed in strong cardboard containers which are sealed and carry transport warning signs and general delivery information.

Exposure to radiation

Radioactive contamination can result from handling a damaged transport container.

OPM Issue 113 Public Edition

POLICY

All information from the label on a container should be carefully noted and passed onto the Radiation Health Unit, Queensland Health. Where practicable, officers should ensure that the following information is obtained and relayed to the Radiation Health Unit:

(i) type of container (e.g. metal, cardboard carton, etc.);

(ii) shape of container;

(iii) size of container;

(iv) estimated weight of container;

(v) extent of observed damage to container;

(vi) any presence of solid or liquid spillage;

(vii) nature of contents as described on label; and

(viii) type of isotope and its activity as described on the label.

Suspected exposure to radiation

POLICY

Where it is suspected that a person has been exposed to radiation, officers are to ensure that arrangements are made to contact the Radiation Health Unit, Queensland Health through their local Police Communications Centre (PCC).

17.3.15 Liquid Petroleum Gas

Liquid Petroleum Gas (LPG) is a highly flammable and explosive substance which must be treated with the utmost caution.

It should be noted that LPG vapour can enter drain systems and if ignited, may threaten life or property many kilometres away.

LPG accidents or leaks are generally caused by gas leaking from:

(i) transmission lines in central business areas, high rise buildings, underground ducts or tunnels;

(ii) bulk storage tanks and road, rail or marine tankers; and

(iii) gas installations in flood situations.

Officers should:

(i) where appropriate, request their local Police Communications Centre (PCC) to notify:

(a) the gas company or authority and identify the extent of the leak or hazard area;

(b) the Queensland Fire Department (QFD);

(c) the Gas Examiner if the incident is related to LPG or reticulated town gas;

(d) the Queensland Ambulance Service (QAS) to be placed on stand-by;

(e) if required, the local electricity authority to isolate the electricity supply; and

(f) Airservices Australia—for the request to restrict the flight of aircraft in air space or the declaration of a danger area for aircraft over the scene of the incident, see s. 17.3.22: ‘Restriction of the fight of aircraft in airspace or the declaration of a danger area for aircraft due to incident’ of this chapter;

(ii) barricade footpaths and roads, if necessary; and

(iii) where necessary, remove manhole covers in the area where gas is escaping from underground pipes or ducts.

17.3.16 Industrial incidents

Officers who attend industrial incidents are to comply with the provisions of s. 8.13.3: ‘Fatal workplace or electrical incidents’ of this Manual in cases involving injury or death.

17.3.17 Mining incidents

Officers attending a mining incident where death has occurred are to comply with s. 8.13.2: ‘Fatal mining incidents’ of this Manual.

Officers investigating mining incidents are to assist the mining registrar or other authorised person in the performance of their duties in accordance with s. 16: ‘Helping public officials exercise powers under other Acts’ of the PPRA.

OPM Issue 113 Public Edition

17.3.18 Chemical, biological or radiological (CBR) incidents

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

17.3.19 Critical incidents involving Education Queensland

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

17.3.20 Significant security operations for visits by dignitaries

One of the responsibilities of the Service is to provide protective security for dignitaries visiting Queensland. Such visits from time to time include their attendance at major events. Security in such instances can range from the assignment of a dignitary protection team through to large scale major operations. The level of protection provided for dignitaries is based on a relevant threat assessment and the circumstances of the visit. The responsibility for the dignitary's security, including threat assessments, regardless of any wider event-based operation remains the responsibility and under the control of the Prepare Prevent Protect Group (PPPG), Security, Counter-Terrorism and Forensic Services Command.

Where the threat assessment in relation to a visit by a dignitary as determined by PPPG is expected or certain, the visit is to be designated as a 'Significant Security Operation' and the Service response is to involve the following:

(i) a planning group, co-ordinated by the Counter-Terrorism Security and Event Coordination Team (CTEC), PPPG is to plan and coordinate the relevant visit;

(ii) the planning group is to be chaired by the Inspector, State Protection and Planning Unit, PPPG and include relevant regions and any other sections or units as appropriate;

(iii) the Protective Security Planning Coordinator, CTEC is responsible for the preparation of a written and formal operation order in relation to the visit to be prepared in compliance with s. 1.5.2: 'Operational planning (action plans, operation orders, briefings and debriefings)' of this Manual;

(iv) the appointment by the planning group of a police commander and police forward commanders as appropriate. See s. 1.12: 'Incident command' of this Manual;

(v) all sections and regions involved in the planning process are to provide personnel and other resources as appropriate;

(vi) the appointment of a senior officer to overview the development, preparation and final checking of the operation order; and

(vii) the planning group is to consider as part of the operation order, contingency planning in the event of an immediate threat to the dignitary arising during the operation.

OICs of relevant regions are to ensure representatives participate in the planning group for significant security operations when requested.

OPM Issue 113 Public Edition

17.3.21 Public health emergencies

This section provides guidance to officers who are requested to assist public officials responsible for protecting the public in the event of a public health emergency or from a controlled notifiable condition such as Avian Influenza (Bird Flu) or Severe Acute Respiratory Syndrome (SARS) that could give rise to a pandemic.

Queensland Health is the lead State Government agency responsible for developing a strategy to guide a whole of government approach in response to the next global outbreak (pandemic) of human influenza and link State activities with those at a Commonwealth and local government level.

Public officials, in responding to a health emergency such as preventing an influenza pandemic and containing its spread, may seek the assistance of the Service in the containment and isolation of the sick to ensure the maintenance of social function.

Officers should be aware of the legislation and procedures that provide a framework for such requests for assistance by public officials. See s. 13.3.2: 'Helping public officials exercise powers under various Acts' of this Manual.

The containment of controlled notifiable conditions that are declared under regulation in Schedule 1: 'Notifiable conditions' of the Public Health Regulation such as the highly pathogenic Avian Influenza and SARS are subject to routine powers specified in the *Public Health Act* (PHA). In the event of pandemic additional powers become available when a public health emergency is declared.

Definitions

For the purpose of this section:

Authorised person

means a person appointed as an authorised person under s. 377: 'Appointment' of the PHA.

Chief Executive

means the Director-General of Queensland Health (see s. 33AB: 'References to chief executives' of the *Acts Interpretation Act*).

Controlled notifiable conditions

are medical conditions defined under the PHA and prescribed under regulation specified in Schedule 1 'Notifiable conditions' of the Public Health Regulation.

Emergency officer

is a person appointed as an emergency officer (general) or an emergency officer (medical) as outlined in Chapter 8: 'Public health emergencies' defined in Part 5: 'Appointment of emergency officers' of the PHA.

Public health emergency

means an event or series of events that has contributed to, or may contribute to, serious adverse effects on the health of persons in Queensland and declared as a public health emergency by the Minister for Health. (see s. 315: 'Definitions for ch 8' of the PHA).

Public health emergency area

means the area to which a public health emergency relates (see s. 315: 'Definitions for ch 8' of the PHA).

Public sector health service

means a health service provided by a Hospital and Health Service or Queensland Health and includes a health service declared under regulation to be a public sector health service (see Schedule 2 of the *Hospital and Health Boards Act*).

Public official

is a person defined under Schedule 6: 'Dictionary' of the *Police Powers and Responsibilities Act* (PPRA).

Powers of public officials concerning controlled notifiable conditions

The guiding principle of the PHA in relation to controlled notifiable conditions is to prevent the spread of such conditions.

Powers of an authorised person concerning a controlled notifiable condition are outlined in Chapter 3: 'Notifiable conditions' of the PHA.

Under s. 113: 'Chief executive may order detention' of the PHA the Chief Executive may order the detention of a person who has or may have a controlled notifiable condition at a public sector health service.

Under s. 116: 'Applying for controlled notifiable conditions order' of the PHA the Chief Executive or delegated officer, may apply to a magistrate the defined controlled notifiable conditions orders.

Such orders may authorise any authorised person to exercise powers under such order. An authorised person may enforce the order with help, and using the force, that is reasonable in the circumstances.

Under s. 136: 'Application for warrant of apprehension' of the PHA an authorised person may apply to a magistrate for a warrant of apprehension of a person who absconds whilst subject to an initial examination order or a detention order. An authorised person may exercise powers under the warrant with the help, and using the force that is reasonable in the circumstances.

Powers of emergency officer concerning public health emergencies

These powers relate to enforcement orders and warrants that give power to enter places, enter health care facilities, stopping motor vehicles, seizure of evidence and the removal or reduction of a public health risk and are prescribed in Chapter 8: 'Public health emergencies' of the PHA.

Extra powers of an emergency officer (medical) concerning public health emergencies

These powers relate to orders to detain person(s) within or outside a public health emergency area (see Chapter 8, Part 6, Division 1: 'Power to enter places' of the PHA).

Powers of police officers

Officers are not prescribed as 'emergency officers' and are not authorised to exercise powers prescribed under Chapter 8, Part 6: 'Powers of emergency officers' and Part 7: 'Extra powers of emergency officers (medical)' of the PHA.

Officers do not possess any specific powers to detain a person who may be infected with a controlled notifiable condition for the purpose of protecting that person or another person from danger or potential danger resulting from that controlled notifiable condition infection.

The definition of a 'public official' under Schedule 6 of the PPRA encompasses an 'emergency officer' and an 'authorised person' under the PHA. A police officer may be appointed as a public official. See s. 13.3.1: 'Appointments as a public official' of this Manual.

OPM Issue 113 Public Edition

Section 16: 'Helping public officials exercise powers under other Acts' of the PPRA may, however, be effectively used at a public health emergency or controlled notifiable condition incident to ensure the safety of such persons through a collaborative approach between police officers and the public officials involved in a public health emergency or controlled notifiable condition incident, also see s. 13.3.2: 'Helping public officials exercise powers under other Acts' of this Manual.

Officers have, while helping a public official, the same powers and protection under the authorising law as the public official (see s. 16: 'Helping public officials exercise powers under other Acts' of the PPRA).

Relationship to other Acts

Under s. 316: 'Relationship to other Acts' of the PHA nothing prevents a person from declaring a disaster situation (see s. 64: 'Declaration' of the *Disaster Management Act*) or an emergency under another Act. However, the existence of another declaration does not prevent the declaration of a public health emergency under the PHA.

OIC who receive a request to assist an authorised person exercising powers under:

(i) the PHA should ensure that officers are tasked to assist in the execution of an order or warrant as a matter of priority;

(ii) an order or warrant should ensure that, wherever possible, arrangements are made for Queensland Ambulance Service personnel and appropriate ambulance transport vehicles to attend with police at any location from which a suspected or confirmed Avian Influenza patient is to be transported to a public hospital or temporary isolation place.

In circumstances where officers are appointed an authorised person under the PHA with the written approval of the Commissioner should be conversant with the provisions of Chapter 3: 'Notifiable conditions' of the PHA and such officers upon receiving an order or warrant are to:

(i) if the order or warrant is executed, endorse the order or warrant as having been executed and forward a copy of the executed order or warrant to the issuing authority;

(ii) if the order or warrant is not completed and inquiries indicate that the person named in the order or warrant is unable to be located but may be located in another division, advise the regional duty officer; or

(iii) if the order or warrant cannot otherwise be executed, forward the order or warrant to the issuing authority.

In the event of a public health emergency, officers in charge of regions and commands are to:

(i) consult with their local Queensland Health Public Health Unit to determine:

(a) the risk to members within their region or command;

(b) appropriate protective and decontamination measures to address those risks; and

(ii) ensure appropriate personal protective equipment is acquired or purchased and deployed as considered necessary.

Workplace Health and Safety issues

Health and safety considerations should be addressed when responding to a public health emergency or incidents involving persons with a controlled notifiable condition. Safety and Wellbeing has developed fact sheets to provide information and precautions in relation to specific conditions.

Where there is no specific information on a controlled notifiable condition members are to use the 'Standard Precautions' as defined in 'First Aid Procedure' within the Safety and Wellbeing Policies SharePoint page.

In the event of a pandemic or health emergency occurring and local supplies of personal protective equipment are exhausted or insufficient, officers in charge of regions and commands should refer requests for further supplies to the Assistant Commissioner, Emergency Response and Coordination Command for referral to the Inspector, Principal Policy Officer, Disaster and Emergency Management to facilitate replenishment of personal protective equipment.

17.3.22 Restriction of the flight of aircraft in air space or the declaration of a danger area due to incident

Where a major incident or emergency situation has occurred, it may be considered appropriate that the air space over the scene of the incident or situation should be restricted to aircraft (the declaration of a restricted area) or the area declared a danger to aircraft. Airservices Australia considers any such requests. In accordance with Part 2 s. 6: 'Declaration of prohibited, restricted or danger areas' of the Airspace Regulations (Cwlth), airspace may be declared restricted or a danger area.

For a restricted area to be declared it must be necessary:

(i) in the interests of public safety; or

(ii) for protection of the environment;

to restrict the flight of aircraft over an area to aircraft flown in accordance with specified conditions.

OPM Issue 113 Public Edition

For the declaration of a danger area, there has to exist within or over the area an activity that is a potential danger to aircraft flying over the area.

POLICY

A request to restrict the flight of aircraft in air space (the declaration of a restricted area) or the declaration of a danger area may only proceed through the Duty Officer, Police Communications Centre, Brisbane (PCC).

Officers requesting a declaration of a restricted area or a declaration of a danger area for aircraft in relation to a specific area of air space are to provide to the Duty Officer, PCC, the following information:

(i) the radius in kilometres, from a single point defined by latitude and longitude. This information can be obtained from searching the relevant address in QPRIME;

(ii) the name of any relevant geographical reference, e.g. closest river, mountain, or town to the single reference point;

(iii) the nature of the incident for which the request is being made;

(iv) the reasons it is necessary to restrict the flight of aircraft in airspace specifically relating to:

(a) public safety;

(b) environmental protection; or

(c) potential danger to aircraft;

(v) the time the declaration of a restricted area or a danger area may be required; and

(vi) the contact phone number for the police forward commander.

The Duty Officer, PCC is to make the request for the declaration of a restricted area or a danger area in air space to Airservices Australia. Airservices Australia must make any such declaration in writing.

The Duty Officer, PCC is to advise the relevant police forward commander of the outcome of any request.

17.3.23 Public Service employees deployed for a critical incident

Definitions

For the purpose of this section:

Critical incident

includes any event requiring swift, decisive action by the State in response to and recovery from such event, and occurring outside of the normal course of routine business activities. A critical incident may be naturally occurring or caused by human acts or omissions.

Critical incident conditions

are those conditions which cause serious disruption to basic services in a community and place abnormal strain on resources and expertise to mitigate the adverse effects of the event.

Critical incident deployment

When a public service employee is required to perform work essential to the resolution of a critical incident, the entitlements and conditions that are outlined in Directive 24/10: 'Critical Incident Entitlements and Conditions' may apply.

As defined in s. 13: 'Who is a public service employee' of the *Public Sector Act* (PSA), a 'public service employee' is a person employed under this Act as a:

(i) general employee;

(ii) fixed term temporary employee;

(iii) a casual employee;

(iv) an officer;

(v) senior officer;

(vi) senior executive; or

(vii) chief executive.

However, s. 2.5A: 'Officers etc. employed under this Act' of the PSAA provides that the following persons are employed under the PSAA and not under the PSA:

(i) an officer, police recruit or special constable; or

(ii) a staff member mentioned in s. 8.3(5): 'Unfitness for duty on medical grounds'.

OPM Issue 113 Public Edition

Associated conditions and entitlements for public service employees who are required to perform work essential to the resolution of a critical incident are detailed in Directive 06/16: 'Critical Incident Entitlements and Conditions'.

The OIC of the employee is to maintain a record of the work performed and apply the relevant provisions of Directive 06/16: 'Critical Incident Entitlements and Conditions' as required.

17.3.24 Active armed offender/s

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

17.3.25 Extraordinary emergency situations

Part 2, Division 4: 'Extraordinary emergency powers' of the *Public Safety Preservation Act* (PSPA) provides for authorising the exercise of extraordinary emergency powers. Where an emergency situation has been declared (see s. 17.3.1: 'Emergency situations' of this Manual) and a terrorist emergency has not been declared, the emergency commander may authorise the exercise of stated extraordinary emergency powers when the emergency commander is satisfied on reasonable grounds that:

(i) the emergency situation involves or may involve an explosive or a person's life or safety may be being endangered by an act of another person (e.g. the person is being held hostage by the other person or the other person has a weapon and is close to or has access to the person); and

(ii) the exercise of one or more particular extraordinary emergency powers is necessary to effectively deal the emergency situation because of the scale or complexity of the situation (e.g. complex emergency situations include where a number or people have been wounded in a crowded public place and it is unknown who used the weapon or an explosion inside a public building with reports that further explosives have been placed at the main exits of the building).

POLICY

If at any time during a declared emergency situation, the emergency commander is satisfied on reasonable grounds that it is appropriate and necessary to authorise the exercise of extraordinary emergency powers under s. 8AS: 'Power to authorise exercise of extraordinary emergency powers' of the PSPA the emergency commander may authorise the exercise of stated emergency powers in a stated area (the '**authorisation area'**) within the area specified for the emergency situation. The authorisation area must be the smallest area reasonably necessary to effectively deal with the emergency situation and may include any description of area surrounding a moving activity (e.g. an area within a stated distance of a moving vehicle or vessel; or of a stated person who is moving in any way).

The following extraordinary emergency powers are permitted to be authorised by the emergency commander and apply to persons who are in the authorisation area:

(i) power to control movement of persons (see s. 8AZA of the PSPA)–includes the power to direct a person:

(a) not to enter a stated place in the authorisation area; or

(b) to go or stay at or in a stated place in the authorisation area;

(ii) power to search a person without warrant (see s. 8AZB of the PSPA)–includes:

(a) the power to stop, detain and search persons and anything in their possession (e.g. laptop, mobile phone); and

(b) permits an officer to seize all or part of a thing if the officer reasonably suspects the thing may provide evidence of the commission of an offence or the person may use the thing to cause harm to the person or another person; and

(iii) power to require name, address and date of birth (see s. 8AZC of the PSPA)–includes the power to require a person to state their:

(a) correct name;

(b) address;

(c) date of birth; and

(d) evidence of the correctness of that information in certain circumstances;

(iv) Power to collect biometric information (see s. 8AZD of the PSPA)–includes the power to take and keep:

(a) photographs of persons; and

(b) a person's fingerprints electronically in certain circumstances to prove identification;

(v) power to require access information (see s. 8AZEof the PSPA)–includes the power to:

(a) require a person to give an officer access information and any other information that is necessary to access; or

OPM Issue 113 Public Edition

(b) read information that is stored electronically on a storage device, including for example a laptop or smartphone;

(vi) power to search or seize a storage device (see s. 8AZFof the PSPA)–includes the power to:

(a) access and examine information stored on the device; and

(b) copy or send the information to another person or device in certain circumstances.

ORDER

As soon as reasonably practicable after giving an extraordinary emergency authorisation for an emergency situation the emergency commander must

(i) ensure that a State police officer of at least the rank of assistant commissioner is informed the authorisation has been given, and

(ii) note the following matters on the emergency situation certificate for the emergency situation

(a) that the authorisation has been given;

(b) the date and time the authorisation was given;

(c) the authorisation area

(d) the extraordinary emergency powers that may be exercised

(e) the circumstances relevant to giving the authorisation.

17.3.26 Terrorist emergency

An incident/emergency situation attended by first response officers may initially not be recognised as a terrorist incident. Officers responding to an incident in the early stages rely upon police powers outlined in the PPRA. As the threat escalates, if an 'emergency situation' is declared, a range of emergency powers and extraordinary emergency powers are available in the *Public Safety Preservation Act* (PSPA) that enable officers to resolve the situation. In most incidents involving terrorism, the provisions of Part 2: 'Emergency situation' of the PSPA may be sufficient to resolve the situation. When additional powers contained in Part 2A: 'Terrorist emergency' of the PSPA are required, the declaration of a terrorist emergency should be considered.

The emergency commander or any officer acting on his or her instructions responding to an emergency situation must comply with the *Police Service Administration Act*, PPRA, PSPA, this Manual and the following Handbooks and Guidelines.

The Protocol on Queensland Police Service Terrorism Response describes the roles and responsibilities of the QPS for terrorism investigations and its response to terrorism threats in Queensland. The document also describes the transition process from Queensland based Joint Counter-Terrorism Team (JCTT) or Multi-Jurisdictional Counter-Terrorism (MJ JCTT) led investigations to a PA operation/incident/emergency/terrorist emergency response. The Protocol provides the framework for the transition of roles and responsibilities by key QPS personnel and commands from a police incident/emergency situation to a terrorist emergency.

The Counter-Terrorism Powers Guidelines contains guidelines about police powers available under a range of Commonwealth and Queensland legislation during a terrorist emergency.

The Terrorism Response Handbook is designed to assist key QPS personnel and their support staff involved in coordinating, managing and/or contributing to the QPS response to a terrorism related threat or incident.

The Terrorist Emergency Handbook: A Guide to Application of the *Public Safety Preservation Act 1986* in a Terrorist Emergency outlines QPS policies and procedures to be followed for the declaration of a terrorist emergency and declared evacuation areas and exercise of terrorist emergency police powers under the PSPA.

All QPS Handbooks and Guidelines work in conjunction with Commonwealth and State Strategies, Plans and Handbooks and are all available on the SAU SharePoint site.

17.4 Evacuation

Evacuation is one option in the management of a disaster or incident and is aimed at limiting the possibility of death or injury by removing people from high risk areas.

Evacuation types include:

(i) immediate evacuation or self-evacuation—where persons at immediate risk voluntarily remove themselves from a danger. Usually a small-scale disaster or incident (e.g. building fire) with the assistance of building management, in response to a fire alarm or in accordance with a building plan. Logistical and planning problems are secondary to the need to move people to immediate safety;

OPM Issue 113 Public Edition

(ii) limited evacuation—is the removal of a small group of people as the result of a disaster or incident or the removal of a group of people (can be large or small) from a specific area (e.g. a floor of a building). This type of evacuation could be voluntary or directed depending on the circumstances;

(iii) mass evacuation or large-scale evacuation—is the removal of all persons from a designated area, usually a large area (e.g. a suburb or the central business district) and involving a large group of people. Decisions on making mass evacuations are usually made by emergency services personnel utilising a legislative power. Planning in this type of evacuation is essential to its success; and

(iv) directed evacuation—where persons are given a direction to move or forcibly moved from an area under a legislative power held by the person giving the direction or using the force.

17.4.1 Shelter in place

There may be no need to evacuate, as it may be safer to have the public stay indoors. Having the public stay indoors during the management of a disaster or incident is known as shelter in place.

Shelter in place means that persons who are not at immediate risk but are affected by or in the proximity of a disaster or incident, are to move to a secure area at the location they are in and remain there until provided with instruction from an appropriate person.

Shelter in place is for situations:

(i) when there is a high but not immediate risk to the population;

(ii) when there is insufficient time to evacuate;

(iii) when there are insufficient resources to evacuate;

(iv) when the location of the persons is in the affected or hazard area;

(v) where evacuation may increase or create other risks or have significant impacts; and/or

(vi) of a short duration.

Officers are to consider the use of shelter in place, prior to making the decision to evacuate.

17.4.2 Decision to evacuate

Where management of an evacuation is the responsibility of the Service, before making the decision to undertake a directed evacuation, officers are to carefully consider:

(i) all the factors and risks including the relevant legislation that authorises an evacuation;

(ii) whether the evacuation is necessary for the preservation of human life or safety;

(iii) the option to use shelter in place;

(iv) the option to advise persons to self-evacuate; and

(v) the availability of resources and personnel to carry out an evacuation safely.

Before evacuating any person from a place:

(i) for all evacuations, officers are to ensure:

(a) the occupants of any dwellings or premises are requested to follow instructions to evacuate the area, e.g. in accordance with an on-site emergency response plan; and

(b) a declaration of a disaster situation under the *Disaster Management Act* (DMA) has been made or an emergency situation has been declared under the *Public Safety Preservation Act* (PSPA). The legislative authority for evacuations is contained in:

- ss. 76: 'General provisions about powers' to 78: 'Power to give direction about property' of the DMA; and
- s. 8(1)(d): 'General powers' of the PSPA, this subsection only relates to a directed evacuation; and

(ii) for all directed or mass/large scale evacuations and only where necessary for immediate or self-evacuations, officers are to ensure:

(a) a public inquiry centre is established to deal with inquiries as to the whereabouts of registered evacuees, possible missing persons and casualties. Contact is to be made with:

- during business hours, the Superintendent Policelink; or
- after business hours, the on-call Policelink commissioned officer,

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to determine whether the evacuation and registration of evacuees is to be dealt with in terms of a local inquiry centre or a National Registration and Inquiry System (NRIS) is to be activated and a State inquiry centre is to be established. A public inquiry centre is either:

- a local inquiry centre, such as based at a local police station, for minor incidents, incidents affecting a localised area only, for small numbers of evacuees, persons injured etc.; or
- a State inquiry centre, established at Policelink, for:
  - major incidents;
  - all terrorist related incidents;
  - any situation involving international evacuations to Australia;
  - large numbers of persons evacuated;
  - many casualties etc.,

Red Cross volunteers can be used to assist at a State inquiry centre;

(b) an assembly area for evacuees is established to concentrate evacuees before movement to an evacuation centre;

(c) an evacuation centre is established; and

(d) a registration centre and registration process are established for recording the personal particulars of evacuees at the evacuation centre;

17.4.3 Conducting an evacuation

In relation to a directed evacuation, officers may use reasonable force when removing persons to a place of safety during an evacuation under the provisions of the *Disaster Management Act* or *Public Safety Preservation Act*. See also s. 615: 'Power to use force against individuals—police officers' and Chapter 19, Part 6: 'Miscellaneous powers' of the PPRA.

The OIC of an evacuation operation is to, where appropriate:

(i) disseminate warnings of the potential threat and the need to evacuate;

(ii) identify:

(a) how many persons are to be evacuated, by what means and where they are to be taken; and

(b) persons who are vulnerable, disabled or have cultural needs and make any necessary arrangements;

(iii) undertake a risk assessment in relation to any threat to the public or officers during the evacuation. Where appropriate, advice may be obtained from the:

(a) Queensland Fire Department, Scientific Branch; or

(b) protective services officer in the case of a state building; or

(c) local council (for local flood and tide inundation advice); or

(d) Bureau of Meteorology; and

(iv) prepare and implement an evacuation plan. The preparation of an evacuation plan is to complement any existing disaster management plans concerning an evacuation.

17.4.4 Evacuation plan

There may be circumstances where officers have limited time or resources in which to coordinate an evacuation. In those circumstances, officers are to develop an evacuation plan appropriate to the limitations of the situation. The type of evacuation will also influence planning, and not all components of an evacuation plan are needed in all circumstances. In the self-evacuation of a building as a result of a fire alarm for example, the need to organise transport for evacuees is redundant if the evacuation occurs at usual finish time and people proceed home as they normally would.

An evacuation plan may contain the following components:

(i) warning phase;

(ii) evacuation/withdrawal phase;

(iii) shelter phase; and

(iv) return phase.

Warning phase

During the warning phase the OIC of an evacuation is to ensure:

OPM Issue 113 Public Edition

(i) frequent public messages are broadcasted or delivered to or in the area;

(ii) the public is advised of any necessary protective or safety measures;

(iii) specific and clear instructions are provided, such as:

(a) remain indoors or move to an assembly area for evacuation;

(b) evacuation routes and the locations of the assembly areas;

(c) relevant timings for an evacuation;

(d) the method of evacuation (i.e. use their own transport or whether it will be supplied);

(f) identification of areas/people at risk; or

(g) what personal property can and cannot be taken including food, clothing, pets; and

(iv) allowances and advanced warnings are made for persons with additional needs, such as:

(a) health related: hospitals, nursing homes, mental health centres, retirement villages;

(b) educational: day care centres, preschools, primary, secondary or special schools, tertiary institutions;

(c) groups with persons from non-English speaking backgrounds, mentally impaired persons, intellectual or physically disabled persons and elderly; and

(d) other groups: persons from prisons, commercial, industrial premises or entertainment premises;

(v) resources such as SES officers, Red Cross workers etc. are organised to assist with the evacuation and registration of evacuees where required;

(vi) affected areas are cordoned off and the public prevented from entering/returning;

(vii) traffic control is planned on evacuation routes;

(viii) public order is maintained;

(ix) in conjunction with other agencies, organise and co-ordinate transport for evacuees;

(x) in conjunction with other agencies, nominate/set up assembly areas; and

(xi) in conjunction with other agencies, nominate/set up evacuation centres.

Evacuation/withdrawal phase

During the evacuation/withdrawal phase the OIC of the evacuation is to:

(i) determine evacuation priorities based on the urgency of the situation, those persons in greatest risk and availability of resources;

(ii) move evacuees to the assembly area before movement to an evacuation centre;

(iii) move all persons to the evacuation centre;

(iv) where possible, arrange security for the evacuated area to prevent persons returning prior to ensuring the evacuated area is safe and to protect property that has been abandoned during the evacuation;

(v) ensure traffic control is conducted on evacuation routes;

(vi) ensure public order is maintained; and

(vii) ensure affected areas are cordoned off and the public prevented from entering/returning.

Shelter phase:

Evacuation centres may be established adjacent to an assembly area and are designed to address the immediate needs of the evacuees (including information as to the status of the emergency, temporary accommodation, medical treatment, distribution of food, clothing or bedding). An evacuation centre is to be a recognisable site in a community and depending on the duration of the evacuation phase, may be a staging area for the movement of evacuees into short or long-term accommodation or to return them to their residences.

During the shelter phase the OIC of the evacuation is to:

(i) ensure the personal particulars of evacuees at the evacuation centre are recorded on a QP 0526: 'Evacuation Registration Form';

(ii) where a local inquiry centre is established:

(a) relevant information is to be recorded in the 'Evacuation Index' in QPRIME; and

(b) assist and coordinate the dissemination of information to the wider community about evacuees that are registered through the local public inquiry centre that has been established;

OPM Issue 113 Public Edition

(iii) where a State inquiry centre is established:

(a) encourage evacuees not attending an evacuation centre to self-register on the 'Register. Find. Reunite' website managed by the Australian Red Cross;

(b) send the completed QP 0526: 'Register, Find, Reunite Registration Form' to Policelink who will enter the details onto the 'Register. Find. Reunite' website; and

(c) assist and coordinate the dissemination of information to the wider community about evacuees that are registered through the State inquiry centre that has been established with Policelink; and

(iv) in conjunction with other agencies, assess the needs of evacuees in the shelter phase and where practicable, make adequate arrangements to meet those needs.

Return phase

During the return phase the OIC of the evacuation, in conjunction with relevant agencies, before allowing any person to return to an evacuated area, is to:

(i) assess the absence of a risk and the possibility of its return;

(ii) assess the safety of building structures and transport facilities;

(iii) assess efficiency of utilities (i.e. availability of water, electricity, sewerage, gas communications, etc.);

(iv) assess the hygiene of the evacuated area and the possibility of a risk to public health;

(v) assess the clean-up of the evacuation area including the removal of debris, fallen power lines, discharge of water, sewerage etc.; and

(vi) develop a system for the safe and effective return of evacuees to the evacuated area.

17.5 Search and Rescue

Definitions

For the purposes of this section:

DO

means district officer.

FSC

means field search coordinator.

Pause

means the temporary ceasing of active search activities, with the intention of resuming in the near future (see National Search and Rescue Manual).

PGI

means patrol group inspector.

SAR

means search and rescue.

SARO

means search and rescue officer.

17.5.1 Service responsibilities

The National Search and Rescue Manual broadly defines Search and Rescue (SAR) as the employment of available personnel and facilities to render aid to persons in distress.

The Service is the SAR authority in Queensland and is responsible for the overall coordination of SAR operations in relation to:

(i) persons on or from a vessel at sea;

(ii) persons and vehicles on land;

(iii) all non-military persons and vessels on inland waterways and in waters within the limits of a Queensland port;

(iv) unregistered aircraft; and

(v) persons on oil and gas facilities;

OPM Issue 113 Public Edition

The Service also provides and coordinates land SAR units in support of other authorities conducting SAR operations in relation to:

(i) land searches for missing registered civil aircraft;

(ii) international civil aircraft, aircraft on the Civil Aviation Safety Authority (CASA) and Recreational Aviation Australia (RA-Aus) registers;

(iii) manned space vehicles; and

(iv) unidentified distress beacon alerts.

These SAR functions and responsibilities are outlined in Appendix B of the National Search and Rescue Manual which reflects the Inter-Governmental Agreement (IGA) on National Search and Rescue Response Arrangements. The IGA on SAR response arrangements is Appendix A of the National Search and Rescue Manual.

The Service is responsible for the control and coordination of volunteer rescue organisations in all SAR operations. Volunteer rescue organisations requested to assist in a SAR operation should be made aware that their activities will be controlled and coordinated by the Service.

The Joint Rescue Coordination Centre (JRCC), Canberra forms part of the national SAR system and has dedicated resources to plot and locate distress beacon activations on land and sea.

17.5.2 State Search and Rescue Coordinator

The State SAR Coordinator is responsible for the coordination of all SAR trained personnel within the Service.

The State SAR Coordinator is responsible for:

(i) ensuring that the Service has an effective and efficient response to SAR operations;

(ii) ensuring that SAR coordination is carried out in a professional manner by trained personnel;

(iii) the implementation of the SAR system;

(iv) liaising with and providing advice to senior SARO, SARO and FSCs during SAR operations;

(v) providing advice on the Service's role and responsibility under the National Search and Rescue Plan to members of the Service;

(vi) liaison with other government departments (both Commonwealth and state) and organisations in relation to SAR. This includes negotiating the use of access to resources. As well as liaison with overseas police services and government representatives in complex SAR operations;

(vii) inquire into SAR operations that involve multiple regions and/or whereby circumstances dictate the need for centralised investigation (e.g. South Australian registered vessel 'SS Yongala' lost en route from Melbourne to Cairns via the Coral Sea);

(viii) representing the Service at national forums, the State SAR committee and chair the internal QPS SAR committee;

(ix) assessing the capabilities of volunteers, senior SARO, SARO and FSCs in SAR exercises;

(x) assisting the State Marine Training Unit (SMTU) to deliver the State Police SAR Coordinators Course and FSC Course;

(xi) lecturing on the National Police SAR Coordinators course;

(xii) providing lecture support to various Service courses and external organisations (e.g. other SAR authorities);

(xiii) reviewing SAR operations at the direction of the Executive, and

(xiv) the completion of a 'Determination to suspend a SAR when person/s not located' prior to the search ending when a target has not been found.

The State SAR Coordinator is located at Specialist Services Group, ERCC and holds a current list of all trained senior SARO's, SARO's and FSCs.

The State SAR Coordinator is to be notified:

(i) where the responsibility for coordinating a SAR operation is being passed to the Service from an external organisation such as Joint Rescue Coordination Centre (JRCC) Australia, another state or territory police service or the Australian Defence Force;

(ii) in the event that there is a request from this Service for another SAR authority to assume responsibility for the coordination of a SAR operation, such as JRCC Australia, another state or territory police service or the Australian Defence Force;

(iii) where a SAR operation being coordinated by a senior SARO, SARO or FSC exceeds 24 hours;

OPM Issue 113 Public Edition

(iv) where JRCC Australia is coordinating a SAR operation and they make a request to the Service to supply resources or volunteer resources into the operation;

(v) when a SAR operation is being coordinated by, or involves Service or Queensland Government resources, on or close to the border with Papua New Guinea;

(vi) where a request for assistance from a foreign country is received which requires a SAR operation or the gathering of evidence;

(vii) when a SAR operation attracts or is likely to attract considerable media attention;

(viii) where there is a loss or substantial damage to a rescue resource during a SAR operation being coordinated by the Service;

(ix) where there is injury or death to any person involved during a SAR operation being coordinated by the Service;

(x) prior to suspending or terminating a search operation in which the target person or object is still outstanding;

(xi) where the target person for any search operation being coordinated by the Service is from a foreign country; and

(xii) where Defence Force Assistance to the Civil Community (DACC) is being considered in relation to a SAR operation (see also s. 11.14.3: 'Defence Assistance to the Civil Community' of this Manual).

17.5.3 Senior Search and Rescue Operators, Search and Rescue Operators and Field Search Coordinators

Only officers appointed as senior SARO, SARO and FSC are to coordinate search and/or rescue operations on behalf of the Service and activate volunteer rescue organisations in consultation with the relevant DO, PGI or RDO.

For the purposes of this section, a SAR Coordinator means an officer appointed as a senior SARO, SARO or FSC.

All SAR coordinators will be appointed by the Superintendent, Specialist Services Group, on the recommendation of the State SAR Coordinator. Appointment as a SAR Coordinator authorises the member to perform SAR coordination functions throughout Queensland.

The State SAR coordinator performs a statewide capability, advisory and oversight role on behalf of the Service. This includes responsibility for maintaining SAR capability, providing specialist advice, and supporting the effective coordination of SAR operations across Queensland. However, the State SAR Coordinator does not ordinarily exercise line control over senior SAROs in the conduct of individual SAR operations.

Within a SAR area, the appointed senior SARO is the principal SAR Coordinator for that area and acts on behalf of the relevant assistant commissioner and DO in the coordination of SAR operations. In performing that function, the senior SARO has functional responsibility for SAR coordination within the SAR area, including the provision of direction and support to SAROs and FSCs in relation to SAR matters.

Appointment and classification of SAR Coordinators

Due to the complexity of SAR operations and the potential legal consequences arising from their coordination, responsibility to act as senior SARO is only to be assigned to one officer within each SAR area. A senior SARO is an officer who has successfully completed:

(i) the National Police SAR Managers Course (Advanced Diploma Level); or

(ii) the State SAR Course (Diploma Level),

as determined by the State SAR Coordinator.

Each regional assistant commissioner is responsible for appointing one suitably qualified member as senior SARO for each SAR area. The State SAR Coordinator will provide advice on this appointment if required. A member appointed as senior SARO is to perform that role only for the SAR area to which they have been appointed and is to relinquish the appointment upon leaving that SAR area.

During periods of absence of the senior SARO, including recreation leave, a SARO may be temporarily appointed to perform the role of senior SARO by the Inspector Water Police, ERCC on the recommendation of the State SAR Coordinator.

A SARO is an officer who has successfully completed the Diploma Level 'Police SAR Coordinators Course' and is qualified to coordinate both marine and land-based SAR operations.

An FSC is an officer who has successfully completed the 'FSC Course' and is authorised to coordinate land-based SAR operations only.

For SAR-related matters, SAROs and FSCs are subordinate in command to the senior SARO.

Operational continuity

Where the local senior SARO, SARO or FSC cannot be contacted, officers are to contact, without delay, the nearest geographically located senior SARO, SARO or FSC, regardless of whether that officer is located in another region. In such circumstances, a senior SARO, SARO or FSC from the other region is to coordinate the operation until control is relinquished to a senior SARO, SARO or FSC from the originating region.

Responsibilities of senior SAROs

Senior SAROs are to:

(i) establish and maintain an effective and efficient SAR system within their area of responsibility;

(ii) ensure that 2 SAR trained members coordinate each SAR incident. It is expected that:

(a) the primary SAR member will coordinate the incident and will generally be the most experienced of the 2 members;

(b) the secondary SAR member will provide support across all aspects of the operation; and

(c) both primary and the secondary SAR members will attend the coordination centre to perform their role, unless this is not practicable, such as in remote locations, in which case the support role may be performed remotely if circumstances require;

(iii) develop SAR district instructions for their area of responsibility;

(iv) establish and maintain effective working relationships with SAR stakeholders, including volunteer and professional organisations;

(v) provide advice and support to SARO's and FSCs during SAR operations and related matters;

(vi) provide advice to district, patrol group and regional management on SAR related matters;

(vii) coordinate the SAR training to officers and volunteers, including annual refresher training for SAR coordinators and monitor completion of their training currency;

(vii) coordinate the SAR training to officers and volunteers, including annual refresher training for SAR coordinators and monitor completion of their training currency;

(viii) convene a regional SAR consultative committee meeting within their area of responsibility at least once per year and report outcomes to the OIC of the region;

(ix) assist the OIC of the region in the development and facilitation of multi-agency SAR exercises; and

(x) notify the State SAR Coordinator when required (see s. 17.5.2: 'State Search and Rescue Coordinator' of this chapter).

It should be noted that the senior SAROs should remain available to support search mission coordinators during SAR operations and should not ordinarily undertake conflicting or dual roles, such as DDO, Disaster Coordinator etc.

Responsibilities of SAROs and FSCs

SAROs and FSCs are to:

(i) assist the senior SARO during SAR operations, training and related matters; and

(ii) immediately advise the senior SARO of all SAR operations and related matters.

17.5.4 Search and rescue operation

All members, including Marine Rescue Queensland (MRQ) and State Emergency Services (SES) volunteer members, receiving information relating to a potential SAR operation are to:

(i) complete the relevant initial advice forms and forward to the SARO, senior SARO or FSC. The initial advice forms include:

(a) QP 0355: 'SAR—Boating Accident Report';

(b) QP 0356: 'SAR—Flare Sighting Report';

(c) QP 0357: 'SAR—Distress Message Report';

(d) QP 0358: 'SAR—Overdue Vessel Report';

(e) QP 0360: 'SAR—Medical Factors in SAR';

(f) QP 0365: 'SAR—Land SAR—Incident Advice Form'; and

(g) QP 0429: 'SAR—Distress Beacon Report'.

(ii) advise the relevant PCC for the area by either:

OPM Issue 113 Public Edition

(a) triple zero;

(b) Policelink 131 444; or

(c) directly to PCC.

The duty officer or OIC of the relevant PCC is to:

(i) advise the DO, PGI or RDO. This officer will assume overall control of the SAR operation;

(ii) contact the relevant senior SARO, SARO or FSC; and

(iii) ensure that a log of events is commenced.

Depending on the circumstances, the senior SARO, SARO or FSC responsible for the coordination of the SAR is to:

(i) promptly initiate a response using available SAR resources;

(ii) determine whether the incident is a Service responsibility in accordance with Appendix B of the National Search and Rescue Manual. If not, the relevant SAR organisation responsible for the operation is to be immediately advised;

(iii) ensure the relevant DO, PGI or RDO is kept regularly informed;

(iv) commence a QP 0359: 'SAR Incident Log' and where appropriate for complex or extended SAR operations, commence an MS Teams chat log and invite relevant members to contribute information;

(v) establish, where applicable, a rescue coordination centre or field search headquarters;

(vi) establish an effective communication network;

(vii) ensure timely enquiries are conducted with all relevant informants and witnesses to assist with search area determination and response;

(viii) complete a search urgency assessment (SUA), and determine the appropriate level of response;

(ix) determine the search and sub search areas. For marine SAR, consideration should be given to the use of SARMAP and Net Water Movement drift modelling software. For land SAR, the 4 land search planning strategies outlined in the National Search and Rescue Manual are to be used;

(x) determine the search target time frame for survival in consultation with a medical practitioner;

(xi) where required, activate volunteer rescue organisations in consultation with the relevant DO, PGI or RDO;

(xii) obtain approval from the relevant DO, PGI or RDO for the use of aircraft (see s. 2.21.2: 'Helicopter tasking—government and community helicopter providers' of this Manual);

(xiii) contact the Joint Rescue Coordination Centre (JRCC) and advise them of the SAR operation and seek their assistance where appropriate;

(xiv) ensure that search sub areas are detailed to SAR units;

(xv) allocate tasks;

(xvi) conduct briefings of SAR units;

(xvii) ensure logistical support of police and SAR units including medical, welfare, fuel, communications equipment, and suitable vehicles;

(xviii) ensure sufficient reserve SAR units are available for extended searches and determine whether a Defence Aid to the Civil Community (DACC) request is required;

(xix) where appropriate, provide an opportunity to representatives of all organisations involved to contribute towards the determination of search areas, search sub-areas, team allocation and taskings;

(xx) ensure cultural considerations are taken into account and, where practicable, incorporated into SAR planning, provided this does not compromise the SAR mission. Where decisions may or will conflict with cultural needs, the family is to be informed and the reasons explained;

(xxi) where the search relates to evidence or involves criminal investigators, ensure the primary and secondary search coordinators brief investigators daily as the investigation progresses, so they remain informed of any information that may affect the search effort;

(xxii) conduct activities in accordance with the 'National Search and Rescue Manual';

(xxiii) ensure appropriate actions are taken upon location of the target person(s). Activate the rescue plan and if target(s) are:

(a) fit to travel, to move from the location to the field search headquarters or forward command post;

(b) in need of medical attention, provide a suitable medical response and retrieval; or

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(c) if deceased, arrange for an officer not directly involved with the SAR coordination to commence an investigation and reporting process in accordance with s. 8.3.1: 'First response actions (deaths)' of this Manual.

(xxiv) conduct debriefings of SAR units;

(xxvi) ensure that a SAR occurrence is recorded in QPRIME at the conclusion of each SAR incident regardless of whether it is a marine or land incident. The occurrence number is to be provided to tasked volunteer groups, for fuel reimbursement by the Service;

(xxvi) ensure that the next of kin of target person(s) are notified as early as possible of the search effort and are updated during the search;

(xxvii) submit a significant event message if required, using the SAR category; and

(xxviii) maintain and preserve adequate records of the SAR operation.

It should be noted that while coordinating a SAR operation, SARO and FSCs should not be performing conflicting or dual roles such as DDO, disaster coordinators etc.

ORDER

Where the use of a SAR asset is not approved by a DO, PGI or RDO, that officer is to notify their immediate supervisor of the:

(i) circumstances of the SAR operation;

(ii) the urgency assessment; and

(iii) the reasons for not approving the conduct of the SAR asset.

A supervising officer who receives notification from a DO, PGI or RDO concerning a SAR asset not being approved is to make an assessment of the decision. The cost of an appropriate response is not a factor in not authorising a SAR asset.

Where the supervising officer does not support the conduct of a SAR asset, that officer is to advise the OIC of the region or deputy commissioner for an appropriate determination where necessary.

For the purpose of s. 17.5 of this Manual, an **asset** is defined as any appropriate person, animal or equipment that can be tasked by a SAR Coordinator during a SAR operation. Further clarification can be sought from the State SAR Coordinator.

Retrieval of deceased persons and exposure to injury or human remains by members of volunteer organisations

For the purposes of this section:

Volunteer

means a person or a member of a volunteer organisation who has received a brief by a member of the Service, regarding a potential risk of injury or exposure to human remains, who then volunteers to assist police. In certain situations, assistance may include the retrieval of human remains.

Volunteer organisation

include persons who are members of the:

(i) SES;

(ii) MRQ;

(iii) Australian Volunteer Coast Guard;

(iv) Volunteer Marine Rescue;

(v) Rural Fire Service Queensland; and

(vi) Queensland Remote Area Tracking.

Incidents requiring a Service response, including SAR incidents, where volunteers may provide assistance, may result in a potential risk of injury or exposure to human remains. While the responsibility of dealing with police incidents rests with the Service, there are instances in which it may be necessary to seek and utilise the assistance of volunteers or volunteer organisations.

These circumstances include, but are not limited to:

(i) searching for missing/lost persons in a land and marine environment; or

(ii) recovery of located deceased person in a land or marine environment.

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The retrieval of deceased persons is not a specific approved function of a volunteer organisation, and volunteer organisations are not to be activated solely for body retrieval activities. However, where volunteers are undertaking other approved operational response functions and a deceased person is located, they may assist the Service with site security, scene preservation and body retrieval, but only to the extent permitted by this policy.

Where it is known or suspected that a deceased person may be located as a result of a SAR operation, early consultation should occur with the local controller, unit commander or squadron/flotilla commander prior to any activation.

All other aspects of the incident, which form the components of an approved volunteer organisation operational response function, are to be undertaken in accordance with policy, procedure and training relevant to that operational response function.

To ensure volunteers have a clear understanding of their role and responsibilities, the following points should be considered in the provisions of briefings:

(i) that upon the location of a deceased person the site is a possible crime scene; and that entry and exit points to the site should be minimised;

(ii) if volunteers are first on scene, the team leader/vessel master is to record initial observations, and access to the location is to be minimised;

(iii) upon the location of a deceased person; the team leader should:

(a) notify the Service as soon as possible, if not already present at the scene;

(b) not disturb or otherwise interfere with the body, body parts or the surrounding environment, unless body or body parts are in danger of being lost or damaged further or there is a medical reason;

(c) observe all precautionary procedures with regard to infectious diseases;

(d) if required, secure and protect the scene as directed; and

(e) undertake other appropriate tasks, as requested by the Service, and in accordance with this policy.

(iv) under no circumstances should a volunteer be directed to involuntarily carry out a task;

(v) there is no compulsion on a volunteer to assist in an activity beyond which they are trained (i.e. searching as part of normal SAR);

(vi) where practicable, a detailed written briefing is to be provided to volunteers, outlining the situation as it is known, known hazards and dangers, PPE, and risks involved;

(vii) PPE suitable to the incident is to be provided, including specialised instructions on usage and disposal;

(viii) where an agreement with a volunteer group has been undertaken to recover a deceased person, proper WHS techniques and PPE policies are to be adhered to;

(ix) psychological support must be made available for all volunteers undertaking a deceased person recovery operation;

(x) a mandatory recorded debrief is to be conducted on the deceased person recovery as soon as practicable after the incident;

(xi) professional assistance (provided and paid for by the Service) for the clean-up and decontamination of vessels involved should be undertaken;

(xii) no volunteer will be required to enter the water to secure a deceased person;

(xiii) if a deceased person cannot be brought aboard a vessel, the deceased should be secured externally until Service members arrive; and

(xiv) where Service members are not readily available and it is not possible to secure a deceased person, in locations such as waterways and open sea, photographic or other data capturing methods should be used where possible as a means of identification.

Appropriate tasks for volunteers include the following types of activities:

(i) provide assistance to the Service with specialist capability;

(ii) the retrieval of a deceased person from a location or within a situation that requires the use of specific volunteer related skills and training (i.e. vertical rescue, working from heights, road crash rescue, blue water and white-water environments etc) are required; and

(iii) the retrieval of a deceased person across a substantial distance in difficult terrain which cannot be accessed via other motorised or mechanical means.

Inappropriate tasks include, but are not limited to, the following types of activities:

OPM Issue 113 Public Edition

(i) the activation of a volunteer organisation for the specific purpose of body retrieval where the use of specific volunteer related skills and training (i.e. vertical rescue, working from heights, road crash rescue, blue water and white-water environments etc) are not required;

(ii) the retrieval of a deceased person across a short distance in non-difficult terrain or in a situation which could easily be accessed via other motorised or mechanical means;

(iii) the bagging or collection of body parts in situations where specific volunteer related skills and training are not required to affect the retrieval of a deceased person or individual body parts;

(iv) the cleaning of a site to remove blood or residue of body parts in situations where specific volunteer related skills and training are not required. Remote road crash rescue is a notable exception; and

(v) any other task which is the responsibility of another agency or an authorised contractor paid a fee for a service.

The Service retains overall responsibility for incidents involving deceased persons, whether accidental or otherwise. This includes on scene decisions regarding investigation of the cause of death and arrangements for the removal of bodies and body parts from the location in accordance with relevant legislation and Service procedures.

17.5.5 Conclusion of SAR operations

Search and rescue (SAR) operations enter the conclusion stage when:

(i) the target is located and the survivors are rescued;

(ii) the emergency beacon has been located and the survivors rescued, or if there was no distress, the beacon has been turned off;

(iii) information is received that the target is no longer in distress;

(iv) all known persons on board the distressed vessel(s) are accounted for, or it has been determined that there is no longer a chance of survival (time frame for survival has been exceeded based on medical opinion); or

(v) the SAR Authority determines that further searching has no significant chance of succeeding and either suspend or conclude the search.

The operation may be concluded by the DO, PGI, or RDO, in consultation with the senior SARO for the area and relevant search mission coordinators (SMCs). See National Search and Rescue Manual.

Suspension of SAR operations

SAR operations may be temporarily suspended in line with the National Search and Rescue Manual:

(i) when the search operation has no reasonable chance of locating the lost or missing person alive; or

(ii) insufficient information exists to confirm whether a SAR incident is ongoing, requiring further investigation.

In such cases, the DO, PGI, or RDO overseeing the operation must conduct a thorough review and assess whether to suspend search efforts. This decision must be made in consultation with the senior SARO, relevant SMCs, and the State SAR Coordinator.

In determining whether a search is paused or suspended, the coordinator(s) should consider several factors including the expected duration of the suspension, the time frame for survival and the current search efforts.

ORDER

Approval to suspend a SAR operation is to be provided by the relevant DO, PGI, or RDO in consultation with the senior SARO, SARO or FSC and the State SAR Coordinator. This decision is to align with the guidelines in Chapter 6 of the National Search and Rescue Manual.

Before suspending a search, a thorough review is to be conducted to assess:

(i) the likelihood of survivors from the initial incident;

(ii) the probability of survival after the incident;

(iii) whether survivors were likely in the search area; and

(iv) the effectiveness of the search conducted.

The review is to be documented in consultation with the State SAR Coordinator, the DO or PGI, and the senior SARO. The documented consultation is to be uploaded in the QPRIME SAR occurrence once the decision is made.

A significant event (SIGEV) message is to also be completed, detailing the date, time, and reasons for the suspension. See s. 1.18: ‘Significant events’ of this Manual.

Where the decision to suspend or resume the SAR operation is made, the DO or PGI is to document, by way of an updated significant event (SIGEV) message the date, time and reasons for suspending or resuming the SAR operation.

OPM Issue 113 Public Edition

Communication with next of kin

Before suspending an unsuccessful search, the SMC is to notify and fully brief the next of kin (NOK). Officers are to adhere to s. 5.6: 'Release of information' of the MSM and document all communications with the NOK in their official police notebook or diary.

Reopening of suspended search

If significant new information is received, the suspended SAR operation may be reopened. This requires an evaluation of the new intelligence and an assessment of the potential value of further search efforts.

Pausing a search

Coordinators may consider pausing a SAR in line with the National Search and Rescue Manual. A SAR operation may be paused and recommenced the following day for a variety of reasons, including:

(i) nightfall;

(ii) adverse or hazardous environmental or weather conditions;

(iii) identified risks relating to the target (missing person), such as armed or potentially violent;

(iv) search asset fatigue; or

(v) significant or contradicting information that requires further investigation, in situations when continuing active search efforts would put search assets at unreasonable burden or risk.

The decision to pause a search must be made in consultation with the senior SARO for the SAR area, with the reasoning included into the SAR Log.

Additional Considerations

If a SAR operation is suspended and the target is later found deceased, see s. 8.3.2: 'Responsibility for investigating and reporting on deaths' of this Manual.

Post-suspension process for SAR operations

Following the suspension of a SAR operation, the following process is to be followed to determine whether the operation is to be formally terminated:

(i) the senior SAR Officer (SARO) for the SAR area must complete a QP 0852: 'SAR - Request to Terminate SAR Incident Form' and submit it to the relevant assistant commissioner. All nominated persons within the QP 0852 will complete the relevant sections;

(ii) the assistant commissioner will forward the form to the relevant deputy commissioner or, after hours, the on-call deputy commissioner;

(iii) the deputy commissioner, as the designated 'SAR Authority', will make the final determination to terminate the SAR operation by completing the approval section of the QP 0852 ; and

(iv) once termination is confirmed, the approved QP 0852 is to be uploaded in the QPRIME SAR occurrence by the search mission coordinators (SMCs) managing the incident.

A peer review process applies following the suspension or termination of certain SAR operations to support organisational learning and continuous improvement:

(i) a peer review of the SAR operation may be requested by the relevant assistant commissioner;

(ii) a peer review is to be conducted for every SAR operation where it is known that a person, or persons, remain missing and have not been located. The State SAR Coordinator should also consider whether a peer review is warranted for any protracted search, or for a search that has attracted significant media, political or community attention;

(iii) any request for peer review is to be submitted to the Assistant Commissioner, Emergency Response and Coordination Command, who will consult the State SAR Coordinator to appoint an appropriately experienced and independent officer to conduct the review;

(iv) the review is to be completed using the QP 0957: 'Peer Review of a SAR Operation' report template; and

(v) the completed review is to be provided to the owning region and the State SAR Coordinator for consideration of any findings and recommendations.

Where possible the family of the target person should be made aware of any decision to terminate a search effort 24 hours prior to the actual termination. On providing advice to the family, the officer should be aware of s. 5.6: 'Release of information' of the MSM and ensure that all conversations with the family are documented in the officer's official police notebook or diary.

OPM Issue 113 Public Edition

17.5.6 Search and rescue operational areas of responsibility

Detailed information on land and marine SAR operational areas of responsibilities, including maps is available from the State Search and Rescue Coordinator SharePoint page.

Marine SAR operational areas

For the purpose of standardising coordination responsibilities and to ensure effective use of available resources, the State has been divided into geographically defined marine SAR operational areas.

Due to the size of the State, these areas may transgress both district and regional police boundaries. These marine SAR operational areas of responsibility have been established for broad planning purposes.

When a marine SAR is commenced and is being coordinated by a senior SAR Officer (SARO) or SARO, that particular senior SARO or SARO is to continue with that coordination despite the fact that the SAR operation may continue outside the police region for which the coordinating senior SARO or SARO is appointed. This responsibility for the coordination of the SAR incident is to continue until termination or suspension of that SAR incident, unless the coordinating responsibility is transferred.

Land SAR operational areas

The land SAR operational areas are in line with the 2012 Service (pre-restructure) district and regional police boundaries except for the Moreton District, which is part of the Sunshine Coast SAR area.

17.5.7 Multi-agency SAR consultative committees and exercises

The OIC of a region is to ensure that a regional SAR committee is established:

(i) The senior SARO will conduct the SAR committee meetings on behalf of the OIC of the region within their area of responsibility. This committee should meet at least annually and be used to develop local SAR instructions, determine resource needs and review SAR operations; and

(ii) multi-agency SAR exercise (SAREX) with other emergency service providers is conducted within their area of responsibility once per calendar year. The SAREX is to be developed and facilitated in consultation with the relevant senior SARO and State SAR Coordinator.

17.5.8 Other SAR authorities

There are 2 Commonwealth SAR authorities that are also responsible for SAR operations outside the responsibility of the Service. These are the Joint Rescue Coordination Centre, Australia (JRCC Australia) and the Australian Defence Force (ADF). The current responsibilities of these organisations are:

(i) JRCC Australia, through the Rescue Coordination Centre Australia (RCC Australia), is the responsible authority for coordinating SAR operations in respect of aircraft on the international civil, national civil (VH) and RAA registers, manned space vehicles, maritime vessels other than those for which police and defence are responsible and unidentified distress beacon alerts; and

(ii) ADF is the responsible authority for coordinating SAR operations in respect of Australian and foreign military:

(a) ships, submarines, aircraft and military personnel in the Australian Search and Rescue Region (SRR); and

(b) personnel in a land environment.

The JRCC Australia can be contacted through each senior SARO and SARO, State SAR Coordinator and the Police Communications Centre (PCC), Brisbane.

The Rescue Coordination Centre (RCC) Australia:

(i) is a coordination agency only. Once it has accepted responsibility for coordination of the operation, the senior SARO, SARO or FSC is to continue to liaise directly with RCC Australia;

(ii) may request the Service to assist in any marine or aviation SAR operation they are coordinating, irrespective of whether it is one that has been transferred to them or one it has initiated. All assistance should be given to RCC Australia in such circumstances; and

(iii) may request the Service to assist in any SAR operation involving distress beacon signals.

Any request from RCC Australia to the Service is to be passed to a senior SARO, SARO or FSC for attention (see ss. 17.5.6: 'Search and rescue operational areas of responsibility' and 17.5.7: 'Multi-agency search and rescue consultative committees and exercises' of this chapter).

17.5.9 Commonwealth-State agreement

The Commonwealth-State agreement:

OPM Issue 113 Public Edition

(i) requires each SAR authority to assist another authority when a reasonable request for assistance is made, at no cost;

(ii) requires the authority which hires or requisitions privately owned facilities be responsible for the costs involved, unless otherwise agreed upon; and

(iii) provides for the transfer of responsibility for coordination in a marine SAR and SARs involving unregistered aircraft operation between the Service and Joint Rescue Coordination Centre Australia. The circumstances under which this may occur is when a SAR operation is not within the capability of local resources and facilities, or where it escalates to a point beyond the capability of such resources and facilities.

In circumstances where it is considered necessary to transfer the coordination of a marine or aviation SAR operation, the coordinating senior SARO, SARO or FSC in consultation with the DO, PGI, or RDO is to make a request to the Rescue Coordination Centre (RCC) Australia to assume responsibility for coordination of the operation. The transfer of responsibility can only be affected if:

(i) it is mutually agreed to by the RCC Australia (or other SAR Authority) and the Service;

(ii) the transfer must be made in writing in accordance with Appendix C of the National Search and Rescue Manual, 'Guidelines Procedure for Transfer of Coordination', with copies provided by email to PCC Brisbane and the State SAR Coordinator; and

(iii) where RCC Australia has agreed to take over responsibility for coordination of the marine or aviation SAR operation, any expense incurred on the authorisation of the RCC Australia will be met by them.

The senior SARO, SARO or FSC is to advise State SAR Coordinator in all cases where a transfer of responsibility is being conducted.

17.5.10 Fuel reimbursement

The Service will consider reimbursement of all fuel and oil costs incurred by volunteer rescue organisations, where those organisations:

(i) are recognised by the Service as capable of providing assistance; and

(ii) have been officially activated by a senior SARO, SARO or FSC for a SAR operation.

Senior SARO, SARO or FSC's who task volunteer rescue organisations in a SAR operation are responsible for reporting the fuel costs incurred by those organisations.

Volunteer rescue organisations are to be advised of potential reimbursement of fuel and oil costs incurred during search and/or rescue operations and to submit a claim.

Where a claim is made, the senior SARO, SARO or FSC is to submit a report to the DO of the district in which the incident occurred. The report is to include:

(i) confirmation of the official activation of the particular volunteer SAR organisation;

(ii) brief details of the operation or incident; and

(iii) where appropriate, certification that costs claimed are reasonable and correct.

Copies of receipts, invoices or other supporting documentation for fuel and oil costs are to be attached to the report.

The senior SARO, SARO or FSC is to ensure claims for reimbursement are limited to eligible fuel and oil costs and do not include other expenses, such as equipment, wages or other operating costs.

Responsibility for reimbursement, including any overtime incurred by a senior SARO, SARO or FSC in another region, remains with the region in which the operation occurs.

17.5.11 Cost recovery by the State Emergency Service

For policy in relation to cost recovery by the State Emergency Service from the Service for expenditure in relation to SAR operations see s. 2.20: 'State Emergency Service' of this Manual.

17.6 Emergency warnings and alerts

17.6.1 Standard emergency warning signal

The standard emergency warning signal (SEWS) is an audio warning signal intended to be played on radio and television media to draw the attention of the public to an urgent safety message. This audio warning signal is used:

(i) to alert the public that an official announcement is about to be made concerning an actual or potential major emergency or disaster likely to affect them; and

OPM Issue 113 Public Edition

(ii) when the public need to be informed to take or be prepared to take specific action in order to protect life, property or the environment.

The SEWS is the same as the signal currently used by the Bureau of Meteorology to warn of significant tropical cyclones. Recordings of the SEWS have been forwarded to radio and television media organisations throughout the State. It is vital that the impact of the warning signal be preserved by ensuring that it is used for serious large-scale events only.

Eligible events

It is vital that the status and effectiveness of the SEWS is maintained by limiting its use to significant events only. Such events are restricted to:

(i) wind gusts greater than 125 km/h (for example tropical cyclones of category 2 and above or their wintertime equivalents);

(ii) storm tides greater than 0.5 metres above highest astronomical tide;

(iii) large hail greater than four centimetres in diameter (greater than a golf ball size);

(iv) tornadoes;

(v) major floods, flash floods and/or dam breaks (one to six-hour rainfall total greater than 50-year average recurrence interval);

(vi) intense rainfall leading to flash floods and/or landslides;

(vii) geo hazards (a natural surface process which may interfere adversely with human activity) including effects of earthquakes and/or tsunami waves greater than one metre (tide dependent);

(viii) major urban and rural fires;

(ix) major pollution, hazardous material or bio-hazard emergencies;

(x) civil defence emergencies (as defined in Article 61 of Protocol 1 of the 1977 Protocols additional to the Geneva Conventions of 1949); or

(xi) other major emergency situations.

Authority to initiate the standard emergency warning signal

In Queensland, the authority to initiate the SEWS is restricted to:

(i) the Regional Director, Bureau of Meteorology (or nominated delegate) for weather and flood related events only;

(ii) the Executive Officer, Queensland Disaster Management Committee (or nominated delegate) for disaster events and civil defence emergencies only;

(iii) the Commissioner, Queensland Fire Department (with a regional commissioner or regional inspector as delegate) for fire and hazardous material related events only; and

(iv) assistant commissioners, Queensland Police Service for events not covered in (i), (ii) or (iii).

Assistant commissioners should only consider initiating the SEWS if:

(i) potential loss of life and/or a major threat to a significant number of properties or to the environment is likely;

(ii) a significant number of people need to be warned;

(iii) impact is expected within 12 hours or is occurring at the time;

(iv) the event is destructive as outlined in eligible events (i) to (xi); and

(v) the event is one in respect of which the assistant commissioner has authority to initiate the SEWS.

Assistant commissioners should initiate the SEWS in conjunction with a broadcast on public media, in circumstances where the:

(i) event is of major significance and is such that the five factors for initiating the SEWS are present; and

(ii) response to the event is the responsibility of the Service and it has occurred in their area of responsibility.

Assistant commissioners are to ensure that when the SEWS is to be initiated:

(i) a 'Top priority urgent safety message', contained in the Appendix 17.5 of this chapter, is completed and distributed to media organisations in their respective areas of responsibility; and

(ii) the chief executive officer or their nominated delegate, of each local government authority affected by the SEWS, is notified as soon as practicable.

Assistant commissioners should ensure that in their area of responsibility:

(i) regional instructions are prepared for initiating the SEWS;

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(ii) when developing these instructions, they should ensure that consideration is given to:

(a) translating the contents of the safety message into languages other than English; and

(b) requesting media organisations to include television captions to assist deaf and hearing-impaired persons; and

(iii) contact lists are compiled and maintained for:

(a) media organisations which have the SEWS recording; and

(b) chief executive officers or nominated delegates of local government authorities.

17.6.2 Emergency alerts

Emergency alerts are generated using the Emergency Alert System (EAS), operated by the Queensland Fire Department (QFD) Watchdesk, which is a telephone warning system capable of targeting landline and mobile telephones within a defined geographical area. The Service use of the EAS is in accordance with the memorandum of understanding 'Use of Emergency Alerts' (see Memorandums of understanding on the Policy and Insight Division SharePoint page).

The EAS accesses the geo-coded data of all public and private phone numbers in Australia contained in the defined geographical area. A voice message is sent to landlines within the defined geographical area; and a text message sent to all mobiles where the last known location of the device at the time of the emergency is within the defined geographical area, this includes visitors and travellers.

Each use of the EAS is known as a campaign, with the service being offered on a fee for service basis. The cost of a campaign will vary based on the size of the population within geographical area receiving the messages. It costs approximately 10 cents for each message received by each device and as such the costs can be considerable. The costs for use are to be paid by the region or command approving the campaign.

A EAS message is limited to 160 characters, so further information should be made available via other media.

The public should be advised when the situation has been resolved and public safety has been restored.

Approval to use the Emergency Alert System (EAS)

The data used by the EAS is protected under the *Telecommunications Act* (Cwlth) and only permits usage for a purpose connected with persons being alerted to an emergency or a likely emergency. The EAS is not to be used as an investigative tool.

The use of the EAS can only be approved by:

(i) an assistant commissioner and above; or

(ii) a commissioned officer that has been authorised by their owning assistant commissioner,

when:

(i) it is reasonable to believe there is an imminent threat to life or risk of serious injury to any person;

(ii) the situation would constitute an emergency situation or terrorist emergency under the *Public Safety Preservation Act* (PSPA);

(iii) time is of the essence;

(iv) the event is confined to a defined geographical area; and

(v) alternative forms of warning the public would not be effective.

When approving an EAS campaign the approving officer is to define the target geographical area. The area is to be as small as practical and does not need to align with the boundaries of any declaration under the PSPA.

Factors to be considered when defining the target geographical area

When determining the target geographical area, the approving officer should consider:

(i) the density of the population, accessibility and the impact that mass self-evacuation may have on:

(a) the safety of persons within a contained area with limited exit points and the risk of panic or stampede; and

(b) traffic congestion that may impede emergency responders attempting to attend the scene or transport casualties from the scene;

(ii) the weather, lighting and road conditions and the impact it may have on road safety in the event the campaign causes traffic congestion or panicked driving;

(iii) the likelihood of message recipients attempting to contact police resulting in communications systems being overloaded;

OPM Issue 113 Public Edition

(iv) if the message may reduce the tactical advantage of responding police by alerting offenders to their presence;

(v) if the message may result in persons being funnelled in the direction of the danger;

(vi) the cost of the campaign (e.g. there are over 500,000 landline telephones within the Brisbane CBD and at any time there may be more than 500,000 mobile telephones in the area, activation cost could exceed $75,000);

(vii) that the actual area receiving mobile telephone messages will be larger than the target area.

(viii) if the campaign is to be sent to mobile and/or landline telephones. Mobile telephone messaging must not be used for incidents involving explosive or other devices that could be remotely activated. For other incidents use of mobile telephone should be considered as the priority due to its superior speed and ability to alert visitors within an area.

Incident commanders

An incident commander who considers it appropriate to use the EAS system based on the criteria defined in 'Approval to use the Emergency Alert System (EAS)' of this section, if not authorised to approve the use of the EAS, is to supply sufficient information to the approving officer to allow them to consider:

(i) if the campaign should be authorised; and

(ii) potential consequences as outlined in 'Factors to be considered when defining the target geographical area' of this section.

Procedure to conduct an EAS campaign

To initiate an EAS campaign the approving officer, incident commander or delegate is to contact the Media Ops Room (3015 2444) and provide the information in Part A of QP 1095: 'Emergency Alert System template', being the:

(i) name and telephone contact details of the approving officer;

(ii) name and telephone contact details of the requesting officer (if not the approving officer); and

(ii) message type including:

(a) a specific location for the emergency; and

(b) for general alerts, the desired action of the recipients.

The media officer who receives a request for an EAS campaign is to:

(i) develop the content of the EAS message, by completing Part B of the QP 1095, using the information provided by the requesting officer;

(ii) without delay, forward the content of the emergency alert and contact details of the approving officer (QP 1095) to the Brisbane Police Communications Centre (BPCC); and

(iii) develop additional information to be published on www.mypolice.qld.gov.au and linked to the EAS message.

The Duty Officer, BPCC who receives the details of the EAS message from the media officer is to:

(i) contact the nominated approving officer to:

(a) verify the approval of the EAS message content;

(b) establish the geographical boundaries of the area that will receive the EAS message (see 'Factors to be considered when defining the target geographical area' of this section); and

(c) determine whether the message is to go to mobile and/or landline telephones (no mobile messaging is to be used for bomb threats or similar events);

(ii) complete the details of the EAS message on the approved QFD form: 'Emergency alert form' and forward the form in the native 'Word' format to the QFD Watchdesk so that the message can be released without delay.

Cost recovery

The region or command requesting and using an EAS campaign is to cover the cost of the alert and will be invoiced by QFD.

17.7 Major events

The *Major Events Act* has been designed as a single Act containing a range of provisions applicable to major events.

Members are to be aware that a regulation made under the *Major Events Act* can declare:

(i) a major event (see SMD); and

(ii) will identify which particular provisions of the legislation are to apply to the event.

OPM Issue 113 Public Edition

Prescribing an event as a major event

In accordance with s. 12: 'Prescribing event as major event' of the *Major Events Act* by regulation an event may be prescribed as a major event.

The regulation will also prescribe:

(i) the major event organiser;

(ii) a major event area (see SMD);

(iii) the major event period (see SMD);

(iv) the provisions of the *Major Events Act* that apply to:

(a) the major event; and

(b) the major event area, and the period when those provisions apply.

Consultation prior to prescribing a major event

In accordance with s. 13: 'Minister's recommendation to Governor to prescribe major event' of the *Major Events Act*, if a regulation is to give an authorised person (see SMD) a power for the major event, the Minister considering recommending that an event be prescribed must consult with the Minister for Police.

17.7.1 Planning for a major event

Initial Service contact and consultation for a major event (see SMD) is to be undertaken by the Counter-Terrorism Security and Event Coordination Team (CTEC), State Protection and Planning Unit, Prepare Prevent Protect Group, Security, Counter-Terrorism and Forensic Services Command.

Where a major event is to be prescribed by regulation in accordance with s. 12: 'Prescribing event as major event' of the *Major Events Act* (MEA), CTEC is to notify the respective region responsible for Service planning of the major event.

ORDER

When a member is responsible for Service planning for a major event, prescribed by a regulation, that member is to:

(i) ensure all planning clearly specifies which particular provisions of the MEA apply; and

(ii) facilitate communications effectively identifying the relevant provisions to members who are to act in the capacity of an authorised person (see SMD).

Where a member is to act in the capacity of an authorised person at a major event, the member is to first establish which particular provisions of the MEA will apply to that major event.

When a member is responsible for planning a major event, the relevant provisions of the MEA is to be included within all:

(i) action plans;

(ii) operational orders; and

(iii) operation briefings/debriefings,

see s. 1.5.2: 'Operational Planning (action plans, operation orders, briefings and debriefings)' of this Manual.

17.7.2 Major event provisions

Any provision of Part 5: 'Major event provisions' of the *Major Events Act* that, whether grouped together or in isolation, when prescribed by regulation for a major event (see SMD), applies to the major event for:

(i) the major event period (see SMD); or

(ii) a shorter period prescribed by regulation,

(see 'Prescribing an event as a major event' in s. 17.7: 'Major events' of this chapter).

Provisions within Part 5 of the *Major Events Act* which members may be authorised to enforce at a major event, if prescribed by regulation, are as follows:

(i) People and vehicles in major event area:

(a) s. 18: 'Entering and exiting major event area';

(b) s. 19: 'Occupant's pass';

(c) s. 20: 'Conduct while entering or within major event area';

(d) s. 21: 'Entering restricted area in major event area';

(e) s. 22: 'Entering onto playing field or competition or performance area';

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(f) s. 23: 'Liquor';

(g) s. 24: 'Evidence of right to be in major event area or part of major event area';

(h) s. 25: 'Inspecting thing in person's possession inside major event area';

(i) s. 26: 'Directing person to leave major event area';

(j) s. 27: 'Bringing vehicles into major event area'; and

(k) s. 28: 'Leaving vehicles in major event area'.

(ii) Limits of commercial activity for major event:

(a) s. 30: 'Selling on road, public land or major event area';

(b) s. 31: 'Resale of tickets';

(c) s. 32: 'Ambush marketing in major event area';

(d) s. 33: 'Advertising in controlled area or major event area';

(e) s. 34: 'Advertising on vessel';

(f) s. 35: 'Advertising in major event airspace'; and

(g) s. 36: 'Broadcasting or recording of major event'.

(iii) Roads and traffic:

(a) s. 37: 'Traffic and transport management plan for major event';

(b) s. 38: 'Declaration of major event lane';

(c) s. 39: 'Using major event lane'; and

(d) s. 40: 'Power to close a road'.

POLICY

When a member is planning, or is to act in the capacity of an authorised person (see SMD), for a major event, that member is to first establish which particular provisions of the *Major Events Act* will apply to that major event.

The provisions of the *Major Events Act* as contained within this chapter are not a comprehensive listing. Provisions included herein hold an increased relevance to policing. Members are to refer, as necessary, to the *Major Events Act*.

17.7.3 Authorised persons for major events

A regulation prescribing a major event may apply a provision of the *Major Events Act* which delivers an authorised person (see SMD) with a power for the event. In this instance, Part 7: 'Authorised persons for major events' of the *Major Events Act* relates, unless limited by regulation.

(see 'Prescribing an event as a major event' in s. 17.7: 'Major events' of this chapter)

Powers of authorised persons

The powers of an authorised person under the *Major Events Act* are as follows:

(i) s. 63: 'Requiring name and address';

(ii) s. 64: 'Powers for stopping or moving vehicles';

(iii) s. 65: 'Power to move or remove vehicles left in major event area';

(iv) s. 66: 'Moving expenses';

(v) s. 67: 'Disposing of vehicle';

(vi) s. 68: 'Receipt for seized thing';

(vii) s. 69: 'Keeping seized thing pending return or forfeiture';

(viii) s. 70: 'Access to seized thing';

(ix) s. 71: 'Return of seized thing and compensation';

(x) s. 72: 'Forfeiture of seized thing by chief executive decision';

(xi) s. 73: 'Court may order forfeiture of seized thing to the State'; and

(xii) s. 74: 'How property may be dealt with'.

POLICY

When a member is planning, or is to act in the capacity of an authorised person, for a major event (see SMD), that member is to first establish which particular provisions of the *Major Events Act* will apply to that major event.

OPM Issue 113 Public Edition

A range of offences are contained within the provisions of the *Major Events Act*. Members are to refer, as necessary, to the *Major Events Act*.

17.8 Landing of a suspect illegal entrant vessel on Australian Territory

The Service has entered into a memorandum of understanding (MOU) with a number of Commonwealth agencies that clearly identifies each agency's responsibilities with respect to a landing in Queensland of a person known or suspected to be an unlawful non-citizen from a suspect illegal entrant vessel (SIEV).

Generally, this MOU requires the Service, in circumstances where Commonwealth officers are unable to do so, to provide an initial response to a suspect illegal entrant vessel incident by containing the landing area and locating and detaining any known or suspect unlawful non-citizens until an Australian Border Force officer or an officer from another Commonwealth agency who has been authorised by the Department of Home Affairs assumes on-site responsibility for coordinating the response to the incident. In some cases, the Service may also be requested to implement a search and rescue operation with respect to the SIEV incident (see s. 17.5: 'Search and rescue' of this chapter and s. 11.15.4: 'Unlawful non-citizens' of this Manual).

Definitions

For the purpose of this section:

Detain

means to take into immigration detention, or keep, or cause to be kept, in immigration detention, and also includes taking such action and using such force as reasonably necessary to do so.

Landing

means to put or go ashore, or alight, from a vessel.

SIEV incident

means a landing in Queensland from a suspect illegal entrant vessel.

Suspect illegal entrant vessel (SIEV)

means a vessel from which it is suspected that a known or suspect unlawful non-citizen may effect or has effected a landing.

Vessel

includes an aircraft.

Lawful non-citizen

includes:

(i) a non-citizen in the migration zone who holds a visa that is in effect; or

(ii) an allowed inhabitant of the Protected Zone (Torres Strait Treaty area) who is in a protected area in connection with the performance of traditional activities (see s. 5: 'Interpretation' of the *Migration Act* (Cwlth) (MA(C))).

Migration zone

means the area consisting of the states, the territories, Australian resource installations and Australian sea installations and, to avoid doubt, includes:

(a) land that is part of a state or territory at mean low water; and

(b) sea within the limits of both a state or a territory and a port; and

(c) piers, or similar structures, any part of which is connected to such land or to ground under such sea;

but does not include sea within the limits of a state or territory but not in a port (see s. 5 of the MA(C)).

Non-citizen

Means a person who is not an Australian citizen (see s. 5 of the MA(C)).

Officer

includes police officers of the Queensland Police Service (see s. 5 of the MA(C)).

Unlawful non-citizen

means a non-citizen in the migration zone who is not a lawful non-citizen (see s. 5 of the MA(C)).

OPM Issue 113 Public Edition

Legislation

Section 189: 'Detention of unlawful non-citizens' of the MA(C) provides that:

'(1) If an officer knows or reasonably suspects that a person in the migration zone is an unlawful non-citizen, the officer must detain the person.

(2) If an officer reasonably suspects that a person in Australia but outside the migration zone:

(a) is seeking to enter the migration zone; and

(b) would, if in the migration zone, be an unlawful non-citizen;

the officer must detain the person.'

17.8.1 Notification responsibilities following a suspect illegal entrant vessel incident

An officer who becomes aware of a SIEV incident is to ensure the Duty Officer, Police Communication Centre (PCC), Brisbane, is notified as soon as practicable of:

(i) any known details of the SIEV, including location and description; and

(ii) where known, the:

(a) number;

(b) gender;

(c) age;

(d) state of health;

(e) language spoken by; and

(f) present location, if other than on a SIEV;

of any known or suspect unlawful non-citizens from a SIEV.

Upon receiving initial notification of a SIEV incident, the Duty Officer, PCC, Brisbane, is to advise the Australian Border Force Coastwatch operations desk (see SMCD) of the details of the incident and ascertain if assistance from the QPS is required by them for an initial response.

If assistance from the Service is required and requested, the Duty Officer, PCC, Brisbane, is to ensure the regional duty officer, patrol group inspector or district duty officer for the police region in which the SIEV incident has occurred is notified of the details of the incident and nature of the assistance requested by the Australian Border Force as soon as practicable.

An regional duty officer, patrol group inspector or district duty officer who receives advice of a request for assistance from Australian Border Force in responding to a SIEV incident is to, in addition to the relevant provisions of this Manual relating to incident management, implement a response to the incident in accordance with the provisions of this policy and any relevant regional instructions.

An regional duty officer, patrol group inspector or district duty officer who responds to a SIEV incident is to ensure that a notification task is sent as outlined in s. 1.4.6: 'Responsibilities of regional duty officer, district duty officer and shift supervisor' in subheading 'Significant events' of this Manual.

Responsibilities of first response officer

The first response officer to a SIEV incident is to:

(i) ensure the Duty Officer, PCC, Brisbane is notified; and

(ii) assume the role of the Police Forward Commander (PFC) until:

(a) relieved by a senior officer or an officer appointed to be the PFC for that incident; or

(b) an Australian Border Force officer or an officer from another Commonwealth agency who has been authorised by the Department of Home Affairs (DHA) assumes on-site responsibility for coordinating the response to the incident.

Responsibilities of police forward commander

The PFC at a SIEV incident is to, in addition to the requirements of s. 1.12.3: 'Police forward commander' of this Manual, and until an Australian Border Force officer or an officer from another Commonwealth agency who has been authorised by the DHA assumes on-site responsibility for coordinating the response to the incident, ensure:

(i) the risks to the health and safety of Queensland police officers responding to the incident are identified and appropriate precautions, in addition to those outlined in this policy are, where necessary, implemented to minimise or remove those risks;

(ii) any known or suspect unlawful non-citizens from the SIEV are detained;

OPM Issue 113 Public Edition

(iii) contact with known or suspect unlawful non-citizens by any person is kept to the minimum contact required to:

(a) detain those persons;

(b) establish any urgent medical or other needs of the known or suspect non-lawful citizens;

(c) determine whether a search and rescue operation is necessary to locate missing persons from the SIEV;

(d) in cases of deaths and fires establish any facts which may be relevant to a Coroner's inquiry; and

(e) where lawfully permitted, conduct searches of persons and, where applicable, seize anything from them:

- that may provide evidence of the commission of an offence; or
- that they intend to use to cause harm to themselves or others;

(See Chapter 2, Part 2, Division 2: 'Searching persons without warrant' of the PPRA. Persons detained under the *Migration Act* (Cwlth) cannot be searched pursuant to the provisions of s. 443: 'Police officer may search person in custody' of the PPRA.)

(iv) any contact with known or suspect non-lawful citizens in addition to the circumstances outlined in paragraph (iii) above (e.g. interviewing a person about an offence) is first authorised by an Australian Border Force officer;

(v) wherever practicable, any known or suspect unlawful non-citizen is not photographed, videotaped, or voice recorded by any person who is not a Commonwealth or State employee involved in the response to the SIEV incident;

(vi) the SIEV, the SIEV incident site and any other area which may be connected with the SIEV incident that may reveal evidence relevant to the SIEV incident are treated as incident scenes and the relevant provisions of s. 2.4.6: 'Preservation of incident scenes' of this Manual are followed with respect to them;

(vii) wherever practicable, people found on the SIEV are prevented from interfering with or destroying potential evidence, including any documents and electronic equipment, on or from the SIEV;

(viii) unless otherwise absolutely necessary to comply with paragraphs (ii) or (vii) above, or to protect a person from illness or injury:

(a) a SIEV is not boarded by Queensland police officers; and

(b) no property is removed from a SIEV;

(ix) if Queensland police officers are required to board a SIEV—their exposure time on board the vessel is minimised;

(x) if it is deemed necessary to remove any property from a SIEV, wherever practicable, first obtain approval from an officer of the Australian Quarantine and Inspection Service (AQIS). Where this is not practicable, an AQIS officer should be notified as soon as practicable after the removal; and

(xi) all Queensland police officers and other persons acting under their direction who are involved with:

(a) any physical contact with a known or suspect unlawful non-citizen;

(b) handling any property; or

(c) boarding any vessel;

associated with the SIEV incident comply with the relevant provisions of 'First Aid Procedure' within the Safety and Wellbeing Policies SharePoint page.

After an Australian Border Force officer or an officer from another Commonwealth agency who has been authorised by the DHA assumes on-site responsibility for coordinating the response to the incident, the PFC is to ensure:

(i) any persons detained by police are dealt with in accordance with s. 11.15.4: 'Unlawful non-citizens' of this Manual;

(ii) the Australian Border Force officer and/or any relevant officers from other Commonwealth agencies are provided with a briefing of actions taken by Queensland police with respect to the incident;

(iii) any reasonable request for additional assistance from the senior officer of a Commonwealth agency at the scene is considered and, where appropriate, met. This may include remaining at the scene to ensure a breach of the peace does not occur (see s. 13.4.9: 'Breaches of the peace' of this Manual); and

(iv) any outstanding matters requiring further action by Queensland police with respect to the incident, such as gathering evidence with respect to a coronial inquiry or criminal investigation, are attended to.

OPM Issue 113 Public Edition

17.8.2 Search and rescue operation

When a search or search and rescue operation is deemed necessary as a result of a SIEV incident, the relevant provisions of s. 17.5.4: 'Search and rescue operation of this Manual apply.

17.8.3 Release of information relating to a suspect illegal entrant vessel incident

The Department of Home Affairs (DHA) is responsible for coordinating all media releases relating to a SIEV incident.

Members should seek advice from the DHA before releasing any information relating to a SIEV incident to a member of the media.

Contact numbers

Officers in charge of police communication centres are to ensure that telephone contact numbers for the nearest offices of the DHA and Australian Quarantine and Inspection Service are kept at their communication centre.

17.9 Biosecurity Act 2015 (Commonwealth)

There are a number of Queensland acts which deal with quarantine related matters, such as:

(i) *Biosecurity Act*;

(ii) *Public Safety Preservation Act*; and

(iii) *Public Health Act*.

The *Biosecurity Act* (Cwlth) generally deals with biosecurity matters relating to vessels (including aircraft), persons and goods entering and leaving Australia.

It is envisaged that the power to appoint police officers as biosecurity or biosecurity enforcement officers will not be exercised often.

Officers appointed as biosecurity or biosecurity enforcement officers under ss. 545: 'Authorisation by Director of Biosecurity of persons as biosecurity officers' and 548: 'Authorisation by Director of Human Biosecurity of persons as biosecurity enforcement officers' of the *Biosecurity Act* (Cwlth) are to comply with s. 13.3: 'Public officials' of this Manual, in particular s. 13.3.1: 'Appointments as a public official', and obtain appropriate authorisation from their assistant commissioner prior to discharging any powers or responsibilities under the Act.

In the event of exercising powers or functions under the *Biosecurity Act* (Cwlth):

(i) OICs of regions and commands are to:

(a) consult with other relevant agencies to determine:

- the risk to members; and
- appropriate protective and decontamination measures required;

(b) ensure appropriate personal protective equipment is obtained and deployed as considered necessary; and

(c) issue instructions to officers under their control on the use of protective equipment and decontamination measures required; and

(ii) officers are to ensure that they:

(a) comply with 'First Aid Procedure' within the Safety and Wellbeing Policies SharePoint page; and

(b) use available protective equipment and decontamination measures as provided and instructed.

17.10 Specialist Response Group (SRG)

Purpose of SRG

The Australia New Zealand Framework: Policing High Risk Situations provides guidance for first responders and specialist policing capabilities and supports their response to, and management of, high risk situations with a view to keeping the community, police, offenders and property safe.

Australia New Zealand Policing Advisory Agency (ANZPAA) in consultation with the Australia New Zealand Counter Terrorism Committee (ANZCTC) have developed the Framework.

The Specialist Response Group (SRG), Emergency Response and Coordination Command (ERCC) is headquartered in Oxley, Brisbane and its purpose is to enhance frontline police responses with timely, effective and innovative specialist police capabilities to high risk and public order incidents.

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This purpose is achieved by:

(i) promoting consistency in the understanding of response strategies applicable to high risk situations;

(ii) flexibility in responding to the evolving operational security environment through common principles for policing high risk situations;

(iii) giving confidence to district officers that there is a common approach and commitment to preparing, managing and recovering from high risk situations; and

(iv) providing a landscape of resources and training materials within which high risk policing is communicated and managed.

Functions of SRG

SRG undertakes the following functions:

(i) deploying to support regions and commands with incidents that exceed normal policing capabilities;

(ii) providing advice and support for planned and unplanned high risk and public order incidents;

(iii) specialist capability training for regional (part-time) EORT technicians, bomb search, negotiators and crowd management; and

(iv) engagement and interoperability with state and commonwealth agencies to ensure consistency in training and research in specialist capabilities i.e. ANZCTC, ADF, AFP and state policing jurisdictions.

SRG roles, capability and training are outlined on the Specialist Response Group SharePoint page. The SRG consists of:

(i) Explosive Ordnance Response Team—that:

(a) has Brisbane based full-time police bomb technicians and firearms and explosives detection dogs (FEDD) teams that deploy regionally for roles and functions as outlined on the unit's webpage on the Service Intranet (see also s. 17.3.8: 'Suspect devices, bomb threats and bomb hoaxes' of this chapter);

(b) supports part-time regional police bomb technicians in Far Northern, Northern and Central Regions; and

(c) trains police to maintain a bomb search capability for regional basic bomb search tasks;

(ii) Negotiators—that:

(a) assist in the peaceful resolution of high-risk situations i.e. sieges and armed offenders; incidents of suicide and crisis intervention; and protest activities;

(b) have accredited negotiators and a district negotiator supervisor in each district, which are Regional resources used at the discretion of the relevant district officer; and

(c) have a State Negotiator Coordinator and training team situated at SRG, Oxley;

(iii) Public Safety Response Team—has Brisbane based officers that:

(a) are equipped and trained to respond regionally in the interest of public safety to:

- public order (protest) activities;
- instances of confrontation and violence; and
- other specialist duties which exceed normal policing responses; and

(b) have a mobile response capability (MRC) in SEQ which provides initial specialist support to frontline policing incidents. Some examples include:

- public order incidents;
- assistance with cordons i.e. to support Negotiators;
- response to high risk incidents; natural disasters; and
- planned and unplanned mass gathering events; and

(iv) Special Emergency Response Team—that:

(a) provides the Service with response strategies to high risk situations, terrorist incidents and specialist skills to support public safety operations; and

(b) has officers in Brisbane and Cairns responding to locations throughout Queensland;

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SRG requests for assistance

Each week a 'Duty Executive On-Call' list is produced and circulated to all district officers. This list contains the on-call contact details for all the SRG units. The first point of contact for urgent SRG assistance or advice is the on-call SRG Inspector.

It should be noted that regional response times for the Brisbane and Cairns based SRG units depends on the availability of Service aircraft and/or commercial flights. Where road travel is required, normal travelling times will apply.

Cost recovery

In the normal course of events, ERCC is responsible for all costs associated with the call out of SRG units including where officers are required to return to a region to attend court, however:

(i) the costs associated with part time regional bomb technicians and negotiators are a regional responsibility;

unless;

(ii) circumstances exist where there is prior consultation between the requesting area and SRG.

17.10.1 Explosive Ordnance Response Team (EORT)

The role and functions of EORT are outlined on the EORT SharePoint page.

Officers are to request EORT attendance at incidents involving:

(i) improvised explosive devices (IEDs), booby traps and explosions;

(ii) an act of terrorism (see s. 17.3.26: 'Terrorist Emergency' of this chapter);

(iii) chemical, biological and radiological devices (see s. 17.3.18: 'Chemical, biological or radiological (CBR) incidents' of this chapter);

(iv) homemade explosives (HME).

Additionally, EORT can provide support to searches and search warrants for any of the above. Firearms and explosive detection dog (FEDD) teams can also search for firearms, ammunition, unburnt explosive and pyrotechnic powders.

Regional part-time bomb response capability

Part-time police bomb technicians (PBTs) are located in Far Northern, Northern and Central regions, operating in a partnership model with Emergency Response and Coordination Command (ERCC). Part-time PBTs are trained and equipped to respond to the majority of calls for service. Regional PBTs advise the OIC, EORT when their technical threshold is reached and request the deployment of EORT to reinforce them.

Part-time PBTs are required to complete annual re-qualification and regular equipment maintenance and continuation training.

Searching

The Service maintains search capabilities that are deployed corresponding to the assessed risk and categorised as:

(i) **high risk bomb search**, that is typically conducted when there is a specific credible threat and a high probability that an IED exists. PBTs and FEDD teams are trained to conduct high risk bomb search using a variety of PPE and techniques. If a high-risk search is required, the OIC, EORT should be consulted in the first instance;

(ii) **bomb search**, that remains a district or region task responsibility. EORT delivers training to officers statewide to safely and effectively conduct bomb search tasks. Training requests are coordinated via respective DETOs (or regional EORT coordinators) to ensure sufficient numbers of trained staff are maintained within each district or region to address expected calls for service. For significant events, EORT can be requested to provide a search coordinator; and,

(iii) **FEDD team search**, that are not designed to replace regional resources, but to reinforce and augment them. For example, in the event of multiple venues or large venues requiring bomb search, districts and regions can request FEDD teams to assist their regional bomb search personnel. Additionally, FEDD can assist at searches and search warrants prior to manual searching being undertaken by investigators.

Response to military and commercial explosives

The Australian Defence Force's (ADF) Joint Explosive Ordnance Support (JEOS) provides military support to the Service in:

(i) emergency situations where there is an immediate threat to life or property; and

(ii) incidents involving military ordnance.

The Explosives Inspectorate, Resources Safety and Health Queensland will provide support to the Service in instances involving commercial explosives (including fireworks, civilian flares and civilian ammunition).

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Attendance of or call out procedure for EORT

Where an officer considers the services of EORT may be required for a planned operation, they should seek the approval from their supervising commissioned officer and complete a SRG SENTRY request, available on the EORT SharePoint page.

EORT can provide short notice search assistance for firearm related incidents through the Duty Officer, Brisbane Police Communications Centre (DO, BPCC) or by contacting EORT. This service is generally limited to Brisbane Region and nearby districts.

Requests concerning explosives or suspect devices found anywhere in the State are to be directed to the DO, BPCC.

In cases involving military ordnance, the DO, PCC is to arrange for attendance by JEOS, ADF.

In cases involving commercial explosives, the DO, BPCC is to arrange for attendance by the Explosives Inspectorate, Resources Safety and Health Queensland.

If there is uncertainty around the identification of ordnance, officers are encouraged to contact the Senior EORT Technician—as outlined on the EORT SharePoint page.

Command, control and coordination of EORT activities

When EORT are deployed to the scene of an incident, the police forward commander (PFC), RDO or DDO will remain in overall command and control of the incident.

The Superintendent, SRG manages the explosive response capability on behalf of the Assistant Commissioner, ERCC as the capability owner and technical authority regarding strategy, policy, outcomes and management of the capability.

The OIC, EORT is the designated statewide EORT coordinator and is responsible for:

(i) the coordination of operational deployments of bomb technicians and FEDD teams;

(ii) equipment procurement and maintenance regimes;

(iii) delivery of initial and re-certification training courses; and

(iv) setting continuation training requirements.

17.10.2 Negotiators

Police forward commanders (PFC) are to request the attendance of negotiators at any:

(i) high risk situation where negotiation can be used to peacefully resolve the situation; or

(ii) any situation where:

(a) a person is threatening to, or it is suspected that a person may, attempt suicide or other forms of self-harm; or

(b) it is believed that a negotiator will be of assistance to officers in their performance of their duty, e.g. warrant executions, demonstrations, extortion and kidnapping offences.

Preferably, a team of four negotiators will attend an incident situation. Where four negotiators are not available or are, in the opinion of the relevant negotiator supervisor or State Negotiator Coordinator (SNC), not required, functions may be combined and performed by a minimum of two negotiators. However, when negotiators and Special Emergency Response teams are deployed to an incident, except for situations involving the execution of warrants, a negotiator is to be included in the negotiation team to undertake liaison duties as directed by the team leader.

Attendance or call out procedure for negotiators

District officers are to ensure that district instructions for the call out and deployment of negotiators are developed and maintained in their district.

For urgent assistance, the PFC should contact the SRG Inspector via Duty Officer, Brisbane Police Communications Centre.

For non-urgent or planned assistance, officers should complete a SRG SENTRY request, available on the Negotiator Coordination Unit SharePoint page.

Officers authorising the deployment of negotiators should advise, or arrange for advice to be given to:

(i) the relevant district negotiator supervisor; or

(ii) where it is identified as, or suspected to be terrorism, the SNC,

of the requirement to deploy negotiators and the circumstances.

Upon notification that deployment of negotiators has been requested and authorised, district negotiator supervisors or the SNC, as appropriate, are to:

(i) determine the composition of the negotiation team to be deployed;

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(ii) ensure that the negotiation team is deployed;

(iii) re-assess the level of negotiation team response as required and increase or reduce the negotiation team accordingly; and

(iv) make arrangements for the attendance of other required persons (e.g. a psychiatrist or an interpreter) or equipment to assist the negotiation team.

Command, control and coordination of negotiators

When deployed, the negotiation team is responsible to, and under the command and control of the PFC.

If an inner cordon has been established and command and control of the inner cordon has been handed to the SRG Inspector (SERT Commander), the negotiators will report to the SRG Inspector and their activities coordinated through the SERT tactical command post (TCP).

The Superintendent, SRG manages the negotiator capability on behalf of Assistant Commissioner, Emergency Response and Coordination Command as the capability owner and technical authority regarding strategy, policy, outcomes and management of the capability. The SNC is the designated statewide negotiator coordinator and is responsible for:

(i) the coordination of operational deployments of staff;

(ii) equipment procurement and maintenance regimes;

(iii) delivery of initial and re-certification training courses; and

(iv) setting continuation training requirements.

Selection and training of negotiators

Officers who successfully complete a negotiator's course may be appointed as negotiators on probation for a period of 12 months. Every negotiator is required to attend annual regional block training.

17.10.3 Public Safety Response Team (PSRT)

PSRT is a specialist unit that provides a public order and limited critical incident response capabilities to support frontline service delivery as described in 'Functions of SRG' of s. 17.10: 'Specialist Response Group (SRG)' of this chapter and on the PSRT SharePoint page.

Attendance or call out procedure for PSRT

Officers who have determined that they require PSRT specialist unit assistance in the delivery of frontline services are to:

(i) seek approval from their supervising commissioned officer; and

(ii) complete a SRG SENTRY notification.

Officers who have determined that they require urgent PSRT specialist unit assistance can:

(i) contact the PSRT shift supervisor; or

(ii) contact the on-call senior PSRT officer.

A PSRT rapid response to evolving incidents is generally limited to southeast Queensland.

Command, control and coordination of PSRT

When PSRT are deployed to the scene of an incident, the police forward commander (PFC), RDO or DDO will remain in overall command and control. An on-call senior PSRT officer is available to deploy to unplanned events to provide liaison duties and advice to the PFC, i.e. protests and high-risk incidents.

The Superintendent, SRG manages the PSRT capability on behalf of the Assistant Commissioner, Emergency Response and Coordination Command as the capability owner and technical authority regarding strategy, policy, outcomes and management of the capability. The OIC PSRT is the designated statewide PSRT coordinator and is responsible for:

(i) the coordination of operational deployments of staff;

(ii) equipment procurement and maintenance regimes;

(iii) delivery of initial and re-certification training courses; and

(iv) setting continuation training requirements.

PSRT coordinates and delivers crowd management training to teams of public order reserve staff in southeast Queensland and Townsville. These officers are required to complete annual re-qualification and continuation training.

OPM Issue 113 Public Edition

17.10.4 Special Emergency Response Team (SERT)

SERT provide specialist police capability to resolve high-risk incidents which exceed normal police capabilities. SERT can be deployed or activated to incidents as determined by a deputy commissioner or Superintendent (Operations Commander), Specialist Response Group (SRG).

Relevant activities include:

(i) activation for a support task requiring specialist planning or skills to support an investigation, operation or activity. Examples could include:

(a) the covert gathering of intelligence which may include the reconnaissance of suspect premises or properties;

(b) rural surveillance;

(c) the detention of protestors or recovery of persons using roping skills;

(d) high-risk escorts of weapons, cash, drug exhibits, or prisoners;

(e) support to officers to execute search warrants which are not classified as high risk but require specialist skills;

(f) activities considered necessary for public safety; or

(g) mass gathering events that have an identified threat classification; and

(ii) deployment to a high risk or terrorist situation to disrupt, contain, manage, and resolve a situation.

The following table identifies the deployment or activation authority for SERT.

SERT response strategy	Delegated authority	Alternate authority
Deliberate action (DA)	Deputy commissioner (DC)	Assistant Commissioner, (AC) Emergency Response and Coordination Command (ERCC)
Arrest or detention tactics including; • foot interceptions • vehicle interceptions • contain and call	Superintendent, SRG	AC ERCC
Siege management or safe negotiation platform	Superintendent, SRG	AC ERCC
Operational support task	Superintendent, SRG	AC ERCC
SPOC activation—all SERT activities including deliberate action	DC(Specialist Operations) or Assistant Commissioner (SPOC commander) as delegated by a DC.	DC

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In the event of a DC activating the State Police Operations Centre (SPOC), the delegated SPOC Commander has the authority to deploy SERT in any capacity including DA responses, subject to any conditions as directed by the DC.

To ensure an appropriate response is provided to high-risk incidents, an alternate authority can approve SERT deployment if the delegate cannot be contacted.

The Superintendent, SRG will brief the on-call duty executive and the Assistant Commissioner, ERCC on any SERT deployments of interest or concern.

Attendance or call out procedure for SERT

Where SERT may be required for **urgent** operations, officers will contact the on-call SRG Inspector.

Where an officer considers the services of SERT may be required for a non-urgent operation, the officer will seek approval from their supervising commissioned officer. If approved, the commissioned officer is to ensure (in the order listed):

(i) a SRG SENTRY request is completed (available on the SERT SharePoint page);

(ii) the district officer of the relevant district is advised of the intended request; and

(iii) the on-call SRG Inspector is to be advised of the request.

Requesting officers are advised that they can consult the on-call SRG Inspector in Brisbane or Cairns to discuss the requests for support or to seek advice.

Command, control and coordination of SERT

When SERT has been activated or deployed, the Superintendent, SRG is to monitor the task or incident and ensure Situation Reports (SITREPs) are provided to the relevant deputy commissioner or the Assistant Commissioner, ERCC.

When SERT is deployed to the scene of any incident, the police forward commander (PFC) will remain in overall control of the incident.

The SRG Inspector (SERT Commander) exercises command over resources and activities within the inner cordon. During an incident which cannot be easily contained (such as an incident involving a mobile offender), the SERT Commander will take command of the problem space—acknowledging that this may be moving or frequently changing. The PFC will control all other external policing functions.

During any incident there is a requirement for consultation and engagement between the SERT Commander and PFC to facilitate the sharing of information and situation awareness.

The PFC also retains the authority to withdraw a request for SERT assistance and to receive handback of the inner cordon.

The formal process of handover is as follows:

(i) the SRG Inspector (SERT Commander) and the PFC should mutually agree to a time for the handover;

(ii) the SRG Inspector (SERT Commander) will note this in the SERT Job Log (iSurv);

(iii) upon handover, the SRG Inspector (SERT Commander) assumes command and control and responsibility for the inner cordon, including command of all resources deployed to inner cordon activities; and

(iv) the PFC retains control of the overall incident and command of resources, actions and activities external to the inner cordon.

The SRG Inspector (SERT Commander) will hand back command and control of the inner cordon to the PFC when:

(i) the incident has been resolved; or

(ii) the deployment of SERT has been withdrawn.

The formal process of handback is as follows:

(i) the SRG Inspector (SERT Commander) and the PFC should mutually agree to a time of handback;

(ii) the SRG Inspector (SERT Commander) will note this in the SERT Job Log (iSurv).

The Superintendent, SRG manages SERT (Police Tactical Group) capability on behalf of Assistant Commissioner, ERCC as the capability owner and technical authority regarding strategy, policy, outcomes and management of the capability. The Superintendent, SRG is also the designated statewide SERT (Police Tactical Group) coordinator and is responsible for:

(i) the coordination of operational deployments of staff;

(ii) strategic command of all SERT operations including assessment and approval of the concept of operations recommended by the SERT Inspector whilst deployed;

(iii) equipment procurement and maintenance regimes;

(iv) delivery of initial and re-certification training courses; and

(v) setting continuation training requirements.

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Appendix 17.1 Evacuation plan aide memoire

Evacuation Plan Aide Memoire

District Disaster Management Group

INFORMATION

Name: **Date:**
Event: _____ **Information:**__

[ ] Authority to Evacuate. – Links.	• **Voluntary** Evacuation ➢ Individuals encouraged ➢ May be implemented by Local Disaster Management Group in consultation with District Disaster Coordinator • **Directed** Evacuation ➢ Authorised by District Disaster Coordinator in consultation with Local Disaster Coordinator ➢ A declaration of a disaster/emergency	NOTES: DECLARATION Type: *See OPM Appendix 17.11* ☐ Disaster Situation (DS) ☐ Emergency Situation (ES) ☐ Chemical, Biological, radiological Emergency (CBRE) ☐ Terrorist Emergency (TE) Declared by:
[ ] Consider factors and risks.	• Size/Severity of event • Weather conditions • Impact area • Population of exposed persons • Current/predicted road conditions • Capacity & availability of evacuation routes • Available resources • Option to use 'Shelter in Place' • Estimated Time Frames: ➢ Arrival time of event ➢ Time of day ➢ Time required to evacuate ➢ Time to establish support •Public Inquiry Centre •Assembly Area	NOTES:
[ ] Establish Assembly Area for evacuees.	• Place of Safety • Concentrate evacuees before movement to an evacuation centre	
[ ] Establish Evacuation Centre(s).	• Sunshine Coast Council Link • Noosa Council Link	*disaster.sunshinecoast.qld.gov.au* *www.noosa.qld.gov.au*
[ ] Establish Registration Centre and Registration Process.	• Recording personal particulars of evacuees at the Evacuation Centre(s) • Prepare - Utilise Red Cross Registration form	
[ ] Establish Public Inquiry Centre.	• Established to deal with inquiries as to whereabouts of registered evacuees, possible missing persons and casualties • Local or State Inquiry Centre - Link	NOTES: Contact is to be made with Duty Officer PCC, to determine establishment of local or State Public Inquiry Centre and to determine if matter is of national significance and National Registration and Inquiry System (NRIS) is to be activated

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STAGE TWO – WARNING – ***An evacuation warning is a message that informs and enables individuals and communities to take appropriate action in response to an impending hazard***

[ ] Develop Warning Message.	• Prepared in conjunction with the responsible agency • Be clear, concise and unambiguous • Issued by a credible and recognised authority • Provide a confirmation contact/feedback mechanism • Be disseminated in a regular and timely manner • Consist of appropriate and accurate information • Provide a level of certainty • Schedule times for warning dissemination	NOTES: Suggested details to incorporate: ☐ Issuing authority ☐ Date/Time of issue ☐ Description of threat and consequences ☐ Details of areas to be affected ☐ Advice / Clear guidance on actions to be taken ☐ Nominate the time for issues
[ ] Ensure frequent public messages are broadcasted or delivered to or in the area.	• Consider dissemination of effective standard messages in a variety of ways: ➢ Emergency alert messages automatically sent to landlines and mobile phones ➢ Media releases to local radio and TV ➢ Social Media systems messages ➢ Local telephone / fax ➢ Door knocking	NOTES:
[ ] Ensure public are advised of any necessary protective or safety measures.	• Specific and clear instructions provided • Consider: ➢ Remain indoors or move to an assembly area for evacuation ➢ Evacuation routes and locations of assembly areas ➢ Relevant timings ➢ Method of evacuation (own transport / or	
[ ] Consider allowances and advanced warnings for persons with vulnerability, disability or cultural needs.	• Health related – hospitals, nursing homes, mental health centres, retirement villages. • Educational – day care centres, preschools, primary, secondary, special schools, tertiary. • Vulnerability, disability or cultural needs – Non-English-speaking background, mentally impaired persons, disabled persons, elderly. • Prisons • Commercial, industrial, entertainment premises • Other ……..	
[ ] Ensure affected areas are cordoned off.	• Public should be prevented from entering / returning	
[ ] Commence planning in conjunction with other agencies.	• Evacuation routes and traffic control • Transport methods for evacuees • Nominate / set up assembly areas • Nominate / set up evacuation centres • Recruit services / resources from support service groups (SES, Red Cross etc.) to assist with evacuation/registration of evacuees if required. • Utilisation of Search and Rescue (SAR) if required	*See contact list.*
[ ] Ensure public are advised of any necessary protective or safety measures.	• Remain indoors / move to Assembly area • Asbestos • Chemical, biological, radiological indicators	

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STAGE THREE – WITHDRAWAL – ***the physical and coordinated movement of exposed persons to safer locations in a timely manner, ensuring reduced public anxiety and traffic congestion***

[ ] Determine evacuation priorities.	• Urgency of situation • Persons / Groups most at risk • Availability of resources • SAR • Other ……..	NOTES
[ ] Move evacuees to the assembly area.	• To do prior to movement to evacuation centres(s)	
[ ] Move / transport all evacuees to the evacuation centre(s).	• Consider most appropriate mode of transport: ➢ Bus ➢ Self-evacuate ➢ Rail	*See contact list*
[ ] Arrange security for evacuated area (where possible).	• Prevent persons returning prior to ensuring evacuated area is safe • Protect property that has been abandoned during evacuation.	
[ ] Ensure traffic control is conducted on evacuation routes.	• Consider most appropriate control method: ➢ Police / Highway Patrol ➢ TMR ➢ Council	
[ ] Ensure public order is maintained.	•	
[ ] Obtain details of any person(s) who refuse to evacuate.	• The need to evacuate should be reinforced by a police officer. • Name, address and NOK details required. • Occupant required to sigh the refusal to evacuate sheet • Upon return to PFC, provide details for further assessment and mapping • Evacuation teams are to concentrate efforts and time on assisting those residents who are cooperating with the Directed Evacuation processes.	
[ ] Provide constant and regular SITREPS	The following SITREP format should be adapted to suit the particular incident: • Situation – ➢ concise summary of what has happened / occurring and what control measures have been put in place ➢ identify extent of incident scene – extent of destruction / number of victims / offenders etc. • Other considerations – ➢ Location of officers at scene and allocated tasks ➢ Activities being undertaken or results of activities undertaken by Service members or other emergency services ➢ Potential for incident to escalate ➢ Need for further resources	Refer *OPM* *Section 2.4.8 Communication* *Section 1.18.1 Significant Event Messaging System*

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STAGE FOUR – SHELTER – ***the provision of refuge to evacuees within a nominated evacuation facility and/or safer location***

[ ] Address immediate needs of evacuees.	• Information / status of emergency • Temporary accommodation • Medical treatment • Distribution of food, clothing, bedding etc. • Other ……..	NOTES
[ ] Implement registration process.	• Ensure personal particulars of evacuees are recorded on QP 0526 'Evacuation Registration Form' (Available on Forms Select) • Register. Find. Reunite (RFR) input via Comms / Policelink • Consideration of process for identifying and managing Reportable Offenders (CPOR).	
[ ] Implement Inquiry Centre.	• If Local Inquiry Centre established – record relevant information on QPRIME in the 'Evacuation Index' • If State Inquiry Centre established – fax completed forms to Policelink • Assist and coordinate dissemination of information to wider community about evacuees that are registered through the established Inquiry Centre	
[ ] Assess any secondary needs of evacuees	• In conjunction with other agencies • Where, practicable, make adequate arrangements to meet those needs.	

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[ ] Assessment for safe return.	• Threat has passed • Health, including secondary threats – insect infestations, contaminated water • Building safety • Utilities operations – electricity, water, gas, etc. • Police needs – open investigations, coroner's needs, etc. • Road and transport • Commercial food supplies • Security • Support services • Other ……..	NOTES
[ ] Assessment considerations.	Return process may include: • Return to the area by emergency services and work teams only • Partial return to only some areas of the evacuated area • Temporary return during daylight hours only • Other	
[ ] Develop a system for the safe and effective return of evacuees to the evacuated area	Consider: • Traffic routes • Contra Flow • Staggered return	
[ ] Where return is not immediately possible, consider utilisation of recovery services.	• To facilitate short term and longer term temporary accommodation solutions for displaced community members • Council recovery arrangements	

Useful Resources and Links

Legislation	• OPM – Section 17.4 – Evacuation • Disaster Management Act • Disaster Management Guidelines • Public Safety Preservation Act	• OPM • Disaster Mgt Act • Disaster Guidelines • Public Safety Preservation Act
Forms	• Declaration and allocation of powers to groups and individuals • Evacuation Centre Registration Form QP 0526	• Disaster Management Toolkit • Forms Select
[ ] Evacuation Centre Locations	•	□ SCC Evacuation Centres □ Noosa Evacuation Centres
Resources	• Queensland Evacuation Centre Management Handbook	• Handbook

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Appendix 17.2 Deleted

Appendix 17.3 Deleted

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Appendix 17.4 Hazchem Aid Interpretation

(s. 17.3.13)

Introduction

The Hazchem Emergency Action Code consists of a numeral followed by one or more letters, some of which may be characterised by being displayed on a dark rectangle to indicate a special application for equipment.

Interpretation

(i) The numeral indicates the equipment suitable for firefighting and, where appropriate, for dispersing spillage as follows:

'1'—Water jets

'2'—Water fog (if unavailable fine water spray may be used)

'3'—Foam

'4'—Dry agent (for substances where contact with water is hazardous)

(ii) The first letter indicates as follows:

Letter	Danger of violent reaction or explosion	Protective clothing and breathing apparatus	Appropriate measures
P	Yes	**FULL** protective clothing	Dilute
R	No	**FULL** protective clothing	Dilute
S	Yes	**BA** Breathing apparatus	Dilute
S	Yes	**BA** Breathing apparatus (fire only)	Dilute
T	No	**BA** Breathing apparatus	Dilute
T	No	**BA** Breathing apparatus (fire only)	Dilute
W	Yes	**FULL** protective clothing	Contain
X	No	**FULL** protective clothing	Contain
Y	Yes	**BA** Breathing apparatus	Contain
Y	Yes	**BA** Breathing apparatus (fire only)	Contain
Z	No	**BA** Breathing apparatus	Contain
Z	No	**BA** Breathing apparatus (fire only)	Contain

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Note:

(a) full protective clothing includes breathing apparatus;

(b) where breathing apparatus is indicated protective gloves shall be worn;

(c) 'Dilute' indicates the substance may be diluted with large quantities of water. Whereas 'Dilute' originally allowed the diluted substance to be washed away this is no longer accepted practice for environmental reasons. Wherever practicable, diluted substances should be contained and prevented from entering drains and water courses;

(d) 'Contain' indicates the need to prevent any spillage from entering drains or water courses.

(iii) The letter 'E' is added when evacuation of the people from the neighbourhood of an incident should be considered by the emergency service. Actual evacuation is not automatic due to the presence of an 'E' in the Hazchem code and is a matter for decision after taking into account all relevant factors.

Appendix 17.5 Top Priority Urgent Safety Message

(s. 17.6.2)

This is a request to broadcast the Standard Emergency Warning Signal (SEWS) and following warning message.

TEXT OF MESSAGE

Emergency Announcement

This is an official emergency announcement for ...(insert appropriate area)... *issued by* ...(insert appropriate authority)... *concerning* ...(insert type of emergency)

Explain:

What has happened.

Where it has happened.

When it happened.

What has been done to date.

What is proposed to be done.

Any public safety instructions/ messages/directions.

This emergency announcement was issued ...(insert authorised officer name and location) *Stay tuned to this station for further information.*

Please broadcast this message every ..... minutes from .....(time)..... on .....(date).....

The localities affected by distribution of the message are:

.....

.....

.....

This message is authorised by (Signature).....

(Name) .....
(Print)

(Rank).....

(Phone/facsimile) .....

(Time) .....

(Date) .....

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Appendix 17.6 Chemical, biological or radiological threat evaluation guide

(s. 17.3.18)

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

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Appendix 17.7 Chemical, biological or radiological indicators

(s. 17.3.18)

The presence of one or more of the following indicators may suggest the presence of a CBR agent:

CHEMICAL AGENT INDICATORS

1. Unusual dead or dying animals

- absence of insects/wildlife

2. Unexplained human casualties

- multiple victims, serious illness, nausea
- persons suffering from disorientation, difficulty breathing and/or convulsions
- definite casualty patterns

3. Unusual liquid, spray, vapour or odour

- droplets, oily film, unexplained odour
- low-lying clouds/fog unrelated to weather

4. Suspicious devices/packages

- unusual metal debris
- abandoned aerosol or spraying devices
- unexplained munitions
- leaking packages

BIOLOGICAL AGENT INDICATORS

1. Unusual dead or dying animals

- dead or sick animals on land and in creeks, rivers, coastal foreshores etc

2. Unexplained human casualties

- multiple victims
- unusual illness for region/area
- definite pattern inconsistent with natural occurring disease

3. Suspicious devices/packages

- abandoned atomising, aerosol or other spraying devices

4. Unusual swarms of insects

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Appendix 17.8 Powers of Responders under their Legislation (generally)

(ss. 17.3.1 and 17.3.3)

Withdrawn from public release.
Any inquiries to be referred to the Inspector Operational Policy and Improvement.

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Appendix 17.9 Powers of responders under Public Safety Preservation Act 1986 (generally)

(ss. 17.3.1, 17.3.3 and 18.9)

Withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement Unit.

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Appendix 17.10 Abbreviations used in this chapter

ADF	Australian Defence Force
AFP	Australian Federal Police
AQIS	Australian Quarantine and Inspection Service
ASARMC	Assistant SAR Mission Controller
ASDEST	Australian Space Debris Emergency Search Team
ATSB	Australian Transport Safety Bureau
AUSCONPLAN-SPRED	Australian Contingency Plan for Space Re-entry Debris
AusSAR	Australian Search and Rescue
CBR	Chemical, Biological and Radiological
CBRE	Chemical, Biological and Radiological Emergencies
CCG	Central Control Group
CTLO	Counter Terrorism Liaison Officers
DACC	Defence Force Assistance to the Civil Community
DDC	District Disaster Coordinator
DDCC	District Disaster Coordination Centre
DDMG (district group)	District Disaster Management Group
DDO	District Duty Officer
DHA	Department of Home Affairs
DMA	Disaster Management Act
DPI	Department of Primary Industries
DPP	Director Public Prosecutions
DS	Disaster Situation
DVI	Disaster Victim Identification
DVIS	Disaster Victim Identification Squad
EMA	Emergency Management Australia
EORT	Explosive Ordnance Response Team
ES	Emergency Situation
EXCOM	Extended Communications Search
FCU	Forensic Crash Unit
FSC	Field Search Coordinator
HAZCHEM	Hazardous Chemical
HAZMAT	Hazardous Material
IGA	Inter-Government Agreement
IGEM	Inspector-General of Emergency Management
IMT	Incident Management Team
LANSAR	Land Search and Rescue
LPG	Liquefied Petroleum Gas
LDCC	Local Disease Control Centre
LDMG (local group)	Local Disaster Management Group
MARSAR	Marine Search and Rescue
MEDEVAC	Medical Evacuation
MOU	Memorandum of Understanding
NCT	National Counter Terrorism
NCTP	National Counter Terrorism Plan
OCV	Operational Command Vehicle
PC	Police Commander
PCC	Police Communications Centre
PDO	Preventative Detention Order
PFC	Police Forward Commander
PFCP	Police Forward Command Post
POC	Police Operations Centre
PPRA	Police Powers and Responsibilities Act
PSPA	Public Safety Preservation Act
PSRT	Public Safety Response Team
PMV	Politically Motivated Violence
QAS	Queensland Ambulance Service
QDMC (State group)	Queensland Disaster Management Committee
QFD	Queensland Fire Department
QPS	Queensland Police Service
QR	Queensland Rail
RAA	Recreational Aviation Australia
RAAF	Royal Australian Air Force

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RACE	Response Advice Chemical Emergencies
RAN	Royal Australian Navy
RCC	Australia Rescue Coordination Centre Australia
RDO	Regional Duty Officer
RCV	Regional Communications Vehicle
SATP	State Anti-Terrorist Plan
SAR	Search and Rescue
SAREX	SAR Exercise
SARMC	SAR Mission Coordinator
SCC	State Crisis Centre
SDCHQ	State Control Disease Headquarters
SDCC	State Disaster Coordination Centre
SDCG	State Disaster Coordination Group
SERT	Special Emergency Response Team
SES	State Emergency Service
SEWS	Standard Emergency Warning Signal
SIEV	Suspect Illegal Entrant Vessel
SITREP	Situation Report
TDDMG	Temporary District Disaster Management Group
TE	Terrorist Emergency

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Appendix 17.11 Table comparing the declaration of a 'Disaster Situation', an 'Emergency Situation', a 'Chemical, Biological or Radiological Emergency' and a 'Terrorist Emergency' to various operational criteria

(s. 17.2)

	Disaster Situation (DS) under *Disaster Management Act*	**Emergency Situation (ES)** under *Public Safety Preservation Act*	**Chemical, Biological or Radiological Emergency (CBRE)** under *Public Safety Preservation Act*	**Terrorist Emergency (TE)** under *Public Safety Preservation Act*
Incident	s. 13 Disaster—serious disruption to community caused by event. s. 16 Event—natural or caused by human act or omissions.	s. 4 Emergency situation—incident, accident usually caused by human acts or omissions.	s. 9 situations involving chemical, biological or radiological substances where more powers other than ES powers are necessary to control/contain situation.	s. 8A situations involving or likely to involve suspected terrorist acts and s. 8L, 8G exercise of power is necessary to effectively deal with, manage and control the situation.
Groups/people involved	s.17 State Disaster Management Group. s. 22 District Disaster Management Group. s. 29 Local Disaster Management Group. s. 25 **DDC**—Disaster District Coordinator all District officers + Supt PCC. s. 11 **DDO**—Declared Disaster Officers—other police. s. 11 Other agencies—Ambulance, Fire, Health and others. s. 48A Essential service providers—essential services that can assist.	s. 5(1) Emergency Commander (**EC**)—Commissioned Officer. s. 8(1) Police acting on instructions of **EC**. s. 8(1) other persons directed by **EC** or police.	Minister or Premier may extend or end emergency. ss. 12(1), 16, Chemical, Biological or Radiological Emergency commander—(**CBRE commander**). s. 19 **CBRE commander** may authorise police to use powers under this Act—CBRE police officer. s. 19 **CBRE commander** may authorise other agencies to use powers under this Act—Ambulance, fire, veterinary and health officers.	Minister or Premier may extend or end emergency. s. 8A Commissioner or relevant deputy commissioner appoints appropriately qualified **TE commander** and may appoint **TE forward commander**. s. 8A(4) **TE commander** may also appoint appropriately qualified **TE forward commander**. s. 8Q, **TE commander** and **TE forward commander** may direct officers of other government agencies. s. 8K, police acting on instructions of **TE commander** or **TE forward commander**—**TE officer**.
Declaration of emergency/situation	s. 69 by Minister or Premier. s. 64 by District Disaster Coordinator (Superintendent) with approval of Minister or Premier. s. 64(2) District Disaster Coordinator must consult with District and Local Disaster Management Groups before can make declaration.	s. 5(1) by Commissioned Officer.	s. 12 (1) by **CBRE commander** who is State police officer of assistant commissioner and above. **CBRE commander** must consult with other agencies before can make declaration.	s. 8G by **TE commander** or **TE forward commander**, must be appropriately qualified police officer, State or non-State.

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	Disaster Situation (DS) under *Disaster Management Act*	**Emergency Situation (ES)** under *Public Safety Preservation Act*	**Chemical, Biological or Radiological Emergency (CBRE)** under *Public Safety Preservation Act*	**Terrorist Emergency (TE)** under *Public Safety Preservation Act*
Delegation of powers	s. 143 District Disaster Coordinator can delegate some powers but not ss. 9, 64, 75, 77, 78, 110.	s. 7(2) **EC** can delegate some functions.	s. 19(5) Delegation of **CBRE commander** the power to authorise an emergency responder, other than a health officer, to exercise powers available to the responder.	s. 8D, **TE commander** can delegate all powers. s. 8F **TE forward commander** can delegate some powers, but not noting of certificate of declaration and end of TE.
Forms to be completed	ss. 65, 70 District Disaster Coordinator to fill out approved forms to declare. Completing of forms may be delegated. Forms: DM1, DM2, DM3, DM4, DM6, DM7, DM8A, DM8B, DM9, DM10, DM11, DM12.	s. 5(2) **EC** to issue declaration of ES certificate, QP 460. Also keeps log of the event. s. 7(3) Can't delegate completion of certificate.	s. 13, 14 & 15, Minister and Premier to fill in form 6. s. 12(5) **CBRE commander** fills out forms: 1, 2, 2.1, 3, 4, & 5. Also keeps log of the event. s. 19(5) Other emergency controllers fill out form 4.1. CBRE police officers complete forms 6.1, 6.2.	s. 8H, Minister and Premier to fill in form 6. s. 8B, 8A(2), (4) Commissioner or relevant deputy commissioner must fill in forms 2, 4, may fill in 5. s. 8G, 8J, **TE commander** may fill in forms 1 & 2.1, 3, 4 & 5. Also keeps log of the event. s. 8G, **TE forward commander** may fill in form 1, 3 & 5.
Duration of emergency/situation	ss. 66, 71 Declaration lasts 7 days unless extended by Minister. ss. 67, 72 Minister can extend another 7 days. s. 67A is declaration to extend DS.	s. 5(3) Declaration of ES exists until revoked by **EC**, when powers are no longer necessary to deal with situation.	s. 12(6) Declaration lasts 24 hours unless sooner ended or extended. s. 13(2) Minister or Premier can extend up to 7 days. s. 14 Minister or Premier can extend up to 14 days.	s. 8H Declaration lasts 7 days unless sooner ended. s. 8H Declaration can be extended up to 14 days by Minister or Premier.
End of emergency/situation	ss. 68, 73 end declaration by Minister.	s. 5(3) exists until revoked by **EC** because powers are no longer necessary to deal with the situation.	s. 15 exists until revoked by **CBRE commander**, Minister or Premier when it is not necessary to use powers any longer.	s. 8I exists until revoked by **TE commander**, **TE forward commander** Minister or Premier when no longer necessary to use powers.
Compensation	s. 119	ss. 45, 46	ss. 45, 46	ss. 45, 46

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	Disaster Situation (DS) under *Disaster Management Act*	**Emergency Situation (ES)** under *Public Safety Preservation Act*	**Chemical, Biological or Radiological Emergency (CBRE)** under *Public Safety Preservation Act*	**Terrorist Emergency (TE)** under *Public Safety Preservation Act*
Powers under declaration	District Disaster Coordinator under s. 75 can authorise other agencies and other police to exercise powers. District Disaster Coordinator + **DDO** general powers ss. 76, 77, 78, 79. District Disaster Coordinator + **DDO** + other agencies rescue powers ss. 107, 111, 112.	**EC** under s. 8 can use powers and authorise police to use these powers when acting on instruction of **EC**.	**CBRE commander** under s. 18 can use CBRE powers. **CBRE commander** under s. 19 can authorise others to exercise CBRE powers. Other agencies can exercise powers under ss. 20, 21, 22, 24, 28, 29, 30, 31. CBRE Police officers can exercise powers under ss. 23, 25, 26, 27, 32.	**TE commander** or **TE forward commander** under s. 8E can use TE powers. **TE commander** or **TE forward commander** under s. 8K, 8L, 8Q can authorise other police to exercise TE powers. **TE officer** can exercise powers under ss. 8M, 8N, 8O.
QPS role	s. 26(c) District Disaster Coordinator—coordinates disaster operations. District Disaster Coordinator—coordinates rescue operations.	**EC**—coordinates Emergency situation.	**CBRE commander**—overall management and control of situation s. 17.	**TE commander**—overall management and control of situation s. 8C. **TE forward commander** manages and controls TE site, s. 8E.
Continuous monitoring	District Disaster Coordinator—continuously monitors situation.	**EC**—continuously monitors situation.	**CBRE commander**—continuously monitors situation.	**TE commander**—continuously monitors entire situation. **TE forward commander**—continuously monitors TE site.
Powers of commander	District Disaster Coordinator—can use powers under Act, s. 77.	**EC**—can use powers under Act, s. 8.	**CBRE commander**—can use powers under Act, s. 8 and s. 18.	**TE commander** can use powers under Act, s. 8 and s. 8C. **TE forward commander** can use powers under Act, s. 8 and s. 8E.
Powers of other police	District Disaster Coordinator—can authorise other police to use general and rescue powers under Act, s. 75.	**EC**—can authorise other police to use powers under this Act, s. 8(1).	**CBRE commander**—can authorise and direct other police to use powers under this Act, s. 19.	**TE commander** can direct **TE forward commander** and other police to use powers under this Act, s. 8C, 8K, 8L. **TE forward commander** can direct other police to use powers under this Act, s. 8K, 8L.
Powers of other agencies	District Disaster Coordinator—can authorise other agencies to use general and rescue powers under Act, s. 75.	**EC**—may direct any other person to assist, s8(1)(i) or surrender their resource, s. 8(1)(a).	**CBRE commander** can authorise and direct other agencies to use powers under Act, s. 19.	**TE commander** or **TE forward commander** can direct other government agencies to use powers under Act, s. 8Q.
Liaise with other agencies	District Disaster Coordinator—liaise with other agencies.		**CBRE commander** liaise with other agencies.	**TE commander** or **TE forward commander** liaises with other agencies.

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	Disaster Situation (DS) under *Disaster Management Act*	**Emergency Situation (ES)** under *Public Safety Preservation Act*	**Chemical, Biological or Radiological Emergency (CBRE)** under *Public Safety Preservation Act*	**Terrorist Emergency (TE)** under *Public Safety Preservation Act*
SITREPs	District Disaster Coordinator—give SITREPs.	**EC**—give SITREPs.	**CBRE commander**—give SITREPs.	**TE commander** and **TE forward commander**—give SITREPs.
End of declaration	District Disaster Coordinator—advises police and other agencies of end of situation.	**EC**—advises police of end of situation.	**CBRE commander**—advises Minister, relevant deputy commissioner, police and other agencies of end of situation, s. 15(2).	**TE commander**—advises Minister, relevant deputy commissioner, **TE forward commander**, police and other agencies of end of situation, s. 8I(2).
What to do with forms	District Disaster Coordinator—forwards forms to the State Disaster Coordination Centre.	**EC** must forward certificate to OOC within 14 days, s. 5(6).	**CBRE commander**—must forward forms to OOC within 14 days, s. 43.	**TE commander**—forward forms to OOC within 14 days, s. 8J.
Report to Minister			**CBRE commander**—must do report to Minister, s. 43.	**TE commander**—must do report to Minister, s. 8R.
OPM sections	17.2 through to 17.2.8	17.3.1	17.3.3, 17.3.21	17.3.2, 17.3.15, 17.9.3

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Chapter 18—Counter-Terrorism and Security

OPM Chapter 18 has been withdrawn from public release.
Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

18.1 Counter-terrorism prevention and planning 1481

18.1.1 Planning considerations for public and other events 1481
18.1.2 Requesting a counter-terrorism security coordinator 1481
18.1.3 Duties of a counter-terrorism security coordinator 1481
18.1.4 Station and establishment security for visiting foreign delegations and officials 1481

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