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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 2: 'Relevant law' 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 for indictable offences' 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 467 of 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.

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 2: 'Relevant law' 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 5 (ss. 21 to 34): 'Powers and Responsibilities relating to investigations and questioning for indictable offences' of the PRC apply to a person in custody for indictable offences.

POLICY

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).

PROCEDURE

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 enforcement registers' (ss. 44-54) of the Police 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.

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: 'Dealing with mental illness generally' 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 and radiological emergencies' 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 PRC.

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).

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 on 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

(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 of 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).

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 enforcement acts that were performed. QPRIME reports include:

- (i) the Custody Report and the Custody Report (Full) (including the Detention Log) is 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 watchhouse or holding cell;
- (ii) Location Search Report is to be used for register entries relating to search warrants, Coroner's search warrants, extrajurisdictional 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, extrajurisdictional 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 on 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 who does an enforcement act; or
- (ii) if two or more police officers do the enforcement act, the senior police officer involved in doing the act,

must ensure the information required under Part 7: 'Responsibilities relating to enforcement registers' (ss. 44 to 54) of the PRC is recorded in a register as soon as reasonably practicable after the act is done or the information becomes available.

ORDER

A watchhouse officer who does an enforcement act is to ensure that information required under Part 7 of the PRC 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 on QPRIME custody, search, property and occurrence reports

POLICY

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 on 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 watchhouse, 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 of 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.

Particular information required to be recorded under the Police Responsibilities Code

Part 7 of the PRC requires that certain details are recorded in respect of particular enforcement acts.

POLICY

Where there is no custom field in the relevant QPRIME custody, search, property or occurrence report to enter the details required by the PRC, 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.

Investigations against members of the Service

POLICY

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 access control lists (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 Ethical Standards Command, 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, watchhouse manager, forensic officer.

The ACL Manager from Ethical Standards Command 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

POLICY

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 (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 access control lists (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.

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 and Intelligence 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, watchhouse 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 three 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.

POLICY

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.

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.

Some 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

POLICY

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

POLICY

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

POLICY

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 Service Manuals Definitions) 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 and Intelligence Command or the Duty Supervisor if after hours (see s. 2.7.2: 'Notifying Crime and Intelligence Command' of this chapter); and
- (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 and Intelligence Command; and
- (iii) the regional scenes of crime coordinator (or the forensic officer appointed by the regional scenes of crime 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: 'Crimes scene warrants' (ss. 170-175) of the PPRA and s. 7: 'Crime scene warrant application', and s. 8: 'Crime scene warrant extension application' 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.

POLICY

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
- (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.

PROCEDURE

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)

POLICY

The relevant regional scenes of crime coordinator (or the forensic officer appointed by the regional scenes of crime 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 scenes of crime coordinator (or the forensic officer appointed by the regional scenes of crime coordinator) is to report to the regional crime coordinator or senior investigating officer, Crime and Intelligence 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 scenes of crime coordinator (or the forensic officer appointed by the regional scenes of crime 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 s. 176: 'Powers at crime scene', s. 177: 'Powers of direction etc. at crime scene', s. 178: 'Exercise of crime scene powers in public place' and s. 179: 'Alternative accommodation to be provided in some cases' of the PPRA and s. 6: 'Who is an authorised assistant for crime scene powers' 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) regional crime coordinator;
- (ii) regional duty officer;
- (iii) patrol group inspector;
- (iv) district duty officer; or
- (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 Richlands Supply Services);
- (ii) by computer index;
- (iii) in the officer's official police notebook;
- (iv) on the relevant QP 161: 'Activity log'; or
- (v) by tape recording or other appropriate means.

2.4.8 Communication

POLICY

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.

PROCEDURE

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

PROCEDURE

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

POLICY

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

POLICY

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 police communications centre or officer in charge.

2.4.10 Reporting responsibilities

POLICY

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.

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.

Outside the Brisbane metropolitan area, officers should seek advice from their regional forensic science co-ordinator 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

POLICY

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 Traffic Manual.

PROCEDURE

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 officer in charge of the police communications centre 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 practicable 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.

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. 9.4.7: 'Prosecution of statutory offences' and 9.4.8: 'Recording domestic violence 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.

Crime and Intelligence Command support

Crime and Intelligence 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 and Intelligence 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

- (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 still cameras' 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;

- (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 and Intelligence Command (CIC) to provide recommendations for the determination of rewards (see Crime and Intelligence Command Instruction 29/2021: 'Guiding Principles for the QPS Rewards Evaluation Committee' available on the Crime and Intelligence Command webpage of the Service Intranet). The committee is chaired by the detective superintendent, State Intelligence Group (SIG), CIC.

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 CIC, 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 onto the relevant QPRIME occurrence;
- (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 CIC, 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: 'Office of The 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 onto the relevant QPRIME occurrence.

The RCC, or in the case of CIC, 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.

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 CIC 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 CIC, 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 CIC webpage of the Service Intranet.

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 webpage of the Service Intranet.

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.

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 webpage of the Service Intranet](#).

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.

2.5.5 Use of digital devices

Definitions

For the purpose of this section:

A **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 Service Manuals Definitions).

Responsibilities of OICs of stations and establishments

Where a member at a station/establishment uses a digital device as a part of their duties, the OIC of the station/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 of the station/establishment 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 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 and Intelligence Command;
- (vi) to photograph the face of a prisoner being held in a watchhouse, 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 Chapter 18: 'Counter-Terrorism and Security' 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.

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, Operations Support 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.

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 to ensure appropriate arrangements are made with the person in charge of the CSF or YDC where the prisoner or child is detained and relevant provisions contained in this section are followed.

Where an officer has removed a prisoner from a CSF they are to ensure the following standard conditions are complied with:

- (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 details of the prisoner's access to any communication device or any other person is recorded. Any information posing 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/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 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
- (iii) able to provide the information only by being removed from the watchhouse 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 approval of an officer of at least the rank of detective superintendent;
- (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;
- (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
- (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 eight 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 watchhouse 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 suspects' 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 regional crime coordinator (RCC) or Crime and Intelligence Command (CIC) operations commander 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 RCC of the investigating officer's region is not available, and the matter is urgent, approval may be sought from an operations commander, CIC.

Upon approval from the relevant RCC or operations commander the investigating officer is to:

- (i) make application for the removal order to a magistrate or the CSF as appropriate;
- (ii) 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
- (iii) 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 onto the relevant QPRIME Custody Report (Full) 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 their official police notebook, or official diary in the case of commissioned officers, detectives and plain clothes officers, the time they:
 - (a) accept custody of the prisoner/child;
 - (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 watchhouse;
- (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) and make Detention Log entries as appropriate;
- (iii) advise the RCC or operations commander who authorised the removal within seven days of the removal taking place, by report through their officer in charge (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. 32: 'Removal order application' 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.

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 RCC or operations commander 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 RCC or operations commander, the RCC or operations commander 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 eight hours. Where officers are seeking an extension to the initial eight hours of detention, they are to:

- (i) seek permission from the relevant RCC or operations commander to apply for an extension of time under s. 405: 'Application for extension of detention period' of the PPRA; and
- (ii) where the relevant RCC or operations commander 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 RCC or operations commander of the outcome; or
- (iii) where the relevant RCC or operations commander 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. 32 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 Service Manuals Contact Directory) 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 eight hours. Where officers are seeking an extension to the initial eight hours of detention, they are to:

- (i) request permission from the relevant RCC or operations commander to apply for an extension of time under s. 405 of the PPRA; and
- (ii) where the relevant RCC or operations commander 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 RCC or operations commander of the outcome; or
- (iii) where the relevant RCC or operations commander 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' 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 pre-text 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 RCC or operations commander may attempt to negotiate changes with the general manager of the relevant CSF.

Where changes are not able to be negotiated, or where a 'External Escort Intelligence Advice' form is not provided by QCS in sufficient time for consideration by the RCC or operations commander, the RCC or operations commander 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 RCC or operations commander of the investigating officer's region or command or, if not available, the operations commander CIC 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 RCC or operations commander, the prisoner is to be returned immediately to the relevant CSF; or
- (ii) granted by the relevant RCC or operations commander, 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) a relevant entry in the QPRIME Custody Report (Full) Detention Log; and
 - (b) an official police notebook or official diary is to be made.

Role of the RCC or operations commander

The RCC or operations commanders who receive 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 are 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 eight hours where the prisoner has been removed under s. 403 of the PPRA is approved and advising the relevant investigating officer of the outcome;
- (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) overseeing 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 custody, search, property and occurrence entries being commenced, maintained and updated and detention times are adhered to;
 - (b) official diary/notebook entries including the times relative to the removal;
 - (c) electronic recording of interviews and evidence including entry on the relevant QPRIME Interview Report; and
 - (d) 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, CIC 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 three monthly basis; and
- (ii) the Assistant Commissioner, ESC, on a 6 monthly basis and independently of the region/command audits.

Audits of removals of prisoners or children should include a review of all documentation required by law and policy for the particular removal. Where documentation has not been received by the relevant RCC or operations commander, any action necessary to ensure exceptions are remedied should be taken. See Appendix 2.12: 'Prisoner removal audit checklist' of this chapter for a suggested checklist of documents to be 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. 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 'CIC CSIU Specials' 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 any removals authorised by the relevant RCC and operations commander are to be provided to the Assistant Commissioner, ESC.

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 childrens 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;
- (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 three copies (using a Form 10 under the *Justices Act* available on 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 Business Services Division policies and procedures on the 'Witness Expenses' web page of the Service Intranet);
- (vi) forward the above mentioned documentation to the Accounting Operations Branch, Financial Services, Queensland Shared Services; and
- (vii) make appropriate travel and custody arrangements of the prisoner, in accordance with Travel Services policies and procedures available on the 'Persons in Custody, Escorts and Extraditions' web page of the Service Intranet.

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).

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 Crownprosecutor 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 Travel Services policies and procedures available on the 'Persons In Custody, Escorts and Extraditions' web page of the Service Intranet. 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).

2.5.7 Removal of prisoners from a watchhouse

A person arrested for an indictable offence and held in a watchhouse 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 watchhouse who has been charged and is waiting to appear in court may only be released from a watchhouse 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 watchhouse 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 watchhouses' of the PPRA, if a prisoner is being held in a watchhouse 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. 32: 'Removal order application' of the 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 watchhouse under terrorist interventions (i.e. control orders or preventative detention orders). For prisoners held in a watchhouse under terrorist interventions (see Chapter 18: 'Counter-Terrorism and Security' 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 means a distance of twelve nautical miles from the baseline for the State (usually the coastal high water mark); 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)).

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 Defence Force.

Foreign ship

means a ship other than an Australian ship.

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 waters surrounding Australia (inside the adjacent area)

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 scheme, the criminal law of each State is to apply in the waters adjacent to the State:

- (i) within the inner adjacent area – by force of the law of the State; and
- (ii) within the outer adjacent area – 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.

The purpose of the *Crimes at Sea Act* (Cwlth) 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 police services are signatories of the Protocol to improve the response to reported crimes occurring at sea. The Protocol 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.

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).

POLICY

When investigating offences committed in adjacent areas of the State officers are to comply with the relevant provisions of the *Crimes at Sea Act* (Cwlth), intergovernmental agreement and national protocol. When investigating such offences, officers are to use all relevant provisions of the State law applicable. This includes the PPRA, *Evidence Act* and the *Justices Act*.

Offences committed outside Australian waters (outside the adjacent area)

On occasions criminal offences will be committed on an Australian or foreign flagged ship which is reported to police in Australia.

Australia has extended its application of criminal authority to offences committed in international waters (outside the adjacent area, see Appendix 1: 'Indicative map' of the *Crimes at Sea Act* (Cwlth)) with s. 6: 'Application of Australian criminal law outside the adjacent area' of the *Crimes at Sea Act* (Cwlth), which applies the criminal law of the Jervis Bay Territory (Commonwealth Law). This criminal authority applies to a criminal act committed:

- (i) on an Australian ship;
- (ii) in the course of activities controlled from an Australian ship;
- (iii) by a person who has abandoned, or temporarily left, an Australian ship and has not returned to land;
- (iv) by an Australian citizen (other than a member of the crew) on a foreign ship;
- (v) by an Australian citizen (other than a member of the crew) in the course of activities controlled from a foreign ship; or
- (vi) by an Australian citizen who has abandoned, or temporarily left, a foreign ship and has not returned to land.

The criminal law of the Jervis Bay Territory (Commonwealth Law) under the *Crimes at Sea Act* (Cwlth) is taken to have applied to a criminal act committed:

- (i) on a foreign ship;
- (ii) in the course of activities controlled from a foreign ship; or
- (iii) of a person who has abandoned, or temporarily left, a foreign ship and has not returned to land,

if the first country at which the ship calls, or the person lands, after the criminal act, is Australia or an external territory of Australia.

Any prosecutions commenced in compliance with s. 68 of the *Crimes at Sea Act* (Cwlth) cannot proceed to hearing (for a simple offence) or to a committal hearing (for a criminal offence) without the consent in writing of the Commonwealth Attorney-General. The requirement for consent is not to prevent or delay:

- (i) the arrest or issue and execution of a warrant against;
- (ii) the laying of a charge against;
- (iii) proceedings for the extradition to Australia of; or
- (iv) proceedings for remanding in custody or release on bail of,

the suspected offender until such consent is obtained.

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.

POLICY

Any offences reported to police to have been committed in international waters, under the *Crimes at Sea Act* (Cwlth), 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 policies and procedures of the service receiving the complaint. An occurrence is to be created on QPRIME in accordance with s. 1.11.2: 'Recording an offence on 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.

It must be noted by officers the PPRA does not apply to offences suspected to have been committed outside the inner adjacent area.

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.

PROCEDURE

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), Operations Support Command (OSC) is responsible for the conduct of lawful interceptions of telecommunications and coordinating the management, security and reporting requirements of telecommunications intercepted within the Service. The Crime and Intelligence Legal Unit (CILU), Legal Division, 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 CIC, 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
- (ii) CILU, 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 webpage on the Service Intranet; 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 CIC, 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 must:

- (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, CIC 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 Manager, CILU 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 the CILU 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 CIC, 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 the CILU for review and finalisation in consultation with the warrant applicant.

The CILU will supply a copy of the finalised affidavit to TIU for consideration and approval by the Telecommunications Interception Committee (TIC).

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, CIC 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 webpage on the Service Intranet.

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 CIC, the supervising detective inspector; and
- (ii) complete a 'warrant action request' form available on the Telecommunications Interception Unit webpage on the Service Intranet and forward via their regional crime coordinator or for CIC, 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
- (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 records to be kept by eligible authority in connection with interceptions' 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 records to be kept by eligible authority in connection with interceptions' 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 Service Manuals Definitions) via the ReportCyber website (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

POLICY

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 on QPRIME in the first instance.

Policelink

POLICY

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.

PROCEDURE

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.

POLICY

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 and Intelligence Command, are available to provide guidance and contact details for these inquiries. Further information can be obtained from the CICIU webpage located on the Service Intranet.

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 webpage located on the Service Intranet.

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.

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:
 - (i) criminal proceedings for any offence (note: the offence does not have to be related to a sexual assault offence); and
 - (ii) 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 CIC intranet 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:

(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 and Intelligence Command will be an ongoing liaison point to facilitate cooperation between the Service and the CNPS.

2.5.16 Reportable assault at an aged care facility

The *Aged Care Act* (Cwlth) (ACA (Cwlth)) places a requirement on approved providers of residential aged care facilities to (as soon as reasonably practicable or within 24 hours) report an allegation or suspicion of a reportable assault (see s. 63-1AA: 'Responsibilities relating to alleged and suspected assaults' of the ACA (Cwlth)) to:

- (i) a member of the Service (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,

unless the allegation meets the requirements of s. 53: 'Circumstances in which approved provider is not required to report alleged or suspected reportable assault' of the Accountability Principles (Cwlth).

The investigation of a reportable assault

An officer who receives a reportable assault complaint (see s. 63-1AA(9) of the ACA (Cwlth)) 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 proceeding or investigation undertaken by an aged care facility 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 should 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 assault 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/or 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' webpage on the Service Intranet.

2.6 Specialist investigation

This section provides:

- (i) general information regarding specialist investigations; and
- (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 officers of the Queensland Fire and Emergency Services (QFES) in discharging their functions and exercising powers under the *Fire and Emergency Services Act* (FAESA).

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 police 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. 8.5.20: 'Deaths resulting from fires' of this manual.

For bushfires see s. 17.2.6: 'Bushfires' of this manual.

See SMCD for the Fire Investigation Unit (QFES).

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 53: 'Powers of authorised officer in dangerous situations' of the FAESA 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 police 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:

- (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;
- (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 QFES State Fire Investigation Unit 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.

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 QFES State Fire Investigation Unit 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 Forensic Services Group (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;
 - (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 63 of the Fire and Emergency Services Act

Section 63: 'Authorisation of fires by commissioner' of the FAESA provides the Commissioner for Queensland Fire and Emergency Services (QFES) 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 Part 7: 'Control and prevention of fires' of the FAESA.

Where inquiries establish that the fire is unauthorised and it is suspected that its lighting may have contravened the provisions of s. 62: 'Offences to light unauthorised fire' or s. 72: 'Offences re lighting fires' of the FAESA 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 FAESA, the officer in charge of the nearest QFES station; or
- (ii) a contravention of a local government law, the relevant local government authority.

Where the QFES or a local government authority request assistance in ensuring compliance in relation to the provisions of the FAESA 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 on 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 on 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 Desk

The Arson Desk of Crime and Intelligence Command (CIC) provides specialist support and assistance state-wide for fire investigations. The role and function of the Arson Desk is outlined on the Financial and Cyber Crime Group (FCCG) webpage on the Service intranet.

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 CIC 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).

2.6.2 Homicide

After a death has been determined by police to be suspicious, the Detective Inspector, Homicide Investigation Unit (HIU), Crime and Intelligence Command (CIC) or after hours the Duty Supervisor, CIC, is to be advised by the Regional Crime Coordinator (RCC) of the death as soon as practicable (see s. 2.7.2: 'Notifying Crime and Intelligence 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 Regional Forensic Services Coordinator (RFSC) (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 RFSC, 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. 8.4.4: 'Pre-mortuary procedures and removal of bodies from scene' of this Manual);
- (vi) ensuring the next of kin are advised (see s. 8.4.7: 'Advising relatives' 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 particular applications where victim's body or remains have not been located' 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 (see s. 193A(8) of the CSA) 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.

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 webpage available on the Service Intranet.

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. 8.5.18: '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.

Regional crime coordinator assistance responsibilities

In every case of homicide, the RCC for the region in which the homicide occurred is to ensure:

- (i) where the next of kin of the deceased has consented to the release of their personal particulars to the Queensland Homicide Victims Support Group, the completed 'Victims of Homicide Notification Form' is sent by email to the Queensland Homicide Victims Support Group (see SMCD) within 24 hours of the commencement of the investigation;
- (ii) 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;
- (iii) 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 QP 0528B: 'Supplementary Form 1 Domestic Homicide Audit' is completed and a notification task is assigned, as soon as practicable, to the relevant district Domestic and Family Violence Coordinator, in QPRIME. The message 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 a contact telephone number; and
 - (d) brief particulars of the incident.

Where the family of a victim of crime requests assistance with the cleaning of the crime scene, see s. 2.12.1 subsection titled 'General rights of victims'.

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 (Crime, Counter-Terrorism and Specialist Operations) otherwise directs, responsibility for the investigation and all investigation material (including exhibits) are to be handed over to the Homicide Group, CIC. 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; or
- (iv) a coronial inquest has been finalised in relation to the matter.

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;
 - (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 webpage on the Service Intranet);
- (iv) all exhibits relevant to the matter are to be transferred to Evidence Management (Exhibits), CIC, 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 three 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, CIC webpage on the Service Intranet. 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. 8.5.24: '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) three months after an investigation has commenced; and
- (ii) every six 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 twelve months after it was commenced, and an investigation review has not yet been initiated.

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

CIB and CPIU OIC responsibilities

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' below.

First response officer responsibilities

Where first response officers identify a sexual offence, they should consider contacting the relevant district SVLO to assign an investigating officer in line with local arrangements and the responsibilities of an SVLO contained in this section.

Additional responsibilities of first response officers for sexual offences include:

- (i) ensuring the safety and welfare of the victim (see Charter of Victims' Rights of the *Victims of Crime Assistance Act* (VOCAA) and s. 2.12.1: 'Victims of Crime Assistance Act' of this chapter);
- (ii) identifying any person to whom the victim may have stated the complaint to following its occurrence, i.e. preliminary complaint and any other possible witnesses;
- (iii) obtaining personal particulars from the victim and identifying the offence to be investigated, i.e. rape, sexual assault;

- (iv) completing a brief account of the occurrence involving the offence complained of, including location, time, injuries, conversation, indicia, sequence of events, etc.;
- (v) obtaining sufficient information which would assist in identifying the suspect(s), including as appropriate:
 - (a) ascertaining if the suspect(s) is known to the victim or any witnesses;
 - (b) obtaining an accurate description of the suspect(s);
 - (c) identifying if any CCTV or security surveillance camera vision is available (see s. 2.4.11: 'Video and photographic evidence recorded during the commission of offences' of this chapter);
 - (d) obtaining any information which will assist investigators in locating and identifying the suspect(s); and
 - (e) arranging for a broadcast of suspect(s) where necessary; and
- (vi) not asking leading questions of the victim in relation to the complaint.

Investigating officer responsibilities

Additional responsibilities of investigating officers for sexual offences include:

- (i) providing an objective account of the investigative process and judicial process to ensure the victim is fully informed of the process;
 - (ii) discussing with the victim their needs and concerns in relation to the investigative process including whether the victim has any preference in relation to the gender of any officer to be present during the investigation. Preferences should be complied with where possible;
 - (iii) providing the opportunity for the victim to have a support person present during the various stages of the investigation, including taking the victim's statement (see also s. 7.6: 'Interview with a child or person with an impairment of the mind' of this Manual) and during any medical examinations. A support person may include an employee from a sexual assault support service. Victims should be advised that witnesses or potential witnesses may not act as support persons;
 - (iv) fully informing the victim of the importance of retaining forensic evidence. However, officers should not discourage victims from washing bodily fluids from the vaginal or anal areas due to the risk of infection from potentially life-threatening diseases such as HIV;
 - (v) arranging for a medical examination by a forensic medical officer (FMO), doctor or forensic nurse;
 - (vi) providing the examining medical practitioner with a Sexual Assault Investigation Kit (SAIK);
 - (vii) taking possession of the completed SAIK and ensuring it is:
 - (a) allocated a forensic exhibit number;
 - (b) entered onto the forensic register by a forensic officer; and
 - (c) delivered to Queensland Health Forensic and Scientific Services (FSS) (see s. 2.19.6: 'Forensic Services Group (FSG)' of this chapter);
 - (viii) where additional biological evidence is taken from the complainant, only the SAIK is to be delivered to FSS. The biological samples are to be:
 - (a) retained by the investigating officer whilst awaiting the results of SAIK analysis; and
 - (b) submitted for analysis, if the analysis fails to identify the offender;
 - (ix) ensuring a DNA reference sample is collected from the complainant:
 - (a) at the same time as the SAIK; or
 - (b) in offences involving oral rape, 48 hours after the time of the offence; and
 - (c) using a DNA 'Mouth Sample Kit – QPS'; and
 - (d) completing a:
 - QP 0442: 'DNA Sample Particulars Form'; and
 - QP 0535B: 'Signed consent for the taking of sample for DNA Analysis from victim/complainant/witness',
- (see s. 2.25.6: 'Obtaining samples for DNA analysis from a victim/complainant/witness' of this chapter);
- (x) collecting DNA reference samples from witnesses/husband/partners for the purpose of assisting analysts with the interpretation of complex mixed DNA profiles and improving the timeliness of results;
 - (xii) prior to obtaining a DNA sample:

(a) ensure the victim is fully aware of the procedures involved in the medical examination and discuss the evidentiary benefit to have such examination;

(b) explain to the victim written and signed consent should be given for:

- any clinical or forensic examination;
- the collection of specimens by the doctor;
- the release of any specimens taken or relevant laboratory results; and
- the taking of necessary photographs;

(c) provide the victim the option of having a support worker present during the examination. The examination should be directed to establishing whether the victim had been penetrated to any extent or sexually assaulted. All possible evidence of the commission of the crime should be obtained from the examination of the victim including signs of injury corroborating lack of consent (these signs may consist of bruises, lacerations, scratches, etc. on any part of the body, including the thighs and genital area).

Note: there is no legal requirement for a police officer to be present during a medical or forensic examination. Officers may however advise the victim they or medical staff may request an officer to be present;

(d) be aware of the provisions of s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the *Evidence Act* (EA) which deals with the admissibility of statements by a child or an intellectually-impaired person. Wherever possible, statements in this format should be obtained by officers who have successfully completed an ICARE (Interviewing Children and Recording Evidence) course; and

(e) where possible, obtain photographs of the victim which illustrate any injuries or other evidence;

(xiii) ensuring the victims 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: 'Procedure for items of clothing worn by a complainant' of this chapter;

(xiv) arrange 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. Items such as discarded clothing, bed linen etc. which may provide forensic evidence to support the investigation are collected in accordance with s. 2.25.19: 'Procedure for items left at scenes of crime' of this chapter;

(xv) making, if appropriate, a detailed plan of the scene. Officers trained in accident investigation procedures may be able to assist;

(xvi) obtaining a detailed statement from the victim. In doing so officers should:

(a) consider the provisions of Chapter 6: 'Persons who are vulnerable, disabled or have cultural needs' of this Manual;

(b) consider the provisions of s. 93A of the EA (Admissibility of statements by a child or an intellectually-impaired person). Statements in this format should, where possible, be taken by officers who have completed an ICARE course;

(c) inquire if a support person is required during the interview, e.g. a friend, family member or a community support worker;

(d) 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;

(e) ensure, where the victim is not conversant with the English language, where available, an appropriate interpreter is present (see s. 6.3.7: 'Interpreters' of this Manual);

(f) 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 (see s. 7.6.3: 'Procedures for interviewing a child' of this Manual);

(g) acknowledge the impact of sexual violence can be different for everyone and ensure the victim is comfortable prior to commencing the statement;

(h) create an environment of trust with the victim;

(i) conduct the interview in a private quiet area;

(j) inform the victim of the investigative processes which will take place;

(k) advise the victim of the format of the interview and how it will be conducted;

(l) answer and clarify any questions asked by the victim;

- (m) take care when interviewing the victim. The investigating officer is to be mindful the victim may subconsciously try to fill in gaps in memories and become suggestible when answering questions;
- (n) record accurately the victim's responses;
- (o) ensure the statement is signed by the victim in accordance with the *Justices Act* or *Oaths Act* provisions;
- (p) keep all transcripts secured and together;
- (q) ensure a copy of the statement is given to the victim;
- (r) 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
- (s) 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;
- (xvii) keeping the victim fully informed on what is happening throughout the investigation;
- (xviii) comply with the Charter of Victims' Rights of the VOCAA (see s. 2.12: 'Victims of crime' of this chapter);
- (xix) if necessary, arranging for photographs to be taken of the crime scene, any exhibits, and photographs of any injuries received by the victim;
- (xx) collating, labelling and securing all exhibits in accordance with the provisions of Chapter 4: 'Property' of this Manual;
- (xxi) maintaining a log of events to assist in the management of the investigation;
- (xxii) obtaining statements from any possible witnesses;
- (xxiii) obtaining a statement of preliminary complaint without asking leading questions;
- (xxiv) if the identity of the suspect is not known, arranging a Comfit and ensure the completed Comfit is attached to the relevant QPRIME occurrence (see s. 2.11.8: 'Comfit identification (Computer Generated Images)' of this chapter);
- (xxv) if the identity of the suspect is known, locating and interviewing as necessary;
- (xxvi) conducting any necessary searches to obtain any evidence from the suspect or from any other place;
- (xxvii) once a statement has been taken from the complainant, forwarding a notification task within the relevant QPRIME occurrence to the Child Abuse and Sexual Crime Group, Crime and Intelligence Command for intelligence purposes; and
- (xxviii) 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.

Sexual violence liaison officer (SVLO) responsibilities

Additional responsibilities of the OIC of CIBs and CPIUs include undertaking the role of SVLO. This responsibility relates to Service responses to victims over the age of consent (16 years or older) and includes 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 all contact is recorded;
- (iii) that at all stages throughout the investigation, and where operationally practical and appropriate, the victim is afforded the opportunity to have a support person present during all in-person contact with an investigating officer;
- (iv) during the initial reporting of a sexual violence offence, the discussions around the proposed investigation process focus on ensuring the victim can access the justice process. Any undue emphasis on negative aspects of the process or to withdraw is unacceptable. This does not prevent an investigating officer from providing an honest and transparent account of the investigation and judicial processes, with the aim of ensuring the victim can make an informed decision;
- (v) a referral to an appropriate support service is offered to all sexual violence victims;
- (vi) where a matter cannot be progressed to prosecution, advice is provided in person to the victim by the investigating officer (where practicable);
- (vii) 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 there are extenuating circumstances. If a withdrawal of complaint is to be obtained within 14 days, it should only occur following consultation and approval by the SVLO;

- (viii) additional support and referrals are offered to a victim who insists on withdrawing within the first 48 hours after making a complaint;
- (ix) 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;
- (x) a monthly review of withdrawal of complaints is conducted with an entry made on the OEL in QPRIME;
- (xi) a random audit of sexual offence investigations within the associated district is conducted for the purpose of quality assurance;
- (xii) 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 an issue/s concerning the response provided by the investigator and/or the Service; and
- (xiii) relationships with the local sexual assault support services are built and maintained and information is shared between agencies to improve the response to victims.

Where appropriate the SVLO can delegate some of the above responsibilities to appropriately trained officers.

Regional crime coordinator responsibilities

ORDER

In cases of rape, serious or complex sexual assaults the regional crime coordinator is to notify the Detective Inspector, Child Abuse and Sexual Crime Group, Crime and Intelligence Command, forthwith.

Drug facilitated sexual assaults

First response officers and investigating officers are to always consider the possibility of drugs being used to facilitate the commission of sexual assaults. In cases where it is suspected drugs may have been used, officers are to:

- (i) ensure appropriate testing is conducted at the crime scene to maximise the chances of detecting these substances. The government medical officer or doctor conducting the examination is to be advised, so the appropriate blood and/or urine samples are correctly obtained. The decision to test for these remains a clinical one which is made by the victim in consultation with the doctor;
- (ii) advise the victim of the need to examine the clothes they were wearing when both the drug was administered, and the sexual assault occurred. These clothes may contain traces of the drug used by the offender, which may provide corroboration of the victim's allegations. Items seized are to be placed separately into appropriate exhibit bags, to avoid cross transfer of evidence;
- (iii) take care when interviewing the victim. The investigating officer is to be mindful the victim may subconsciously try to fill in gaps in memories and become suggestible when answering questions; and
- (iv) consider locating potential witnesses in relation to these crime scenes.

Crime scenes may include the premises where the drug may have been administered to the victim or where it has been stored and/or prepared by the suspect.

Officers should search crime scenes for:

- (i) possible drugs that may have been administered, including prescription medication;
- (ii) devices used to administer the drug, syringes, eye droppers etc.;
- (iii) receptacles and packaging used to store the drug;
- (iv) in the case where the crime scene is a licensed premise, any CCTV footage; and
- (v) any property of the victim the suspect may be in possession of.

Response to Sexual Assault Guidelines

Guidelines for responding to adult victims of sexual assault are available on the Child Abuse and Sexual Crime Group 'Resources' web page on the Service Intranet.

Officers are to:

- (i) refer to the 'Response to Sexual Assault' 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 maintain a list of support agencies on their 'Sexual Assault' webpage.

Online sexual assault reporting for adults

Adult members of the public may report a sexual assault online through the QPS Internet (<https://www.police.qld.gov.au/units/victims-of-crime/support-for-victims-of-crime/adult-sexual-assault>).

Victims may use the online sexual assault reporting form to report a sexual assault to police as an alternative way to making a report at a station or over the phone.

If a victim wishes to report a sexual assault, but does not want to make a formal complaint or they want to remain anonymous, the Alternative Reporting Option form located on the QPS Internet can be used.

Adult Sexual Assault Resource package

The Adult Sexual Assault Resource package is an on-line resource that provides alternative reporting options as well as detailed information relating to adult sexual assault. The package is available on the Service internet website and has been designed to be used by members of the Service, victims, sexual assault support counsellors, government and non-government service providers as well as members of the public. The package includes information on:

- (i) making a complaint of sexual assault;
- (ii) the investigative and court processes;
- (iii) alternative reporting options; and
- (iv) appropriate support services.

The Adult Sexual Assault Resource package is managed by Child Abuse and Sexual Crime Group, CIC.

Witness Intermediaries

Officers in the Brisbane and Cairns District and Supreme Court jurisdictions who are investigating allegations of child sexual offences and have prosecution witnesses who may have communication difficulties should consider the services of the QIS pilot program. For policy in relation to QIS eligibility and requesting process see s. 7.6.3 of this Manual.

Intermediaries can assess a witness with communication difficulties to advise police on the best way to interview the witness and ensure that the witness understands police questions and police understand the witness's answers.

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:
 - (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 and Intelligence 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.

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 and Intelligence 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 and Intelligence Command.

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 State Drug Squad, Crime and Intelligence Command to assess and process a clandestine illicit drug laboratory.

Site control officer

is a member of the Synthetic Drug Operations Unit, State Drug Squad, Crime and Intelligence Command or a qualified officer attached to the Major & Organised Crime Squad (Northern or Far Northern), Crime and Intelligence Command.

Synthetic Drug Operations Unit

The Synthetic Drug Operations Unit (formerly known as the Illicit Laboratory Investigation Team), State Drug Squad, Crime and Intelligence Command investigates the illicit manufacture of synthetic drugs. Synthetic Drug Operations Unit 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 regional or district duty officer who are to then notify the officer in charge, Synthetic Drug Operations Unit using the on-call number 3364 4548 (3364 ILIT) or the detective inspector, State Drug Squad, Crime and Intelligence Command.

First response officer responsibilities

Officers, other than members of the Synthetic Drug Operations Unit and qualified officers attached to the Major & Organised Crime Squad (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 and Emergency Service, and where appropriate arrange their attendance; and
- (x) immediately contact their shift supervisor and regional or district duty officer who are to then immediately notify the officer in charge, Synthetic Drug Operations Unit using the on-call number 3364 4548 (3364 ILIT) in accordance with s. 2.7.2: 'Notifying Crime and Intelligence Command' of this chapter;

(Officers may use the on-call number 3364 4548 (3364 ILIT) during normal business hours to contact with the OIC Synthetic Drugs Operations Unit 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, Synthetic Drug Operations Unit;
- (ii) a qualified officer attached to the Major & Organised Crime Squad (Northern or Far Northern) who has been approved by the Detective Inspector, State Drug Squad to process the scene; or
- (iii) a chemist attached to Forensic Chemistry, Queensland Health Forensic and Scientific Services.

Where officers who have successfully completed the Clandestine Laboratory Course are available, such officers are to contact the OIC, Synthetic Drug Operations Unit on the on-call number (3364 ILIT) 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

Police 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 police station or property point without the approval of the OIC, Synthetic Drug Operations Unit using the on-call number 3364 4548 (3364 ILIT), or the OIC Major & Organised Crime Squad (Northern or Far Northern).

Laboratories located in Northern or Central Region

Where a suspected clandestine illicit drug laboratory is located within the Northern Region, qualified officers attached to Major & Organised Crime Squad (North or Far Northern) should take the role of the site control officer and site safety officer until advised by the Detective Inspector, State Drug Squad whether members of the Synthetic Drug Operations Unit, State Drug Squad will attend the scene. Where a suspected clandestine illicit drug laboratory is located within the Central Region the OIC Major & Organised Crime Squad (Northern) and the Detective Inspector, State Drug Squad are to liaise to establish who will take the role of site control officer.

Where a qualified officer attached to the Major & Organised Crime Squad (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 Synthetic Drug Operations Unit 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 Detective Inspector, State Drug Squad determines the Synthetic Drug Operations Unit will:

- (i) attend the scene, the site control officer attached to the Major & Organised Crime Squad (Northern or Far Northern) is to ensure the scene is preserved and secured until the arrival of the Synthetic Drug Operations Unit, State Drug Squad, Crime and Intelligence Command; or
- (ii) not be attending the scene, the site control officer attached to the Major & Organised Crime Squad (Northern or Far Northern) is to coordinate the processing of the scene by qualified members of the Major & Organised Crime Squad (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 'Notification, recording, reporting and investigation of work-related incidents and injuries' within Safety and Wellbeing of the Human Resources Policies (see also s. 3.6: 'Workplace health and safety considerations' of the MSM, and the Safety, Wellbeing and Central Panels Division webpage on the QPS intranet).

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.

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.

POLICY

The Detective Inspector, State Drug Squad, Crime and Intelligence Command is to be advised as soon as possible by a member who:

- (i) receives reliable information relating to an illegal drug crop;
- (ii) locates an illicit drug crop of more than 100 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 creating a QPRIME intelligence submission and sending a work request task to ORG Unit [5438] and include:

- (i) the date and location of the crop including a 1:100,000 scale map reference where possible;
- (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. 13.7: '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), CIC 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 and Intelligence 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), CIC is to be advised of the circumstances requiring assistance in an investigation. The region and CIC 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.

Cyber Hub

In accordance with this section and s. 2.7.1 of this Manual, the FCCG, CIC 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 the CIC 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;
 - (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, an '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, Operations Support Command (OSC) to examine electronic devices and extract information.

The role and function of the EEU, is outlined on the unit's webpage on the Service Intranet.

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 webpage on the Service Intranet.

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.

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 CIC, 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 Regional Forensic Manager 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 webpage on the Service Intranet.

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).

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, CIC, who will refer the matter to the Crime and Intelligence Legal Unit (CILU), CIC.

The Senior Legal Officer, CILU, 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, CILU, 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.

POLICY

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* (WHS));
- (ii) a dangerous electrical event (see s. 12: 'Meaning of dangerous electrical event' of the *Electrical Safety Act* (ESA)) at workplaces or residences;
- (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 Website.

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, Road Policing and Regional Support Command are to be contacted when officers attend a workplace or electrical incident resulting in a fatality or serious bodily harm.

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. 8.5.6: 'Fatal workplace and 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 Service Manuals Definitions) 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
 - 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, CIC of the circumstances (see s. 2.7.2: 'Notifying Crime and Intelligence Command' of this section). Where practicable, advice is to be given to CIC prior to the joint investigation commencing.

When advised of the circumstances, the relevant detective superintendent CIC will determine the response or engagement from CIC where appropriate.

The regional crime coordinator or detective superintendent, CIC 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 watchhouses;
- (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 theft

The diversion of firearms through theft is a community safety issue. Strict gun control has reduced access to firearms making opportunistic or planned firearm theft a significant policing issue.

POLICY

Statewide audits are to be conducted to ensure licensee storage facilities comply with legislation.

Officers attending the scene of firearms thefts are to contact the officer in charge of their local criminal investigation branch who will determine if investigators should attend the scene. If the firearm theft is significant, investigators are to notify the Firearms Investigations Team, Drug and Serious Crime, Crime and Intelligence Command.

'Significant' is not restricted to the number of weapons stolen and includes thefts involving:

- (i) handguns;
- (ii) category C or D firearms;
- (iii) a person associated with a criminal organisation;
- (iv) dealers and armourers; and
- (v) firearms stolen in transit.

PROCEDURE

Officers investigating firearm thefts are to consider whether the:

- (i) storage facilities were compliant;
- (ii) theft is suspicious (e.g. fraudulent attempt to divert firearms); or
- (iii) theft is significant.

Officers who identify that the weapon storage facilities did not comply with legislation should institute proceedings.

ORDER

Officers attending the scene of firearm thefts are to notify the officer in charge of the local criminal investigation branch.

2.6.16 Stock

Major and Organised Crime Squad (Rural)

The Major and Organised Crime Squad (Rural) (MOCS (Rural)) is a specialist investigation squad attached to Crime and Intelligence Command and managed under a central function model within the Drugs and Serious Crime Group. The Squad operates as a 'task force' to manage stock and major and organised crime in rural Queensland across the State. The squad consists of officers with specialised skills, knowledge and experience in the pastoral and agricultural industries. MOCS (Rural) is responsible for investigating all reports of stock related and rural crime which may significantly impact rural communities. The squad is also responsible for reducing and preventing stock and major and organised crime in rural Queensland through intelligence driven operations, crime prevention and problem solving initiatives. MOCS (Rural) 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 resupply, drug investigation and exhibit recovery.

Both civil and criminal court processes impact rural crime and stock management.

Further information can be obtained from the MOCS (Rural) webpage located on the QPS Internet.

Major and Organised Crime Squad (Rural)

POLICY

Officers who receive information relating to major stock offences or rural incidents of a nature, which would otherwise be beyond the normal scope of general duties policing, should notify their nearest MOCS (Rural) as soon as practicable.

PROCEDURE

Crime managers should determine if an occurrence relating to stock or rural crime should be sent to the relevant MOCS (Rural) for investigation. Officers in charge of MOCS (Rural) receiving an occurrence relating to an area of their investigation are to assign the occurrence to a MOCS (Rural) officer.

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.

PROCEDURE

Where an applicant inquires into the issuance of a 'forced muster order', officers are to advise their relevant MOCS (Rural) Squad 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 MOCS (Rural)); 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.

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.

PROCEDURE

Where an officer intends to apply to a magistrates court for a stock disposal order, officers are to advise their relevant MOCS (Rural) of the potential application and, in consultation with MOCS (Rural), 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.

Stock or rural crime offence to be recorded on QPRIME**PROCEDURE**

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.

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>

2.7 Crime and Intelligence Command

The Crime and Intelligence Command (CIC) is primarily responsible for the investigation and suppression of organised and major crime.

The following operational definitions of the terms 'Organised Crime' and 'Major Crime' 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 the CIC is outlined on the command's webpage of the Service Intranet.

The CIC consists of seven 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) Intelligence Directorate;
- (vi) Organised Crime Gangs Group (see s. 2.7.7: 'Organised Crime Gangs Group' of this chapter); and
- (vii) State Intelligence Group (see s. 2.7.8: 'State Intelligence Group' of this chapter).

OICs of regions or commands are to ensure that information is distributed to the CIC in appropriate cases, in a timely fashion.

The Assistant Commissioner, CIC 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 and Intelligence 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 and Intelligence Command (CIC) 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 CIC 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 webpage on the Service Intranet.

Where an OIC of a region or command requires the assistance of the CIC, the relevant regional crime coordinator (RCC) or delegate is to liaise with the detective inspector of the relevant specialist unit/s, CIC to determine the level of engagement.

Where CIC members are proposing to conduct an investigation within a region, the detective inspector of the relevant specialist unit, CIC 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 CIC specialist unit will be in investigational control, unless the Deputy Commissioner, (Crime, Counter-Terrorism and Specialist Operations), directs otherwise.

ORDER

Where CIC is to have level one engagement – investigation control, the Assistant Commissioner, CIC will:

- (i) allocate adequate CIC members and other resources to the investigation;
- (ii) nominate the OIC of the investigation from CIC, who is responsible for the case and bringing it to its conclusion; and
- (iii) ensure ongoing coordination of CIC and regional members during any investigation.

Level two (Equal control investigation)

In level two investigations, the appropriate CIC specialist unit is to engage in an equal control investigation with the relevant region.

Any equal control investigation between CIC 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 CIC;
- (iii) each nominated OIC where practicable, being of equal rank;
- (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 CIC 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 CIC and a region or command:

- (i) the region or command and CIC are responsible for all expenses incurred by their own personnel;
- (ii) the OIC of a region or command and the Assistant Commissioner, CIC 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 and Intelligence Command of investigations with regions

An investigation where engagement of CIC 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, CIC, responsible for the relevant crime type; or
- (iv) the Deputy Commissioner (Crime, Counter-Terrorism and Specialist Operations), directs the CIC members to disengage.

ORDER

When an investigation with engagement by CIC and a region or command is concluded, or CIC 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, (Crime, Counter-Terrorism and Specialist Operations);
 - (b) investigation complete, offenders not identified;
 - (c) investigation complete, offenders identified but not located, etc.; and
 - (d) CIC 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 and Intelligence Command

Prior to contacting CIC, officers should confirm the specialist group's preferred engagement procedure as published in this chapter or on the unit's webpage of the Service Intranet.

Where officers of the CIC are to be advised of an incident, they may be contacted direct during normal working hours, or by contacting:

- (i) the Duty Supervisor, CIC, weekdays between 1600 hrs and 2400 hrs and on weekends and public holidays between 0800 hrs and 2400 hrs (see 'Contacts' of the Crime and Intelligence Command webpage); 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), CIC roles, functions and specialist investigation units are outlined on the group's website of the Service Intranet.

CASCg provides the Blue Card Operations Leader, who operates as the liaison officer between the Service and Blue Card Services, Department of Justice and Attorney-General (DJAG) for employment screening documents issued under the *Working with Children (Risk Management and Screening) Act*.

Engagement of Child Abuse and Sexual Crime Group

The Detective Inspector, Child Trauma and Sexual Crime Unit, is to be advised (see CASCg web page on the Service Intranet) as soon as practicable after a reportable child death with suspicious circumstances. See also ss. 8.4.2: 'First response actions (deaths)', 8.5.8: 'Deaths of children' and 8.5.9: 'Sudden unexplained deaths of infants' 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 and Intelligence Command upon engagement in investigations with regions' of this chapter).

Where CASC members are proposing to conduct an investigation within a region, the Detective Inspector, CASC 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), CIC units, roles and functions are outlined on the group's webpage of the Service Intranet.

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 and Intelligence 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 webpage on the Service Intranet.

Prostitution Enforcement Task Force

The Prostitution Enforcement Task Force (PETF), CIC, has an overseeing role with respect to the policing of prostitution across the State and is to be notified of all prostitution related offences and activities. Relevant regions will be notified when the PETF is conducting operations in their area.

The responsibility for the investigation of prostitution related offences is decided on a case-by-case basis. The criteria and a matrix to identify the investigation responsibility is published on the PETF webpage on the Service Intranet.

ORDER

The OIC, PETF is to be advised as soon as possible when an officer receives reliable information relating to prostitution which falls within the categories below:

- (i) organised unlawful prostitution throughout the State;
- (ii) unlawful prostitution activities crossing regional boundaries;
- (iii) operations which warrant the utilisation of covert operations; and
- (iv) offences concerning licensed brothels.

With the exception of covert activities, the PETF is to advise the relevant region(s) when conducting operations.

See s. 13.11: 'Prostitution' of this Manual for prostitution-related matters.

Regional unit approval

Whenever a specialist prostitution enforcement unit is to be established within a region, the OIC of the region is to consult with Assistant Commissioner, CIC.

2.7.5 Financial and Cyber Crime Group

Financial and Cyber Crime Group (FCCG), CIC units, roles and functions are outlined on the group's webpage of the Service Intranet.

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 CIC 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;
- (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 webpage of the Service Intranet.

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 webpage of the Service Intranet.

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 CIC, 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' webpage; and
- (ii) 'Financial profiling – a guide for regional police' webpage,

on the FCCG webpage on the Service Intranet for assistance in locating finance related information.

2.7.6 Homicide Group

The Homicide Group, CIC units, roles and functions are outlined on the group's webpage of the Service Intranet.

The Detective Inspector Homicide Group, or after hours the Duty Supervisor, CIC (see s. 2.7.2: 'Notifying Crime and Intelligence 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', 8.5.8: 'Deaths of children' and 8.5.9: 'Sudden unexplained deaths of infants' 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 and 'Complaint Management' of the Human Resources Policies are to apply.

See also ss. 2.6.2: 'Homicide' and 8.4.2: 'First response actions (deaths)' of this Manual.

See s. 2.7.1: 'Role of Crime and Intelligence Command upon engagement in investigations with regions' of this chapter for determination of the level of engagement of CIC 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 webpage of the Service Intranet.

Corrective Services Investigation Unit

The Corrective Services Investigation Unit, CIC, 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 Correctional Services' of this Manual.

State Flying Squad

The role and function of the State Flying Squad is outlined on the squad's webpage of the Service Intranet.

Officers who require the assistance of the State Flying Squad should first review the squad's webpage of the Service intranet. 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 CIC, a commissioned officer.

Following approval, the requesting officer is to submit the 'Request for Assistance – State Flying Squad' from the link within the squad's webpage of the Service intranet.

The Operations Leader, State Flying Squad is to liaise with the Inspector, Homicide Group, CIC and advise the requesting officer as to the provision of any assistance.

CIC 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), CIC units, roles and functions are outlined on the group's webpage of the Service Intranet.

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 and Intelligence 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 webpage of the Service Intranet.

Protracted Unit

The role and function of the Protracted Investigations Unit is outlined on the unit's webpage of the Service Intranet.

The Protracted 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 webpage on the Service Intranet.

Taskforce Maxima – Tactical Unit

The role and function of the Tactical Unit is outlined on the unit's webpage on the Service Intranet.

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 webpage on the Service Intranet.

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 webpage on the Service Intranet.

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.

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 web page of the Service Intranet.

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.

2.8 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

POLICY

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 a 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**POLICY**

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 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 than the owner, must give consent.

2.8.1 Search of a person**References to legislation**

The following chapters of the PPRA contain provisions relating to the searching of a person:

Chapter 2: General enforcement powers

- Part 1: 'Entry, inquiries and inspection';
- Part 2: 'Searching persons, vehicles and places without warrant'.

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'.

Chapter 16: Search powers for persons in custody

s. 443: 'Police officer may search person in custody'.

Chapter 18: Blood and urine testing of a person suspected of committing sexual or other serious assault offences

Part 2: 'Taking blood and urine samples'.

Chapter 19: Other powers

Part 6: 'Miscellaneous powers'.

Chapter 20: Other standard safeguards

Part 3: 'Other safeguards'.

Part 7, Division 1: 'Register of enforcement Acts' of the Responsibilities Code contains provisions relating to the searching of a person.

ORDER

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**References to legislation**

The following chapters of the PPRA contain provisions relating to the searching of a place:

Chapter 2: General enforcement powers

Part 2: 'Searching persons, vehicles and places without warrant';

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';

Chapter 19: Other powers

Part 1: 'Directions in state buildings';

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'.

The following parts of the Police Responsibilities Code (RC) contain provisions relating to the searching of a place:

Part 2: 'Powers and responsibilities relating to search warrants, obtaining documents, and crime scenes';

Part 7, Division 1: 'Register of enforcement acts'.

POLICY

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: 'Execution of search warrants on premises of lawyers';

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 procedures for searches of places

ORDER

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.

POLICY

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).

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.

PROCEDURE

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').

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.

POLICY

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.

PROCEDURE

Search particulars should include:

- (i) time commenced;
- (ii) search sequence;
- (iii) time items located;
- (iv) description of things located;
- (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.

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 including 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.

POLICY

Prior to conducting any search officers are to become conversant with:

- (a) 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;
- (b) Appendix 16.9: 'Guidelines for conducting personal searches' of this Manual; and
- (c) 'First aid and infection control' and 'Management of blood/body fluid exposures and skin penetrations' within the Safety, Wellbeing and Central Panels Division webpage on QPS Intranet contains general health and safety advice for members, and are to be read in conjunction with this section.

An officer, the officer in charge (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.

PROCEDURE

A risk assessment of a proposed search should be documented and include the identification of all potential hazards and their subsequent risk(s) to persons involved. It should also include the identification and selection of appropriate control measures to eliminate or reduce the level of risk(s) to, or control and manage the level of exposure to the risk(s) 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(s), or control and manage the level of exposure to the risk(s) 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.

2.8.3 Obtaining a search warrant

Officers seeking to search a premises or a place:

- (i) should refer to ss. 150 to 156 of the PPRA and Part 2: 'Powers and responsibilities relating to search warrants, obtaining documents, and crime scenes' 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.

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 Manual 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.

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.

Restriction on obtaining COVID-19 application information

Chapter 8, Part 7A, Division 6: 'Protection of personal information' of the *Public Health Act* sets out how COVID-19 application information can be used and when it can be disclosed. In accordance with the division, the information can only be used for the purposes as defined in the Act and cannot be obtained by use of a search warrant.

2.8.4 Execution of search warrants

PROCEDURE

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: 'Supplying 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;

(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.

2.8.5 Execution of search warrants on premises of lawyers

Legal professional privilege

PROCEDURE

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 attaches to confidential communications passing between:

- (i) a client and the client's legal advisor for the dominant purpose of obtaining or giving legal advice (legal advice privilege); and
- (ii) 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).

The privilege 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.

Executing warrants generally

PROCEDURE

In circumstances where a claim of legal professional privilege is raised by a claimant as a result of the execution of a search warrant, officers should:

- (i) record the number of pages of the document(s) and place the document(s) subject to the claim of legal professional privilege in a sealed container;
- (ii) obtain from the claimant:
 - (a) a description as to the nature of each document placed in the sealed container; and
 - (b) the grounds upon which the claim is based. The answers provided by a claimant should be recorded;
- (iii) 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;
- (iv) advise the claimant the documents have been seized provisionally and will be dealt with in accordance with the law;
- (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 keep the document and it is then entered on QPRIME as seized property or the document is returned to the claimant;
- (vi) 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; and
- (vii) within 30 days deliver the sealed container to a justice of the peace (magistrates court) or a magistrate, who may make a determination 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.

Where a justice of the peace (magistrates court) or a magistrate cannot be located, the sealed container subject to the claim of legal professional privilege should be delivered to a court pending a determination by a justice of the peace (magistrates court) or magistrate.

The officer who delivers the sealed container to a court, justice of the peace (magistrates court) or magistrate for a determination is to advise, as soon as practicable:

- (i) the officer in charge of police prosecutions corps for the magistrates court district in which the determination is to be made; and
- (ii) the commissioned officer in line command so as to consider whether the matter should be directed to the Director of Public Prosecutions.

Executing warrants on lawyers' premises

ORDER

Officers intending to search the premises of a lawyer 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 sought (see s. 150: 'Search warrant application' of the PPRA).

If the application for the warrant is to be made to a magistrate in accordance with s. 150 of the PPRA, the application is to 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.

Officers intending to search the premises of a lawyer are to obtain the warrant from a magistrate unless otherwise required to obtain the warrant from a judge or Supreme Court judge.

PROCEDURE

After obtaining a search warrant for the premises of a lawyer, the following steps should be taken in the execution thereof:

- (i) on arrival at the lawyer's premises, the senior officer present should explain the purpose of the search and invite the lawyer to cooperate with police in the conduct of the search. Identification of all officers present should be provided to the lawyer. Officers and persons comprising the search team should be kept to a minimum;
- (ii) if no lawyer is in attendance at the premises, then, if it is practicable to do so, the premises or part of the premises which is of interest should be sealed and the execution of the warrant deferred for a reasonable period consistent with the prevailing circumstances to allow attendance of a lawyer;
- (iii) 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;
- (iv) generally, the documents required by the officer will normally be located by the lawyer. 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;
- (v) a reasonable time should be allowed for the lawyer to obtain legal advice where such a request is made;
- (vi) a reasonable time should be allowed for the lawyer to consult with any client/s;
- (vii) if a claim for privilege is made by the lawyer concerning the documents, the officer should ask the lawyer on whose behalf and on what grounds the claim is made. The answers to these questions should be recorded;
- (viii) if a claim for privilege is made concerning any of the documents, the list made by the lawyer should be noted and the documents placed in a sealed container which should then be signed by both the officer and the lawyer. The lawyer should be advised the documents are provisionally seized pursuant to the search warrant and will be dealt with in accordance with the law;
- (ix) if a claim of privilege is made concerning any of the documents, 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) where a claim of privilege is made concerning any of the documents the issuer will also direct who will have custody of the documents; and
- (xi) 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.

Action where lawyer uncooperative

PROCEDURE

The steps outlined above have been developed after consultation with the Law Society and Bar Association and those organisations have distributed guidelines to their members. As such, an officer who executes a search warrant on the premises of a lawyer could expect the cooperation of the lawyer to the extent indicated previously in this section. See the Queensland Law Society 'Search Warrant Guidelines' for additional information.

POLICY

Where a lawyer elects not to cooperate with an officer in the execution of a warrant, the officer is to advise the lawyer the search will proceed in any case. The lawyer is also to be advised, 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.

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:

- (i) 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
- (ii) during the course of the search, any document located which may be subject to a future claim for privilege is to be brought to the attention of the lawyer and are to be dealt with in accordance with the provisions outlined above.

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.

POLICY

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 Manual; 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.

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.

PROCEDURE

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.

POLICY

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, Communications, Culture and Engagement 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 and Intelligence Command webpage (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

POLICY

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 2: 'Relevant law' 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: 'Dealing with things in the possession of the police service' of the Police 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.

Issue of receipt for thing seized or taken possession of

Refer to s. 4.2: 'Receiving property' of this Manual.

POLICY

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' 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:

- s. 180: 'Production notices';
- s. 181: 'Issue of production notices';
- s. 182: 'Copy of production notice to be given to cash dealer';
- s. 183: 'Procedural requirements – production notice';
- s. 184: 'Power under production notice';
- s. 185: 'If cash dealer claims documents contain privileged communications';
- s. 186: 'Making of access order';
- 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.

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.

PROCEDURE

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. 9: 'Production notice application' 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. 10: 'Access order application' 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.

2.8.13 Retention of electronic recordings of searches

POLICY

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, Operations Support Command (OSC) 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.

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.

The Queensland Police Intelligence Network (QPIN) interconnects with intelligence agencies across Australia. State Intelligence Group (SIG), Crime and Intelligence Command (CIC), is responsible for the coordination of the QPIN on a state-wide 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 another form, for example, in a street check occurrence on QPRIME, it is not necessary for members to record an intelligence submission. Officers are to note that access to information in an intelligence submission on QPRIME is restricted to authorised members as opposed to information in a street check occurrence which can be accessed by a wider audience.

See s. 7.14.2: 'Roles and responsibilities' of this Manual where the district intelligence officer receives an intelligence submission on 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 Chapter 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 and Intelligence 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 on the Service intranet](#).

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 and Intelligence Command, Queensland is to be advised immediately and in all instances prior to release of such information.

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, CIC.

An officer seeking ACID access is to contact their relevant regional intelligence and strategy officer or in the case of CIC, 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 webpage on the Service Intranet).

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 webpage on the Service Intranet.

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.

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:

- (i) major investigations; and
- (ii) all other operations (including themed or planned operations and events),

see SMD.

This QPSOR:

- (i) centralises the administration of Service operations (see SMD) to enhance analysis and organisational understanding of crime and other public safety issues in Queensland;
- (ii) prevents duplication of operation names;
- (iii) incorporates the Cross Operations Index (COI); and
- (iv) administers and collates Organised Crime Risk Assessments (OCRA) of major and organised crime networks.

SIG, CIC, administers the QPSOR through the Investigation Management and Control (IMAC) system.

Application for an operation name

Where a member requires an operation name, they are to obtain it from the QPSOR.

The Detective Superintendent, SIG, or 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.

Operation names must be obtained from QPSOR 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 on the Service Intranet.

To request an operation name from QPSOR for a major investigation (excluding where an immediate investigative response is required), the SIG officer is to complete:

- (i) an OCRA (see 'Organised Crime Risk Assessment' of this section); and
- (ii) complete a new record in IMAC on the Service Intranet.

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. For an operation name request relating to a major investigation, an OCRA must be submitted when it meets the OCRA criteria before an operation name will be provided unless an immediate investigative response is required.

If a request for an operation name is not supported, SIG may:

- (i) request additional information; or
- (ii) close the application and advise the SIG officer, case officer and the case officer's supervising commissioned officer the reason why the request for an operation name is not supported.

Organised Crime Risk Assessment

An OCRA is the Service's threat and risk assessment tool for major and organised crime. It provides an assessment of the level of threat (capability and intent) and risk (threat and impact) a criminal network poses to the community and Service objectives.

ORDER

An OCRA must be completed by the appointed SIG 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 delegate (see 'Organised Crime Risk Assessment exemptions' of this section).

Where an OCRA is required:

- (i) the appointed SIG officer is to:
 - (a) complete an initial OCRA in IMAC; and

- (b) regularly review and update OCRA in line with the progression and evolution of the operation or as required by the Detective Superintendent, SIG or delegate; and
- (ii) the case officer is to provide all information to the appointed intelligence officer at the commencement of an operation and as the operation progresses to enable the appointed intelligence officer to maintain the currency of OCRA.

Where any network is identified as having links to organised crime and an OCRA has not been completed, the Detective Superintendent, SIG or delegate may request an OCRA to be completed regardless of whether the network is the subject of an operation.

Organised Crime Risk Assessments are stored in the IMAC application and not held in QPRIME or in any other form, hardcopy or electronic.

Organised Crime Risk Assessment exemptions

An OCRA exemption can be granted by the Detective Superintendent, SIG or delegate where the investigation and intelligence to date does not indicate links to organised crime (as defined in Schedule 6 of the PPRA). If an organised crime network is identified as the operation progresses, an OCRA will be required.

Where the appointed SIG officer considers an OCRA is not required, they are to forward a request to their intelligence operations leader outlining their justification for requesting an exemption. The intelligence operations leader is to review and approve the request as appropriate.

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
- (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 'Request for Cross Operations Check' web form using the link on the SIG webpage of the Service Intranet.

Cross Operations Index check requests are routinely 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 Contacts' on the Service Intranet). 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; the intelligence officer is to make a separate request for the nominated entities to be included on the COI. Entities must be listed on the Organised Crime Risk Assessment (if required) before being added to 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[ICM] 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 on QPRIME.

Where an operation is being managed on QPRIME, the relevant prefix (e.g. Lima, Mike) 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 Unit, 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 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[ICM] 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:

- (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 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[ICM] 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[ICM] 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.

2.10.6 Online intelligence

This section does not apply to personnel undertaking operational duties within the Covert Unit, Covert Special Operations Group.

Definitions

For the purpose of this section the following definitions apply:

Approved assumed identity

means an assumed identity where the delegated senior officer (see s. 318: 'Delegation – commissioner' of the 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 includes publicly available social media, but excludes sending and receiving friend requests, applying for and/or joining private groups, and any engagement with any profile or person without the use of an approved assumed identity.

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.

Online engagement

In line with the Australia New Zealand Policing Advisory Agency (ANZPAA) guidelines, members must choose which level of engagement is the appropriate action for their investigation. Recognised levels of engagement within a Service role are listed below.

For levels two and three, all members are to utilise an approved assumed identity.

When members are gathering intelligence or evidence, if the need arises to utilise a social media account in any name other than their own, all members are to utilise an approved authorised identity, in accordance with the guidelines provided by Covert Support Unit (CSU), Covert and Specialist Operations Group, OSC.

Level 1 – Overt online role

This role describes the knowledge and skills required to conduct general police duties online, overtly. The purpose of this role is to facilitate the spread of everyday police activities onto the Internet.

This role describes the online capabilities required for members whose duties involve performing activities and engaging online overtly using the internet that proclaims their identity and purpose online.

A member performing the capabilities of this role must not:

- (i) commit deliberate offences online to meet objectives or assist in investigations; or
- (ii) use assumed identities to engage or communicate with targets in a personal one on one capacity to attempt to gain evidence.

Example of overt online: QPS Facebook page.

Level 2 – Discreet online intelligence

This role describes the online capabilities required for members who conduct discrete research using the internet.

A member performing the capabilities of this role must not:

- (i) commit offences online;
- (ii) use assumed identities to engage or communicate with targets in a personal one on one capacity to attempt to gain evidence;
- (iii) use a controlled operation; or
- (iv) use a controlled activity.

An example of discreet online intelligence is the use of an approved assumed identity to collect open source intelligence. This could include sending and/or receiving friend requests.

Level 3 – Discreet online controlled operations role

This role describes the online capabilities required for members whose duties include performing technical operations and operations targeting offenders with sophisticated technical skills and managing referred tasks from other online operation roles.

As jurisdictional legislation, policies and procedures permits, members performing this role may use:

- (i) assumed identities to conduct comprehensive/extensive online engagement; and
- (ii) controlled activities and controlled operations to commit offences online to meet objectives or assist in investigations.

Level 3 engagements require the use of a covert computer system and may only be undertaken by members who have successfully completed the approved course, in accordance with s. 2.6.8: 'Specialist cybercrime investigations' of this Manual.

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 Information Privacy Principles 2, 3, 9, 10 and 11 of the IPA if reasonably satisfied the noncompliance 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.

Information Privacy Principle 1: 'Collection of personal information (lawful and fair)' 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 website (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 sites 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, CIC), 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:

- (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 assumed identity 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 (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 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 'Discreet online controlled operations' of this section.

Before conducting online engagement (Level 3) with an approved assumed identity, all members must be deemed competent by completing the approved course prepared by Cyber and Identity Crime Investigation Unit (CICIU), CIC (see s. 2.6.8: 'Specialist electronic and cybercrime investigations' of this Manual).

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.

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.

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 necessary, 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, CSU, Covert and Specialist Operations Group, OSC, via email to Covert.Support.

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);
- (v) any conditions of use for the assumed identity are strictly adhered to; and
- (vi) the CSU is notified via email to Covert.Support 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.

Open source and social media training

The development and delivery of open source and social media training will be coordinated by SIG, CIC, in conjunction with the Intelligence Training Unit, PCAP.

Online engagement and cyber crime investigations training

The development and delivery of an approved course is coordinated by Financial and Cyber Crime Group, CIC.

Before conducting online engagement (Level 3) with an approved assumed identity, all members must be deemed competent by completing the course (see s. 2.6.8: 'Specialist cybercrime investigations' of this Manual).

Members must maintain currency in the investigative field and the course must be re-undertaken if the user has not actively engaged in the approved covert capacity within a one-year period.

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.

Covert computer systems

Where a computer system will be used for online level 3 engagement, the installation, governance and auditing of the covert computer systems will require the approval of the Detective Chief Superintendent, CIC or their delegate.

See also s. 13.32: 'Social media' of this Manual for Service social media policy and procedures.

2.11 Identification of suspects

Officers are to be aware of the need for fairness in the identification of suspects. Courts demand that the identification process is transparent and open to scrutiny.

2.11.1 General information

Section 617: 'Identification of suspects' of the PPRA, provides officers may lawfully use one or more of the following procedures:

- (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/or
- (iv) a computer-generated image (see s. 2.11.7: 'Photographic identification' of this chapter),

to help gather evidence of the identity of a person suspected of having committed an offence. This section does not limit the procedures a police officer may use to help gather evidence of the identity of a person suspected of having committed an offence. The section also requires officers to comply with the procedures in ss. 35 to 43 of the Responsibilities Code.

For prisoner identification, see ss. 2.11.4: 'Fingerprint, palmprint and footprint identification' and 2.11.7: 'Photographic identification' of this chapter.

While there is no rule of law requiring corroboration in respect of identification evidence, officers are to consider the dangers of charging persons where such evidence is weak. Officers, irrespective of available evidence of identification, are to ensure that any investigation is conducted to exhaust all available avenues.

Officers are to assess available identification evidence during an investigation in order to ensure its reliability, both of itself and together with other available evidence.

In order to carry out this assessment, 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 a witness has seldom or never seen the suspect prior to the alleged offence and identification is an issue, officers are to ensure that a suspect is never confronted by a witness, even if there is no objection by a suspect. In these situations, other available identification procedures are to be used.

2.11.2 Eyewitness identification

ORDER

Officers are to closely scrutinise eyewitness identification when such identification is based on a fleeting glance or when it is made under difficult conditions.

POLICY

Officers are to, at the earliest possible time, record the initial description of an offender in full in their official police notebook.

The record is to be made in the presence of the witness, and the witness is to be asked to read and sign the notes if the witness agrees that the description given has been accurately recorded.

Officers are to ensure that complete and accurate information is recorded and, specifically, that any description given by a witness is recorded verbatim.

The record is to be made in the presence of the witness, and the witness is to be asked to read and sign the notes if the witness agrees that the description given has been accurately recorded.

PROCEDURE

In order to assess the reliability of eyewitness identification, officers should assess and record:

- (i) the duration of observation of the offender by the witness;
- (ii) the distance between the offender and the witness;
- (iii) 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

PROCEDURE

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;
- (xiii) video tape; and
- (xiv) computer generated images.

POLICY

Where an identification parade is not used, investigating officers are to attempt to establish identification through some other means including having the witness identify the suspect from amongst a large group of other members of the public.

Officers are to avoid having a witness identify a suspect as that suspect enters a court building.

2.11.4 Fingerprint, palmprint and footprint identification

PROCEDURE

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 parade members amongst other factors.

POLICY

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 through the use of an identification parade. However, officers are to be alert to the possibility that once a witness sees a photograph, the memory of it may replace the memory of the original sighting.

The investigating officer is to conduct an identification parade in accordance with the requirements for conducting identification parades in ss. 36 to 41 of the Responsibilities Code and Appendix 2.1: 'Guidelines for conducting identification parades' of this chapter.

2.11.6 Video line-ups

A video line-up is a video recording of the suspect and approximately 11 other persons of similar appearance to the suspect, compiled into a single video recording for viewing by witnesses for the purpose of identifying an offender.

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 Imaging Section, Operations Support Command procedures;
- (ii) are recorded by a qualified forensic officer;
- (iii) are recorded and shown to witness in accordance with ss. 617: 'Identification of suspects' of the PPRA and 35: 'Management of witnesses during identification procedure' of the Responsibilities Code; and
- (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 identification was made by the witness;
- (iii) copying lighting and distance similar to that existing when the identification was made; and
- (iv) having the subjects 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(es) describe being displayed by the offender (e.g. limp, stance).

Officers are not to be used as subjects in video line-ups unless the suspect is alleged to be a police officer.

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 the subject person;
- (ii) where known, the name, date of birth and address of the subject person;
- (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.

Video line-ups with consent of suspect

When a suspect is asked to voluntarily take part in a video line-up, the officer concerned is to:

- (i) tell 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) tell 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 the suspect's video for a video line-up.

An officer may stop a person being present during the procedure if the officer suspects 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 if asked, 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 approximately 11 other persons, whether obtained covertly or with consent.

A covert video line-up identification procedure may be used where a decision is made not to conduct an identification parade.

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 taken part in the procedure (viewing the video line-up), as far as reasonably practicable, ensure the witness is prevented from speaking about the procedure 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 suspects the person will influence the witness's decision or disrupt the procedure. If an officer stops someone being present during the procedure to support a witness, 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 the witness, and if asked, allow someone else to be present.

Retention and storage of video recordings relating to video line-ups

The original unedited video(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 is to produce it to the court.

An edited copy of a video for 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 as a means to identify an offender.

POLICY

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. 35, 42 and 43 of the Responsibilities Code.

Officers in charge of an investigation are responsible for the preparation of photo boards and for their security and presentation as exhibits in court proceedings. Officers in charge of an investigation 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.

PROCEDURE

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 in the relevant occurrence for later retrieval and retention in accordance with the Records Retention and Disposal Handbook (available on the Service Intranet).

When there are a number of witnesses to an offence, a new digital photographic line-up board is to be created for each individual witness to view.

Officers are to ensure suitable images are selected of persons of similar appearance and that the images themselves are similar in size, colour, tone and background if possible.

File copies of digital photographic line-up boards are to be stored with the station copy of the relevant investigation file.

Where a number of witnesses will be required to view a digital photographic line-up board and this type of identification process has commenced, the witnesses should not be allowed contact with each other until such time as the viewing process by all witnesses is finalised.

2.11.8 Comfit identification (Computer Generated Images)

Comfit is a computer-based system which creates lifelike composite images of suspects from the descriptions supplied by witnesses. The completed image is saved as an attachment in the relevant QPRIME occurrence.

The system utilises a library of uploaded facial components including hair styles, noses, eyes, and mouths which are chosen by a witness according to their recollection. This library of facial features is available on the Comfit Homepage 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.

The Comfit handbook, covering Comfit creations procedures, guidelines, request forms and contact numbers is available on the Comfit webpage on the Service Intranet.

Officers are to use Comfit as an intelligence gathering tool and also to aid witnesses in the generation of potential suspect/s 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

2.12.1 Victims of Crime Assistance Act

Introduction

The Service plays a vital role in responding to and providing support to victims of violence or domestic violence offences. The Charter of Victims' Rights (**'the Charter'**) contained in Schedule 1AA of the *Victims of Crime Assistance Act* (VOCAA) seeks to recognise and promote the rights of victims of crime. The Charter sets out the general rights of victims, as well as specific rights relating to the criminal justice system.

The purpose of the VOCAA is to:

- (i) declare the Charter to underlie the treatment of victims by Queensland Government and non-government entities that deal with victims; and
- (ii) provide a mechanism for implementing the rights and processes for making complaints about conduct inconsistent with the Charter; and
- (iii) provide a scheme to offer financial assistance to certain victims of acts of violence, including victims of domestic and family violence.

For interstate coronial inquiries involving victims of crime see s. 8.6.5: 'Interstate coronial inquiries involving victims of crimes' of this Manual.

Dealing with victims of crime

ORDER

When dealing with a victim of crime, officers are to comply with the provisions of the Charter which places an onus on agencies to provide information to victims.

Investigating officers should, until a matter is finalised, maintain contact with victims to ensure the provisions of the Charter are followed. Investigating officers are to ask the victim how they prefer to be contacted (e.g. phone, email). Contact with victims should be recorded in the:

- (i) Case Diary Log for matters before the court; or
- (ii) Occurrence Enquiry Log for matters not before the court,

of the relevant QPRIME occurrence to demonstrate the officer's efforts to keep the victim informed throughout the process.

Members should be vigilant where a change in circumstances would reasonably cause apprehension to the victim (e.g. an alleged offender has absconded before trial and an arrest warrant has been issued).

Ordinarily, if the ODPP has made a decision to discontinue a prosecution, or substantially reduce a charge, they will contact the victim to explain the decision. However, in some circumstances it may be more appropriate for the investigating officer to provide this advice to the victim. In such cases the ODPP will provide written advice of its decision to the investigating officer together with a request that the investigating officer advise the victim of the decision.

Where the ODPP:

- (i) are to advise the victim of the reasons for the discontinuance/reduction in charge, wherever reasonably practicable, the investigating officer will be advised of the reasons before the victim is advised; or
- (ii) request the investigating officer to advise the victim of the reasons for the discontinuance/reduction in charge, the officer is to advise the victim as soon as reasonably practicable.

General rights of victims

In accordance with the Charter, members are to:

- (i) ensure compliance with 'Standard of Practice' of the Ethical Standards Command policies, in relation to acting with fairness, reasonable compassion, courtesy, respect and dignity in professional duties. Where appropriate, consider and apply the provisions of Chapter 6: 'Persons who are vulnerable, disabled or have cultural needs' of this Manual;

- (ii) ensure a victim's personal information, including the victim's address and telephone number, are not disclosed unless authorised by law and the provisions of s. 5.6: 'Release of information' of the MSM, are complied with in relation to releasing information to persons and organisations external to the Service; and
- (iii) provide information at the earliest practicable opportunity regarding services available to the victim through, but not limited to:
 - (a) Police Referral to support agencies (see s. 6.3.14: 'Police Referrals' of this Manual) including information in relation to financial assistance to victims of crime under the VOCAA;
 - (b) the Queensland Homicide Victims Support Group (see SMCD);
 - (c) community conferencing services; and
 - (d) 'crime scene clean-up' service providers who can assist the victim or family members. Crime scene clean-up is coordinated by Queensland Homicide Support Group. Where required, investigating officer should submit a Police Referral (see s. 6.3.14 of this Manual) to assist with payment. In the event there is no victim or family member available to arrange a crime scene clean-up, for example blood removal from a public place, the investigating officer should seek a direction from their regional crime coordinator.

Rights of victims relating to the criminal justice system

In accordance with Schedule 1AA of the VOCAA, investigating officers are to, as far as reasonably practicable:

- (i) keep victims appropriately informed about the progress of the investigation of the crime, unless informing the victim may jeopardise the investigation. If the investigation may be jeopardised, the victim must be informed accordingly;
- (ii) inform the victim of major decisions (including the reasons for the decision) made about the prosecution of a person accused of committing the crime, including decisions about the following matters:
 - (a) the charges brought against the accused;
 - (b) the decision to not proceed with the charges, or to substantially amend the charge; and
 - (c) accepting a plea of guilty to a lesser or different charge;
- (iii) inform the victim about the following matters:
 - (a) the name of a person charged with an offence in relation to the crime;
 - (b) the issue of a warrant for the arrest of a person accused of committing the crime;
 - (c) details of relevant court processes, including when the victim may attend a court proceeding and the date and place of a hearing of a charge against the accused;
 - (d) details of any diversionary programs offered to the accused in relation to the crime, which can include:
 - the formal cautioning of a child under the YJA (see s. 5.5: 'Cautioning process' of this Manual); and
 - a restorative justice process (see ss. 3.3: 'Adult Restorative Justice Conferencing' and 5.6: 'Restorative justice process' of this Manual); and
 - youth justice conferencing (see s. 5.4: 'Restorative justice process' of this Manual);
 - (e) the outcome of a criminal proceeding against the accused, including the sentence imposed and the outcome of an appeal;
- (iv) inform the victim about the outcome of a bail application made by the accused and any arrangement made for the release of the accused, including any special bail conditions imposed that may affect the victim's safety or welfare;
- (v) if a victim is a witness at the accused's trial, inform the victim about the trial process and the victim's role as a witness. Resources are available from VAQ and the Victim Support Service, ODPP (State) (see SMCD) to explain the processes victims of crime may be involved with following the commission of an offence and will assist victims in understanding the State's system of justice;
- (vi) during a court proceeding, protect the victim from unnecessary contact with, or violence or intimidation by, the accused, defence witnesses and family members and supporters of the accused;
- (vii) inform a victim of their right to make a victim impact statement under the *Penalties and Sentences Act* for consideration by the court during sentencing of a person found guilty of an offence relating to the crime; and
- (viii) return any property of the victim held by the State for an investigation or as evidence to the victim as soon as possible (see also s. 4.2.6: 'Retention of exhibits' of this Manual). In relation to the custody or disposal of property investigating officers should inform victims of the relevant provisions of the:
 - (a) PPRA, particularly Chapter 20, Part 2 (ss. 621-623): 'Safeguards for things seized' and Chapter 21, Part 3 (ss. 686-724): 'Dealing with things in the possession of police service';

(b) rule 100: 'Returning exhibits' of the Criminal Practice Rules; and

(c) s. 39: 'Power of court to order delivery of certain property' of the *Justices Act*.

Victim's role as a prosecution witness

When speaking with a victim who is a witness the prosecutor and investigating officer should pay particular attention to the trial process and the victim's role as a prosecution witness. This may include reference to the:

- (i) requirement not to discuss proceedings with other witnesses;
- (ii) standard of proof required in different courts;
- (iii) type of evidence required (i.e. 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 evidence in full);
- (iv) differences between evidence-in-chief, cross-examination and re-examination of a witness; and
- (v) requirements for observing court room etiquette.

Especially in cases of rape and sexual assault, wherever possible, investigating officers should liaise with the allocated prosecutor (or where no prosecutor has been allocated with the officer in charge of the relevant prosecutions corps) to:

- (i) introduce the victim to the prosecutor;
- (ii) give the victim an opportunity to become familiar with the layout of the court room before the trial begins;
- (iii) give the victim an opportunity to see a trial in progress;
- (iv) advise victims of sexual assault of their automatic recognition as a special witness and the protections available to them during the court process;
- (v) explain legislation, including the provisions of s. 21A: 'Evidence of special witnesses' and Part 2, Division 6: 'Cross-examination of protected witnesses' of the *Evidence Act* may help 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
- (vi) advise victims that court support officers are available to assist victims of crime throughout Queensland. Where a victim indicates they will need support during a court hearing at these court houses, a Police Referral should be submitted.

Members should be aware of the real threat of violence and intimidation to victims and be prepared to protect victims from these types of situations.

Investigating officers and prosecutors are to take precautions to minimise contact and protect a victim from intimidation by:

- (i) the accused;
- (ii) family members and supporters of the accused; or
- (iii) defences witnesses,

when a victim is attending a court as a witness (see s. 3.10.6 of this Manual).

Victim impact statement

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 (see s. 3.7.10: 'Victim impact statement' of this Manual).

Special circumstances

In cases of rape and sexual assault, where appropriate consider and apply the provisions s. 2.6.3: 'Sexual offences' of this chapter and follow the protocols contained in 'Response to sexual assault' (available on the Queensland Health 'sexual assault' web page).

In relation to a victim's right to compensation or restitution for injury, loss or damage caused to the victim by the crime:

- (i) magistrates and judges may make an order for compensation or restitution at the time of sentencing the offender(s). When seeking an order for restitution or compensation, officers are to comply with the provisions of s. 3.7.3: 'Restitution/compensation' and Appendix 3.1: 'Factors for consideration in restitution/compensation' of this Manual; or
- (ii) victims may pursue their own claim for compensation or restitution by taking private action in a civil court. Where victims of crime wish to pursue their own claim, officers are to advise the person to seek independent legal advice. In these circumstances a Police Referral under the Legal Advice category may be made (see s. 6.3.14 of this Manual).

(iii) in certain circumstances, financial assistance may be provided for by VAQ. All victims of an act of violence should be offered a Victim Assist- Financial assistance for violent crimes Police Referral. A victim may be offered Police Referrals for more than one category on a single Police Referral. The victim assist referral should only be made with consent of the victim (see s. 6.3.14 of this Manual).

Rights of victims to make a complaint

In accordance with Schedule 1AA of the VOCAA, a victim may make a complaint about a contravention of a right under the Charter and must be given information about the procedure for making a complaint under the VOCAA.

Where a victim of crime believes they have not been dealt with in accordance with the Charter of the VOCAA, the person may make a complaint under s. 19: 'Victim may make complaint' of the Act to the appointed victim services coordinator or directly to the relevant government or non-government entity (see Schedule 3: 'Dictionary' of the VOCAA).

Any complaints under the VOCAA made:

- (i) to the Victim Services Coordinator (VSC); or
- (ii) directly to the Service,

are to be dealt with in accordance with s. 20(2): 'Dealing with complaint – government entity or non-government entity' of the Act.

The Service, in dealing with complaints under the VOCAA, is to:

- (i) give information to a victim about the process that applies for resolving the complaint; and
- (ii) take all reasonable steps to resolve the complaint as soon as reasonably practicable.

Officers who receive complaints under the VOCAA are to comply with 'Complaint Resolution Guidelines' of the Ethical Standards Command policies.

The VSC may liaise with the Service in order to facilitate the resolution of the complaint. The VSC may also refer the complaint to the relevant government or non-government entity.

Where the VSC has referred a complaint to the Service and the complaint has been resolved, the officer resolving the complaint is to inform the VSC as soon as practicable about how the complaint was resolved. The preferred method for advising the VSC is by Service email using police letterhead and ensuring the QPRIME reference number and victim's name are included (see SMCD).

Eligible persons register (Queensland Corrective Services Victims Register)

Sections 320: 'Eligible persons register' and 325: 'Releasing information' of the *Corrective Services Act* and sections 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 1AA of the VOCAA.

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 Corrective Services 'Approved forms' web page.

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 Service Manuals Contact Directory).

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 and Attorney-General 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).

2.12.4 Disease test orders (blood and urine testing)

When an officer arrests a person for a chapter 18 offence (a relevant person), the officer is to apply to a magistrate or childrens court (as applicable) for a disease test order (DTO).

See s. 538: 'Application of ch 18' of the PPRA and Schedule 8: 'Relevant diseases' of the Police Powers and Responsibilities Regulation.

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.

Definitions

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.

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 (Director General), Department of Child Safety, Youth and Women or a Family Services Officer of that department.
- (iv) inform the relevant person, whether adult or child, that he or she has the 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 children 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. Outside court hours or where a local magistrate is not available, the on call magistrate is to be contacted as per local protocols and the application is to be made electronically '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;
- (ii) complete:
 - (a) a Queensland Health Pathology and Scientific Services (QHPSS) 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 Unit, Legal Services 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 a police officer in the performance of the officer's duties, a disease test order application is to be made by an officer other than the victim (see the 'Blood/body fluid and Infectious Diseases' and 'Disease test order – information for victim (QPS member)' fact sheet).

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).

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 on 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
- (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.

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 and Intelligence 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.

PROCEDURE

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 Prohibition Order) Act 2007' 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 Deleted

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

POLICY

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 statement 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. In some cases, a witness statement (including an electronically recorded statement), 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 witness statements may be subject to disclosure by the prosecution and should be included in a brief of evidence (see ss. 3.14: 'Disclosure of information to defence (relevant proceeding)' and 3.8: 'Preparation and submission of briefs of evidence' of this Manual).

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 chapter) unless utilising the provisions of s. 93A: 'Statement made before proceeding by child or person with an impairment of the mind' of the EA or other statutory provision.

PROCEDURE

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 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

Unless exceptional circumstances exist, statements are to be typed on a QP 0125: 'Statement of Witness' (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:

- (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.

2.13.3 Hearsay evidence

POLICY

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 proceeding to include any complaint before the complainant's first formal witness statement to a police 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. 4A: 'Evidence of complaint generally admissible' of the *Criminal Law (Sexual Offences) 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

POLICY

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, and at the discretion of the investigating officer (unless otherwise requested by the victim), statements are to be taken by officers of the same sex. See 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. (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* and the *Information Privacy Act* in the event of an application for information being made under those Acts (see s. 5.6: 'Release of information' of the Management Support Manual).

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.

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 Principal Right to Information Officer, Right to Information and Privacy Unit, Information and Discipline Support Services. See also ss. 5.6: 'Release of information' and 5.7: 'Right to information and privacy' of the Management Support Manual.

The identity of a human source is not to be disclosed other than in compliance with s. 11.5: 'Release of Information' in the Human Source Management Policy. (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

2.14.1 Deleted

2.14.2 Deleted

2.14.3 Deleted

2.15 Crime and Corruption Commission

2.15.1 Use of specialist investigation units

POLICY

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 (Strategy and Corporate Services) 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 Service Manuals Contact Directory).

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*).

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*.

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 (Crime, Counter-Terrorism and 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.

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 Group

POLICY

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.

PROCEDURE

The first response officer/police forward commander/investigating officer should advise the regional duty officer, district duty officer or patrol group inspector who will assess the situation. If it is considered the attendance of specialist support is necessary, that regional duty officer, district duty officer or patrol group inspector should ensure the request is transmitted to the:

- (i) Duty Officer, Police Communications Centre, Brisbane (in areas covered by Police Communications Centre, Brisbane);
- (ii) officer in charge of the relevant police communications centre (in areas not covered by Police Communications Centre, Brisbane); or
- (iii) officer in charge of the station where the incident occurred in areas where a police communications centre doesn't exist,

who will ensure the officer in charge 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

PROCEDURE

A member seeking the services of the:

- (i) Dog Squad;
- (ii) Polair Queensland (see s. 2.21.3: 'Polair Queensland tasking' of this chapter);
- (iii) Mounted Unit;
- (iv) Police Diving Unit;
- (v) Public Safety Response Team;
- (vi) Railway Squad; and/or
- (vii) Water Police,

for non-urgent operations subject to an operational order, action plan or intelligence driven patrols should access the Specialist Services Group webpage on the Service Intranet and complete a 'Request for assistance' web form.

The completed form is transmitted to the Specialist Services 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.

2.19.2 Costs and compensation

POLICY

A number of sections within this chapter contain call out procedures for specialist work units (e.g. Special Emergency Response Team, Police Diving Squad, Forensic Services Group) from Operations Support 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 Operations Support Command personnel in the performance of their duties.

The region or command requesting the deployment of Operations Support Command personnel is responsible for:

- (i) any claim for compensation arising from the deployment of Operations Support 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).

POLICY

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 webpage on the Service Intranet.

Attendance of Disaster Victim Identification Squad at incidents

POLICY

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, Operations Support 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.

POLICY

Incident commanders may request the Assistant Commissioner, Operations Support 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

PROCEDURE

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.

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.

POLICY

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

POLICY

Disaster Victim Identification Squad officers may be granted 'stand down days' after attending some DVIS operations.

The State DVI Commander in consultation with the Operations Support Command's 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

POLICY

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.

2.19.4 Dog squad

Dog squads are located in Brisbane, Gold Coast, Logan City, Ipswich, Toowoomba, Redcliffe, 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 State Coordinator, Dog Squad, 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 web page 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 detection; and
- (ii) drug detection.

Further information regarding the specialist capabilities of dogs is contained on the Dog Squad web page 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 Group' of this chapter).

The Police Dog Capability Manual deals with specific issues relating to the operation of dog handlers and police dogs. The State Coordinator, Dog Squad, 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.

POLICY

Where applicable, officers in charge 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

POLICY

Where dog squad officers track an offender, the custody details are to be recorded in the QPRIME occurrence custody report.

PROCEDURE

Where a police dog tracks an offender which ends in the arrest or detention of a person, the dog squad officer should record the details on a QP 1016: 'Dog Squad Handover Field Custody Receipt'.

Where an investigating officer receives a QP 1016 from a dog squad officer, the officer is to record the details on the:

- (i) QPRIME occurrence custody report; and
- (ii) ITAS log.

Specific information regarding drug detection dogs

Drug detections 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.

POLICY

Should the commissioned officer approve the operation the request should be forwarded to the Inspector, Specialist Services Group, Operations Support Command for consideration of drug detection dog deployment approval.

Authorised requests for the use of drug detection dogs will be coordinated by the Officer in Charge, Brisbane Dog Squad. 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.

POLICY

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 ss. 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 ss. 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 drug detection dog' of the PPRA provides that for the reasonable suspicion required under ss. 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

POLICY

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/or 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.

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 and/or other persons exists.

PROCEDURE

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

PROCEDURE

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 any one, 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.

POLICY

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

POLICY

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 and 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.

POLICY

Requests for a dog and handler from another law enforcement agency are to be made through the Officer in Charge, 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 Group' of this chapter.

Cost recovery

POLICY

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 Operations Support Command.

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 Operations Support Command, holding bi-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 Operations Support Command 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.

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 group's webpage on the Service Intranet.

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 Service webpage on the Service Intranet.

Superintendent, Forensic Services Group

The Superintendent, FSG, Operations Support Command (OSC) 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 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 Quality Manual.

Forensic Coordinators

Forensic coordinators are placed within regions/districts and are responsible for coordinating the operations of work units in accordance with the performance and quality management expectations 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 group' of this chapter.

Cost recovery

The services of forensic officers from the FSG, OSC 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 OSC.

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, OSC.

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 following guidelines have been developed:

Sample analysed by Queensland Health Forensic and Scientific Services

Forensic toxicology samples

Samples 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, Queensland Health Forensic Scientific Services (QHFSS).

In cases 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.

In the case 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 Hospital and Princess Alexandra Hospital).

Histology samples

Samples from post mortem examinations requiring microscopic examination of tissues (histology), including whole organs, are to be sent to Forensic Pathology, QHFSS unless the autopsy is performed by

a pathologist other than a QHFSS Pathologist. In such cases histology is normally performed in the pathologist's own laboratory.

Sexual Assault Investigation Kits (SAIK) and seminal stains

The SAIK must be delivered to QHFSS as a matter of priority. Prior to delivery, the investigating officer must attend a scenes of crime office in order to have the SAIK barcoded and entered onto the Forensic Register.

Items requiring examination for presence of seminal fluid including clothing from complainants should be collected by a forensic officer wherever possible to prevent contamination and ensure that they are packaged correctly. These items are then returned to investigating police pending the outcome of the SAIK analysis. If the SAIK analysis fails to identify the offender, the remaining items requiring seminal fluid examination are forwarded to a scientific officer.

See also s. 169: 'Preserving evidence at crime scene' of the PPRA.

Crime scene exhibits suspected of yielding DNA (other than seminal stains)

All crime scene exhibits requiring examination for the presence of DNA are to be collected by a forensic officer (scenes of crime 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.

QHFSS will not accept crime scene exhibits (other than swabs or tape lift) submitted for testing for the presence of DNA. These exhibits are to be delivered to a forensic officer for sub-sampling. The subsequent sub-samples are then forwarded to QHFSS.

All crime scene exhibits collected by non-forensic police officers that are to be submitted to QHFSS for DNA testing must be:

- (i) recorded as property in QPRIME;
- (ii) taken to a forensic officer for a sub-sampling and/or examination; and
- (iii) entered on the Forensic Register and barcoded prior to lodgement at QHFSS.

See also s. 169: 'Preserving evidence at crime scene' of the PPRA.

Saliva samples

See s. 4.5.3: 'Saliva analysis' of this Manual.

Clinical samples

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.

Drugs (Other than Cannabis)

QHFSS 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 QHFSS'.

Illicit drug items are to be packaged in a manner that ensures the nine-digit illicit drug barcode is able to be scanned by QHFSS 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 QHFSS'.

Miscellaneous

The Forensic Chemistry Section at QHFSS perform the following examination types:

- (i) physical fit examinations;
- (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, that are to be submitted to QHFSS 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 QHFSS.

Samples analysed by Forensic Services Group

Trace physical evidence (paint, glass etc.)

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

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, strict case acceptance criteria have been adopted by the Scientific Section. Officers requesting gunshot residue analysis must liaise with the ASU prior to lodgement.

Cannabis

Cannabis is analysed by authorised forensic officers within FSG. Contact the Scientific Section to locate your closest analyst. Examinations are performed by appointment only.

Delivery of samples at Queensland Health Forensic Scientific Services

QHFSS will only receive items of evidence that have been recorded as property in QPRIME and 'checked out to QHFSS'.

Items can be delivered to QHFSS on normal working days Monday to Friday (except public holidays) to the Central Property Point (see SMCD) between 0830 hours and 1630 hours.

In cases where it is permissible to deliver a sample by mail it should be directed to QHFSS (see SMCD).

See ss. 8.4.3: 'Responsibilities of investigating officers' and 8.4.10: 'Attending 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

Role of Mounted Unit

The role and functions of the Mounted Unit, Operations Support Command are outlined on the unit's webpage on the Service Intranet.

Attendance of the Mounted Unit at incidents

POLICY

The Mounted Unit can provide valuable assistance at incidents by:

- (i) performing traffic control;
- (ii) patrolling evacuated areas affected by significant events to safeguard property and prevent looting;
- (iii) patrolling and assisting in the maintenance of inner and/or outer cordons at incident scenes;
- (iv) assisting at public demonstrations to identify ringleaders, splinter groups and persons of interest; and
- (v) assisting in rapid coverage of land during searches.

Depending on the location of an event, travelling times and distances involved, there may be limitations placed on the use of the Mounted Unit.

Call out procedure

See s. 2.19.1: 'Call out procedure for specialist support' of this chapter.

Cost recovery

POLICY

Operations Support Command 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.

Costs such as travelling allowance and overtime are as agreed to by the requesting region and Operations Support Command. Where possible, the Mounted Unit endeavours to meet its own costs.

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 unit's webpage on the Service Intranet.

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.

POLICY

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) Superintendent, Specialist Services Group, Operations Support Command; or
- (iv) Assistant Commissioner, Operations Support Command,

and should note that response times depends on the availability of Service aircraft.

The QGAir schedule and booking information may be accessed via the unit's webpage on the Service Intranet.

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 14.11.4: 'Carriage of firearms on charter or private aircraft including Queensland Government Air (QGAir)' 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 webpage on the Service Intranet.

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, Operations Support Command.

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).

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, Operations Support Command.

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 sworn 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, Operations Support Command will be responsible for all costs associated with a Police Diving Squad 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, 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, Operations Support Command. 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 webpage on the Service Intranet.

In locations on the Queensland coast not serviced by a water police establishment, officers in charge of the respective police divisions should assume the responsibilities of an officer in charge of a water police establishment as far as practicable in the prevailing circumstances.

Attendance of water police at incidents

POLICY

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 Queensland Ambulance Service 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
 - (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 group' of this chapter.

Cost recovery

POLICY

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 Operations Support Command.

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, Operations Support Command 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 Group' of this chapter.

Cost recovery

POLICY

The services of officers from the Railway Squad, Specialist Services Group, Operations Support Command, 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 Operations Support Command.

2.19.17 Covert and Specialist Operations Group

Withdrawn from public release.

Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

2.20 State Emergency Service

The State Emergency Service (SES) is established pursuant to the *Fire and Emergency Services Act* and information regarding their role and function see their website.

State Emergency Service members are 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.

Officers in charge of stations and establishments are to:

- (i) regularly engage with local SES 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 State Emergency Service at incidents

Officers requesting the assistance of SES at any incident should, in the first instance and whenever practicable, contact a:

- (i) search and rescue mission coordinator (SARMC);
- (ii) assistant search and rescue mission coordinator (ASARMC); or
- (iii) field search coordinator (FSC),

and obtain advice on the appropriateness of tasking and any potential cost recovery implications (see the subsection 'cost recovery' of this section).

State Emergency Service units may be activated to render assistance to the Service for:

- (i) agency support (communications, welfare, lighting, food handling, air observation or resupply);

- (ii) flood boat operations;
- (iii) incident management;
- (iv) road crash rescue;
- (v) search activities;
- (vi) special rescue (urban search and rescue, vertical rescue, rescue from heights and depths);
- (vii) storm response; and
- (viii) traffic management,

which are related specifically to disasters and emergencies.

SES units are not to be deployed to:

- (i) search for escaped/violent persons or the recovery of body parts at a major incident; or
- (ii) perform functions which otherwise could have been reasonably sourced from local businesses.

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 SARMC, ASARMC 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.

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.

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 Guidelines all requests for helicopter support by emergency services, including the QPS are to be submitted in accordance with the Queensland Emergency Helicopter Network: Single Point Tasking Protocol to the Queensland Emergency Medical System (QEMS) Coordination Centre. The QEMS Coordination Centre is jointly operated by the Queensland Ambulance Service and Queensland Health Retrieval Services Queensland (RSQ).

Use of helicopter during normal operations

PROCEDURE

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) regional duty officer (RDO);
- (ii) district duty officer (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, Police Communications Centre (PCC), Brisbane in areas covered by PCC Brisbane;
- (ii) Comco of the PCC responsible for managing the incident area; or
- (iii) the officer in charge (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 Coordination Centre (see Service Manuals Contact Directory), provide details of the officer coordinating the helicopter deployment and receive a QEMS Coordination Centre incident number.

The comco, duty officer or OIC who contacted the QEMS Coordination Centre is to provide the officer coordinating the helicopter deployment with the QEMS Coordination Centre incident number.

After the request is made and a QEMS Coordination Centre 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;
- (iv) geographical location of the flight/search area, including wherever possible the latitude and longitude of the location (available from a GPS enabled altimeter, 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.

PROCEDURE

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 Coordination Centre 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

POLICY

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 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 Natural Disaster Relief and Recovery Arrangements 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 Queensland Disaster Management Committee 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.

PROCEDURE

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 State Disaster Coordination Centre Aviation Cell and receive a QEMS Coordination Centre incident number. The QEMS Coordination Centre 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 Emergency Helicopter Network, 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 Queensland Police Service (QPS) or Queensland Fire and Emergency Services taskings;
- (iv) non urgent QPS or Queensland Fire and Emergency Services taskings.

For the purpose of this section:

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.

POLICY

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 Coordination Centre 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 Coordination Centre will extend the teleconference to include the:

- (a) respective district duty officer, regional duty officer, search and rescue coordinator or a commissioned officer; and

- (b) Senior QEMS Coordination Centre 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 Coordination Centre will extend the teleconference to include:
- (a) during normal operations, the Duty Officer, Police Communications Centre, Brisbane and the State Medical Director, RSQ, or delegate. A tasking priority must be determined by the parties; or
 - (b) during disaster response operations, the State Disaster Coordination Centre 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 State Disaster Coordination Centre 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.

PROCEDURE

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 Coordination Centre 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, Operations Support 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;
- (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 webpage on the Service Intranet.

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 PDF available on Weapon Clearing Station Guidelines, pp. 10 & 11.

Requesting Polair Queensland for planned activities

Requests for non-urgent tasking of Polair Queensland are to be made in accordance with the Regional Instruction for the respective helicopter.

Requests for non-urgent tasking of:

- (i) Polair Queensland by a police station or establishment outside of the normal operating area; or
- (ii) both Polair Queensland aircraft on a single deployment,

are to be made to the Inspector, Specialist Services Group.

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 Queensland 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 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, Specialist Services 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 Drug Diversion Assessment Program

The PPRA requires officers to offer a person who has committed a minor drugs offence the opportunity to participate in and complete a drug diversion assessment program as an alternative to prosecution if the person is eligible under s. 379: 'Additional case when arrest for minor drugs offence may be discontinued' and definition of 'minor drugs offence' of the PPRA.

Further information and resources to assist officers with the police drug diversion assessment program (DDAP) process are located on the Drug and Alcohol Coordination Unit (DACU) intranet page.

2.22.1 Initial contact with minor drug offender

POLICY

Officers who reasonably suspect a person has committed or is committing a minor drugs offence are to:

- (i) take possession of all relevant exhibits and deal with the property in accordance with Chapter 4: 'Property' of this Manual;
- (ii) interview the person for the offence, complying with relevant provisions of the PPRA relating to investigating indictable offences; and
- (iii) establish the person's eligibility for drug diversion (see s. 2.22.2: 'Eligibility for drug diversion' of this section). If a person is eligible for drug diversion, see the DACU intranet page.

2.22.2 Eligibility for drug diversion

POLICY

An officer is to offer a person a drug diversion if they come within the ambit of s. 379: 'Additional case when arrest for minor drugs offence may be discontinued' of the PPRA.

Child offenders who have not been previously cautioned are to be dealt with in accordance with s. 5.3: 'Diversion from the court system' of this Manual.

Determining eligibility

PROCEDURE

If during an electronically recorded interview a person admits to committing a minor drug offence, the officer should:

- (i) investigate if the person has committed another indictable offence in circumstances relating to the minor drugs offence;
- (ii) ascertain by checking QPRIME whether the person has previously been offered drug diversion; and
- (iii) when considering eligibility on the basis of the person's criminal history:
 - (a) check the person's particulars on QPRIME and Australian Crime Commission (ACC) database through QPRIME (see also s. 7.2.2: 'ACC database (system for the national exchange of police information)' of the Management Support Manual);
 - (b) if the person is recorded as having a criminal conviction involving violence against a person, check the relevant QPRIME occurrence to establish the exact circumstances surrounding the conviction
 - (c) if the person is recorded as having been charged elsewhere than in Queensland, ascertain from the person:
 - the type of charge(s), and
 - whether the offence(s) involved violence against the person.

If the person admits to a criminal conviction(s) involving violence against a person, a QPRIME task should be forwarded to the Release Unit Police for the person's interstate criminal history.

The task should:

- contain details of every ACC database summary reference number; the name(s) of the state and/or territory to which the reference number relates;
 - contain contact details of the requesting station or establishment; and
 - be marked 'URGENT' to receive priority attention;
- (d) check the person's criminal history to ensure any convictions involving violence against a person for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act* has not expired (see Appendix 2.2: 'Rehabilitation of convictions generally' of this chapter); and
 - (e) if a person's criminal history has been obtained, check the criminal history to establish whether the person has previously been sentenced to serve a term of imprisonment for an offence against:

- s. 5: 'Trafficking in dangerous drugs';
- s. 6: 'Supplying dangerous drugs';
- s. 8: 'Producing dangerous drugs'; or
- s. 9D: 'Trafficking in relevant substances or things',

of the *Drugs Misuse Act*.

2.22.3 Eligible for drug diversion

Offer of drug diversion

Questioning in relation to the relevant drug offence is to be concluded prior to offering drug diversion.

Where a person is eligible to be offered drug diversion, officers are to offer the person the opportunity to participate in a drug diversion assessment program (DDAP) and ascertain whether the person wishes to agree to or refuse the offer.

Before offering the opportunity to participate in a DDAP, investigating officers are to provide information to the person and support person (if present) about the DDAP. This information is to include:

- (i) the nature of the DDAP which will assess drug use, provide information about the consequences of continued drug use, assist with developing personal strategies aimed at preventing continued drug use and, where necessary, provide information about, and access to, treatment services;
- (ii) that the time required to complete a DDAP is approximately two hours;
- (iii) the requirement to participate in and complete the DDAP in the manner and at the date, time and location (if applicable) agreed, unless exceptional circumstances apply;
- (iv) that the person may be accompanied by family members or friend at the DDAP 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).

When an offer to participate in a DDAP is made to the person, the investigating officer should:

- (i) make a separate electronic recording of:

- (a) the information provided to the person about the DDAP;
- (b) the offer of an opportunity to participate in a DDAP; and
- (c) any response to the offer to participate in a DDAP;

or where it is not practicable to make an electronic recording, ensure a written record is made and corroborated if possible;

- (ii) create a QPRIME occurrence for the relevant offence by:

- (a) creating all necessary offence charge records against the person;
- (b) creating a drug diversion disposition from the relevant offence charge record;
- (c) completing a QP 0701: 'Minor drugs offence diversion' (available in QPRIME and Richlands Supply Services); and
- (d) creating a drug diversion previously offered flag against the person to indicate that drug diversion has been offered;

(iii) ask the person to sign the QP 0701 agreeing or refusing to participate in a complete a DDAP. If the person declines to sign the form, make appropriate notations on the form. Officers are to warn persons that a failure to sign the QP 0701 will result in the officer proceeding as if the offer had been refused; and

- (iv) where the offender:

- (a) agrees to the offer, see 'Agreement of offer'; or
- (b) refuses the offer, see 'Refusal of offer',

of this section for the relevant processes to be completed.

ORDER

When making the offer, officers are to give the person and support person an oral or written explanation of the consequences of agreeing to a drug diversion. The consequences are:

- (i) if the person participates in and completes the DDAP, the person will not be charged with a criminal offence, will not have to attend court and will not have the possibility of a criminal record in relation to the relevant minor drugs offence; or

(ii) if the person 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.

Agreement of offer

Where the offender agrees to the offer to participate in a DDAP, the investigating officer is to:

- (i) inform the person that if they fail to participate in and complete the DDAP, the person may be prosecuted for an offence under s. 791 of the PPRA;
- (ii) obtain a diversion reference number and program appointment details from the Diversion Coordination Service (see Service Manuals Contact Directory);
- (iii) provide a copy of the completed QP 0701 to the person and retain a copy for filing at the investigating officer's station or establishment;
- (iv) email a copy of the completed QP 0701 to the Diversion Coordination Service;
- (v) release the person at the earliest reasonable opportunity (see s. 379(11): 'Additional case when arrest for minor drugs offence may be discontinued' of the PPRA);
- (vi) update the relevant QPRIME occurrence by:
 - (a) completing the drug diversion disposition by entering:
 - that the offer of diversion is accepted;
 - the DDAP provider;
 - the program appointment date and time; and
 - any relevant notation regarding the program appointment in the remarks field;
 - (b) uploading the completed QP 0701; and
 - (c) completing the relevant interview, custody, search and property reports (see s. 2.1.2: 'Registers required to be kept' of this chapter).

Where an eligible person agrees to drug diversion, officers are not to take or cause identifying particulars or a DNA sample to be taken.

Refusal of offer

The investigating officer is to, where a person refuses the offer to participate in a DDAP:

- (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 or a DNA sample in accordance with ss. 2.26: 'Identifying Particulars' or 2.25: 'DNA' of this chapter;
- (iv) update the relevant QPRIME occurrence by:
 - (a) completing the drug diversion disposition and entering that the offer of drug diversion was not accepted;
 - (b) uploading the completed QP 0701; and
 - (c) completing the interview, custody, search and property reports (see s. 2.1.2 of this chapter); and
- (v) attach a copy of the completed QP 0701 to any Court Brief (QP9) or Notice of Caution prepared in regard to the minor drugs offence or, if no prosecution is commenced, file the form at the investigating officer's station or establishment.

Rescheduling a drug diversion assessment program appointment

In accordance with s. 379(8) of the PPRA, if a person fails to participate in and complete a DDAP appointment, the person has committed an offence against s. 791 of the PPRA.

Where an officer is contacted by a person who for an unforeseen urgent reason cannot or was not able to participate in and complete the DDAP appointment, the officer should:

- (i) where practicable, consult with the investigating officer; and
- (ii) determine if the reason for rescheduling is valid or if a prosecution for an offence under s. 791 of the PPRA should be commenced. This can include circumstances where the DDAP appointment has passed.

If the contacted officer is satisfied the person's reason for rescheduling the DDAP appointment is of an unforeseen urgent nature, the officer is to:

- (i) arrange for the person to attend a station to reschedule the DDAP appointment; and
- (ii) make representations to ensure this is followed up by the OIC of that station.

The rescheduling officer is to:

- (i) prior to contacting the Diversion Coordination Service to reschedule the DDAP appointment, inform the person that failure to participate in and complete the DDAP is an offence against s. 791 of the PPRA, for which they may be prosecuted;
- (ii) phone the Diversion Coordination Service (see Service Manuals Contact Directory), provide the original Diversion Reference Number and make arrangements to reschedule the DDAP appointment;
- (iii) complete and give a copy of the completed and signed QP 0701 to the person and retain a copy for filing at the investigating officer's station or establishment;
- (iv) update the relevant QPRIME occurrence by:
 - (a) updating the drug diversion disposition and entering:
 - the DDAP provider;
 - the rescheduled DDAP appointment date and time; and
 - any relevant notation regarding the DDAP appointment in the remarks field; and
 - (b) uploading the completed QP 0701;
- (v) email the completed QP 0701 (with the amended rescheduled date and time) to the Diversion Coordination Service; and
- (vi) complete, if relevant, any QPRIME interview, custody, search and property reports (see s. 2.1.2 of this chapter).

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 and complete a DDAP (see s. 379(2) of the PPRA).

If the defendant agrees to an offer to participate in and complete a DDAP, the officer making the offer is to ensure:

- (i) the charge of the relevant minor drug offence is withdrawn; and
- (ii) arrange for the destruction of:
 - (a) identifying particulars; and
 - (b) DNA sample where relevant in accordance with ss. 2.26.7 and 2.25.15 of this chapter.

2.22.4 Forfeiture of drugs and smoking utensils

Upon signing the QP 0701: 'Minor drugs offence diversion' (available in QPRIME and Richlands Supply Services) and agreeing to participate in and complete a drug diversion assessment program, the drug and anything that may be or has been used for smoking the drug is forfeited to the State (see s. 379(10): 'Additional case when arrest for minor drugs offence may be discontinued' of the PPRA).

Such forfeited property is to be dealt with in accordance with Chapter 4: 'Property' of this Manual.

2.22.5 Ineligible for drug diversion

Where a person has been arrested for or is being questioned about a minor drugs offence is not eligible to be offered drug diversion, investigating officers are to proceed with the prosecution of the minor drug offence. 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.

Brief checkers and police prosecutors are to check the summary of facts in a Court Brief (QP9) and ensure the defendant charged with a minor drug offence is not eligible under s. 379: 'Additional case when arrest for a minor drugs offence may be discontinued' of the PPRA for drug diversion.

ORDER

Investigating officers who do not offer drug diversion to a person arrested for or being questioned about a minor drugs offence are to:

- (i) make a note to the prosecutor in the summary of facts section of the Court Brief (QP9) outlining the reasons why the person was ineligible; and
- (ii) update the relevant QPRIME occurrence by:

- (a) creating a new drug diversion disposition from the relevant offence charge;
- (b) entering that drug diversion was not offered; and
- (c) entering the reason why they were not eligible.

Person becoming eligible after proceedings for minor drugs offence have been commenced

Proceedings may be continued against a person for a minor drugs offence because the person was ineligible for drug diversion on the basis that the person:

- (i) did not admit the minor drugs offence; or
- (ii) declined to take part in an electronically recorded interview.

Where proceedings have been commenced against a person for a minor drug offence and the person later requests to be interviewed or re-interviewed in relation to the offence, officers may interview or re-interview the person. Section 379(4): 'Additional case when arrest for minor drugs offence may be discontinued' of the PPRA provides an officer may make an offer to a person at any time before the person appears before a court to answer a charge of the minor drugs offence.

If the person becomes eligible to participate in a drug diversion assessment program and an offer is subsequently made and agreed (see s. 2.22.3: 'Eligible for drug diversion' of this chapter), officers are to ensure that the charge for the relevant minor drug offence is withdrawn in accordance with s. 3.4.4: 'Withdrawal of charges' of this Manual.

2.22.6 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. The Drug Diversion Coordinator, Drug and Alcohol Coordination Unit, Organisational Capability Command will complete a weekly update on program outcomes from the Diversion Coordination Service online system.

The Drug Diversion Coordinator will, where the Diversion Coordination Service 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) provide notification to Policelink to generate an occurrence for an offence under s. 791: 'Offence to contravene direction or requirement of police officer' of the PPRA for further investigation by an appropriate officer.

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) relating to a requirement to attend and complete a DDAP under s. 379(8): 'Additional case when arrest for minor drugs offence may be discontinued' of the PPRA.

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,

See s. 2.22.7: 'Other outcomes from the diversion process' of this chapter.

2.22.7 Other outcomes from the diversion process

Ineligible persons offered drug diversion

POLICY

Officers may commence a proceeding against a person for a minor drugs offence for which drug diversion has been offered and agreed if the person was not actually eligible for drug diversion.

PROCEDURE

Members who become aware that:

(i) a person has been offered the opportunity to participate in a drug diversion assessment program (DDAP) and agreed to the offer; and

(ii) the person is not actually eligible for drug diversion,

should advise the investigating officer for the original minor drugs offence.

Investigating officers receiving this advice should, if sufficient evidence exists, commence a prosecution for the original minor drugs offence or in the case of a child consider alternatives to prosecution.

If the person has not yet completed the DDAP the investigating officer should:

(i) contact the Diversion Coordination Service (see Service Manuals Contact Directory) 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 appropriate, withdrawing the drug diversion previously offered flag.

Persons withdrawing agreement to participate in and complete drug diversion assessment program

PROCEDURE

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 (see Service Manuals Contact Directory) 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 0701 the officer should advise the person that failure to participate in or complete the DDAP will render the person liable to prosecution.

2.22.8 Limit on re-arrest

ORDER

Officers who arrest a person for a minor drugs offence and subsequently release that person upon agreement to participate in and complete a drug diversion assessment program (DDAP) 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).

PROCEDURE

If it is necessary to commence proceedings against a person for the minor drugs offence for which drug diversion was offered such proceedings should be commenced by notice to appear or complaint and summons.

2.22.9 Duty of prescribed officers

ORDER

The prescribed officer into whose custody an adult person arrested for a minor drugs offence is delivered is to ensure that the arresting officer has considered whether the person is eligible for drug diversion and if the person is eligible that the person has been offered the opportunity to participate in a drug diversion assessment program (DDAP) (see ss. 2.22.2: 'Eligibility for drug diversion' and 2.22.5: 'Ineligibility for drug diversion' of this chapter).

If the person is eligible for drug diversion the prescribed officer is to offer the opportunity to participate in a DDAP (see s. 2.22.3: 'Eligible for drug diversion' of this chapter). If an offer to participate in a DDAP is made by the prescribed officer under such circumstances, the arresting officer is to:

(i) complete any required documentation for signing by the prescribed police officer; and

(ii) make any other required QPRIME entries.

If the prescribed officer is satisfied that the requirements of s. 379: 'Additional case when arrest for minor drugs offence may be discontinued' of the PPRA have been complied with, the prescribed officer 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).

See also s. 16.9.4: 'Responsibilities of receiving officer and prescribed police officer accepting a prisoner into a watchhouse' of this Manual.

2.22.10 Deleted

2.22.11 Court ordered drug diversion

In accordance with s. 122A: 'Particular proceedings for minor drugs offences' of the *Drugs Misuse Act* (DMA), a court may order a person who pleads guilty to a minor drugs offence to attend and complete a drug diversion assessment program (DDAP).

POLICY

When a defendant appears before a court for a minor drugs offence and the court considers making an order under s. 122A of the DMA, prosecutors are to:

- (i) be mindful of the provisions of s. 122A(3) of the DMA (i.e. the person must be eligible under s. 379: 'Additional case when arrest for minor drugs offence may be discontinued' of the PPRA for s. 122A to apply); and
- (ii) assist the court to determine the defendant's eligibility under s. 379 of the PPRA for such an order.

Where a defendant is ineligible prosecutors are to remind the court of its alternatives (e.g. direct the defendant into the court's other drug diversion processes).

Officers are to provide necessary assistance, wherever practicable, where a defendant has been ordered to attend and complete a DDAP, pursuant to s. 122A of the DMA, by a court. Such assistance may involve:

- (i) attending court to give the defendant a direction to attend and complete a DDAP before the defendant leaves the precincts of the court; or
- (ii) locating the defendant at a later time to give the necessary direction.

Action on receipt of written report of attendance

The provider of a DDAP may give the court a written report about the person's attendance and completion of a DDAP by filing a copy of the written report with the court and giving a copy of the report to the Commissioner (see s. 122B: 'Provision of information to court' of the DMA). Any such report is to be served on a staff member of the Legal Liaison Team of the Right to Information and Privacy Unit, Information and Discipline Support Services (see s. 6.1: 'Introduction' of the Management Support Manual).

Where a copy of a report is received by a staff member of the Legal Liaison Team, that member is to ensure a check of QPRIME is made and, if the order under s. 122A of the DMA was made by:

- (i) a magistrates court, ensure the report is sent to the officer in charge (OIC) of the relevant police prosecution corps; or
- (ii) a higher court, ensure the report is sent to the:
 - (a) OIC of the investigating officer; and
 - (b) relevant office of the Office of the Director of Public Prosecutions (State).

Upon receipt of a copy of a written report from a DDAP, OICs of stations, establishments or prosecution corps are to ensure that a copy of the written report is given to the defendant's lawyer (see s. 122B(3) of the DMA).

If the charge of the minor drugs offence is to be struck out in a magistrates court because of the defendant's successful completion of a DDAP in accordance with s. 122C: 'Further consideration of charge of minor drugs offence' of the DMA, the relevant prosecutor is to ask the court to order the forfeiture of the relevant drugs and/or smoking utensils to the State.

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.

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 8A:

- (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 on 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 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 on 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

Chapter 17, Part 3, ss. 457-466: 'Forensic procedure orders' of the PPRA allows officers to 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 a police 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. 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, children's 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 Child Safety, Youth and Women (DCSYW), 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 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.

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 on 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.

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, DCSYW, 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/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/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/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'; and
- (iv) s. 521: 'Powers under this part are additional to other powers'.

Officers in charge 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 on 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) a Policelink entered occurrence is made 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:
 - a parent of the child, unless a parent cannot be found after reasonable inquiry; and
 - the Chief Executive, DCSYW, 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' & 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 & 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 s. 516(2) and s. 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) where the forensic procedure relates to the taking of a DNA sample, ensure that, the place where the DNA sampler (see SMD) is to take the DNA sample is at 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);

(xi) 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);

(xii) 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);

(xiii) 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);

(xiv) 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;

(xv) 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;

(xvi) 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;

(xvii) 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 Scientific Services Liaison Unit, Queensland Health Forensic and Scientific Services (QHFSS) (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), Operations Support Command; and

(d) sexual offence kits are to be initially taken to a forensic section so that a forensic exhibit bar code can be attached to the kit and an entry made on the Forensic Register. The kit is then to be delivered to the Central Property Point of QHFSS. The officer delivering the sample will be given a reference DNA sample from the kit by QHFSS staff. The reference DNA sample is then required to be delivered to the DNA Management Section together with a QP 0442: 'DNA Sample particulars form' and a copy of the QP 0127;

Whenever person or crime scene samples, other samples or dental impressions are forwarded to QHFSS or 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'.

(xviii) 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

(xix) 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
- (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 the forensic procedure is an intimate forensic procedure the person asked to help the doctor must be a person of the same sex as the relevant person or another doctor, unless these persons cannot reasonably be called on;
- (iv) in performing the forensic procedure, it is lawful for the doctor, and the person helping, to use reasonably necessary force.

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 the forensic procedure is an intimate forensic procedure, the person asked to help the forensic nurse examiner must be of the same sex as the relevant person or another forensic nurse examiner, unless these persons cannot reasonably be called on; and
- (iv) in performing the forensic procedure, it is lawful for the forensic nurse examiner, and the person helping, to use reasonably necessary force.

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 the forensic procedure is an intimate forensic procedure, the person asked to help the dentist must be a person of the same sex as the relevant person or another dentist, unless these persons cannot reasonably be called on.

In performing the forensic procedure, it is lawful for the dentist and the person helping to use reasonably necessary force.

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
- 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
 - (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 watchhouse 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, 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 that maintains continuity of possession.

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:

- (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.

Ministerial arrangements and service level agreements are required with some other states of Australia in relation to the execution of forensic procedure orders in those other states and territories. In cases where the relevant person is outside Queensland, Chapter 17, Part 9 of the PPRA applies. Officers should contact the Inspector, DNA Management Section, FSG to ensure that the necessary arrangements and 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 Inspector, DNA Management Section, to arrange for the Queensland forensic procedure order to be registered in the other relevant jurisdiction.

The Inspector, 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 Inspector, 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.

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 Service Manuals Definitions.

POLICY

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, Operations Support Command (see Delegation D 24.39).

POLICY

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, Operations Support 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).

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 Richlands 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).

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

Chapter 17, Part 5: 'DNA procedures' of the PPRA includes specific provisions relating to the taking of a DNA sample from particular persons with consent, taking DNA samples after proceedings have been commenced and from certain prisoners, taking a DNA sample from a child, the analysis and use of DNA samples and DNA databases.

Chapter 17, Part 2: 'Obtaining consent for forensic procedure' of the PPRA, in relation to a DNA sample, allows the conducting of 'intelligence led DNA screenings' (see s. 448(1)(b)(i): 'What pt 2 provides' of the PPRA).

DNA evidence should not be relied upon in isolation

DNA evidence should not be relied upon in isolation during an investigation, as it is only circumstantial evidence linking crime scenes to crime scenes or persons to crime scenes. Officers using DNA evidence in an investigation are to make all reasonable inquiries into the lawful or unlawful reasons why a person's DNA is present at a crime scene.

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 samples

The Inspector, DNA Management Section is to ensure a register is maintained of officers authorised to take DNA samples.

Pursuant to Delegation D 24.26, the Commissioner has delegated his powers under s. 476: 'Commissioner may authorise police officer to take DNA samples' of the PPRA to officers who have completed the required training.

2.25.1 Deleted

2.25.2 Officer to take a DNA sample

Where legislative power exists, the officer investigating an indictable offence (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) is to take a DNA sample or where the officer is not a DNA sampler or it is not practicable for the investigating officer to take the DNA sample, ensure that a DNA sample is taken.

Taking a DNA sample for intelligence purposes only

ORDER

Before an officer takes an intelligence DNA sample from a person for intelligence purposes the officer is to check QPRIME to ascertain whether a permanent DNA profile has been recorded on the DNA database for the person. If a permanent DNA profile exists, an intelligence sample is not to be taken.

An officer is to check QPRIME to ascertain if a 'Person Info Discrepancy' flag exists for the person. If there is a 'Person Info Discrepancy' flag for the person, then the officer is to if the legislative power exists take a DNA intelligence sample.

DNA sample from a relevant person

Officers requiring a DNA sample from a relevant person are to:

- (i) where a proceeding against a person (adult) for an indictable offence has been commenced, detain the person for the time reasonably necessary to take a DNA sample (see s. 481 of the PPRA);
- (ii) where proceedings for an indictable offence against an adult have been commenced 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 is to serve a DNA sample notice on the person (see ss. 482: 'DNA sample notice' and 483: 'Requirements for DNA sample notice' of the PPRA)
- (iii) where ss. 481 or 482 of the PPRA do not apply, consider obtaining a DNA sample by a forensic procedure by consent (see s. 2.23.1: 'Forensic procedure consent' of this chapter); or
- (iv) where proceedings for an indictable offence have not been commenced against the person, or forensic procedure consent is not obtained or not likely to be obtained, or has been obtained and is later withdrawn, officers should consider making an application for a forensic procedure order (see s. 2.23.2: 'Forensic procedure orders' of this chapter).

Court orders the taking of a DNA sample

In a proceeding against an adult for an indictable offence, under s. 484: 'Taking DNA sample from adult before court' of the PPRA, if a court is satisfied it is reasonably necessary, to take a DNA sample from the person, or under 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 a police 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 police establishment within seven days, or on a stated day within stated hours with seven days, to enable a DNA sampler to take a DNA sample from the person for DNA analysis; and
 - (b) authorising a police 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. 2.25.4: 'DNA samples when proceedings started against an adult' of this chapter).

Also, under s. 488: 'Taking DNA sample from child' of the PPRA, the children's court may make an order authorising a DNA sampler to take a DNA sample for DNA analysis from a child (see s. 2.25.7: 'Taking DNA sample from child' of this chapter).

Reportable offenders

Section 488A: 'Taking DNA sample from reportable offender for Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004' of the PPRA provides a DNA sampler may take a DNA sample for analysis from a reportable offender 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).

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

Section 40A of the CP(OROPO)A provides that a reportable offender is to comply with a QP 0991: 'CPOR – DNA sample notice' to:

- (i) attend a stated police station at a stated time and place; and
- (ii) allow a DNA sampler to take a DNA sample from the offender for analysis,

if a DNA sample or the results of a DNA analysis of a DNA sample is not currently kept under the PPRA.

Section 50: 'Failure to comply with reporting obligations' of the CP(OROPO)A provides a reportable offender commits a crime if they do not provide a DNA sample as required under s. 40A of the Act (see 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: 'Conducting DNA sampling' of this chapter; and
- (iii) obtain an intelligence DNA sample from the reportable offender either personally, or by using a qualified DNA sampler.

2.25.3 Deleted**2.25.4 DNA samples when proceedings started against an adult**

POLICY

When an officer starts or continues a proceeding against an adult for an indictable offence by arrest, or starts a proceedings by notice to appear or complaint and summons the officer is to obtain a DNA sample from the person under the provisions of 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 at the time the person is arrested or served with a notice to appear or complaint and summons unless:

- (i) a permanent DNA 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.

(See s. 2.25.2: 'When DNA samples may be taken' of this chapter.)

When obtaining a DNA sample from an adult under s. 481 of the PPRA, the officer is to also obtain the persons fingerprints to ensure the accurate identification of the person. This is necessary for the purpose of recording the person's DNA profile as a permanent DNA profile on the DNA database.

Where an officer intends to obtain a DNA sample from an adult under s. 481 of the PPRA the officer is to detain the person for the time reasonably necessary to take a DNA sample from the person. If necessary, the person may be taken to a police station or police establishment, hospital or another place the sampler considers appropriate in the circumstances for the purpose of obtaining the DNA sample.

Where a DNA sample has not been taken from a person at the time of arrest and an officer later becomes satisfied performing a forensic procedure on a person suspected of committing an indictable offence may provide evidence of the commission of the offence, (e.g. taking a DNA sample) 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). (Note – s. 484: 'Taking DNA sample from adult before court' of the PPRA is a discretionary power of the court to make an order for the taking of a DNA sample and does not provide an avenue for an officer to make an application for a court order under that section.)

PROCEDURE

Where a prosecutor is presenting a matter and the court satisfies itself that it is reasonably necessary to order the taking of 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, in light of 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 officer in charge of the police station or police 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 from the occurrence.

POLICY

Where a court has ordered the detention of a person to enable a DNA sampler to take a DNA sample for DNA analysis, officers in charge of stations/establishments are to ensure a DNA sample is taken upon the request of a prosecutor.

Where a court has ordered a person attend a nominated police station or police establishment for a DNA sample to be taken from an adult before that court, the officer in charge of the nominated station or establishment is to ensure that the sample is taken and an appropriate entry made in QPRIME that the sample was taken by issue of a court order. If a QPS 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 police 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 evidence of the correctness of thereof 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 filed at the establishment where the DNA sample was taken.

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 officer in charge of the nominated station or establishment is to assign the matter to an appropriate officer for further investigation, and where appropriate for the commencement of proceedings against the person under s. 484(3) or s. 485(3) of the PPRA.

Where a person is attending or has attended to have a forensic procedure conducted is not the person named in the order, 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: 'QPRIME – Policelink entered occurrences' of this Manual).

In cases where the person attended to have a forensic procedure conducted is later found not to be the person named in the order, the officer who originally applied for the order is to investigate with a view to commencing a prosecution against 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 of this Manual).

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 is to be returned to the investigating officer for inclusion in the brief of evidence.

2.25.5 DNA sample notice

POLICY

Where an 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 take a DNA sample from the person, see s. 2.25.2: 'When DNA samples may be taken' of this chapter.

An officer may, if the previous paragraph applies, give a QP 0723: 'DNA sample notice' (available in QPRIME or in booklet form) requiring the person to report to a stated police station or police establishment to enable a DNA sampler to take a DNA sample from the person. However, a DNA sample notice is only to be used as a last resort for intelligence samples (i.e. a DNA sampler is not available).

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).

PROCEDURE

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 (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 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 must also be given so that DNA and fingerprints are taken at the same time.

For the policy relating to 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 chapter.

2.25.6 Obtaining samples for DNA analysis from a victim/complainant/witness

POLICY

The provisions of Chapter 17: 'Forensic procedures' of the PPRA relating to obtaining forensic procedure consent and forensic procedure orders generally do not apply to persons who may be:

- (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 for use 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 on 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 on 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:

- (a) a copy of consent form to the victim/complainant/witness;
- (b) a copy of the signed consent form to the DNA unit with the DNA sample; and
- (c) retain a copy for the investigation file.

2.25.7 Taking DNA sample from child

If an officer:

(i) starts 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 police 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 on QPRIME);
- (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 Child Safety, Youth and Women (DCSYW) or, a person, nominated by the Chief Executive for the purpose, who holds an office within that department for which the Chief Executive 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 children court, the officer who made the application is to initiate a QPS IDP/DNA Attendance Notice task workflow to advise the nominated 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 officer in charge of the nominated establishment is to ensure that the sample is taken, and an appropriate entry made in QPRIME. If a QPS 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 person for DNA analysis etc., the applicant police 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 police 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: 'DNA from prisoners' of this chapter.

2.25.8 Conducting DNA sampling

POLICY

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) ensure the sampling is conducted in a place and under circumstances that will avoid the possibility of contamination of the sample;
- (iii) comply with the provisions of s. 16.8: 'QPRIME custody, search and property reports' of this Manual;
- (iv) ensure that the relevant provisions of s. 2.25.9: 'Mouth swab request and direction' or s. 2.25.10: 'DNA hair sample request and direction' of this chapter are complied with;
- (v) where the authority exists to obtain identifying particulars from the person, ensure the relevant person's fingerprints are taken, and that a bar code sticker from the relevant DNA mouth swab sampling kit is affixed to each QP 0013: 'Fingerprint Form';
- (vi) 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 on 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
- (vii) ensure that the biometrics details for the DNA sample taken are entered on QPRIME.

2.25.9 Mouth swab request and direction

POLICY

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 require the person in the following terms:

'I now require you to supply a DNA sample by using a mouth swab as directed by (NAME OF DNA SAMPLER (ALSO RANK AND STATION IF A POLICE OFFICER)).'

The DNA sampler is to direct the person providing the sample in the following terms:

'I direct you to take the swab by the handle and place it in your mouth against the inside of your cheek. Then rub it up and down the inside of your cheek until I tell you to stop. Without removing the swab from your mouth, place the other side of the swab against the inside of the opposite cheek. Then rub it up and down the inside of your cheek until I tell you to stop. You are then to return the mouth swab to me.'

Section 791: 'Offence to contravene a direction or requirement of police officer' of the PPRA applies if a person is given a requirement or direction under the PPRA and no other penalty is expressly provided for a contravention of the direction or requirement. By s. 791(2) of the PPRA, 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.

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' of the PPRA, that:

- (i) it is an offence to fail to comply with the oral 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 oral requirement/direction.

Section 517: 'Help with, and use of force for, performing forensic procedure' of the PPRA makes it 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. **However, no force is to be used to conduct DNA mouth swab sampling.** In such cases, a DNA hair sample is to be obtained (see s. 2.25.10: DNA hair sample request and direction' of this Manual).

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 officer in charge 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 officer in charge 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.

When obtaining a DNA sample by mouth swab and the DNA sampler is 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 make a request in the following terms:

'I now request you to supply a DNA sample by using a mouth swab as directed by (NAME OF DNA SAMPLER (ALSO RANK AND STATION IF A POLICE OFFICER)).'

The DNA sampler is to direct the person providing the sample in similar terms as those previously outlined above.

If the person has provided forensic procedure consent but fails to comply with the direction 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.).

2.25.10 DNA hair sample request and requirement

POLICY

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 require the person in the following terms:

'I now require you to allow (NAME OF DNA SAMPLER (ALSO RANK AND STATION IF A POLICE OFFICER)) to collect hair samples from your body.'

The DNA sampler may then take a DNA sample from the person by collecting hair, including roots of the hair from the person.

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 consent, or a DNA sampler who is a police officer, is to make a request in the following terms:

'I now request you to allow (NAME OF DNA SAMPLER (ALSO RANK AND STATION IF A POLICE OFFICER)) to collect hair samples from your person.'

The DNA sampler may then take a DNA sample from the person by collecting hair, including roots of the hair from the person.

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.).

2.25.11 Intelligence led DNA screening

POLICY

'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 Officer in Charge, 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.

2.25.12 Transit of DNA samples

The ability to analysis 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.

POLICY

Officers are to ensure that DNA samples are transported to DNA Management Section, Scientific Section, Forensic Services Group, Operations Support Command at the earliest possible opportunity and within 5 business days.

PROCEDURE

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 should be delivered to DNA Management Section.

2.25.13 DNA profile link notification

The Forensic Biology Team, Queensland Health Forensic and Scientific Services (located at the John Tonge Centre), will provide all matches from the comparison of DNA profiles to the DNA Management Section.

POLICY

The Officer in Charge, 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 outlined on the command's webpage on the Service Intranet.

When a DNA profile link occurs, the Officer in Charge, 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

Section 536: 'Evidentiary provision' of the PPRA provides that a certificate signed by the Commissioner (evidentiary certificate) and stating any of the matters outlined under subsections (1)(a) to (1)(g) is evidence of what it states.

POLICY

The Officer in Charge, DNA Management Section will be 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.) When a copy of the certificate is given to the defendant or the defendant's lawyer, the investigating officer is to ensure that another 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 Officer in Charge, DNA Management Section with a copy of the Form;
- (iii) liaise with the relevant prosecutor and where required ensure that the Officer in Charge, 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 Officer in Charge, 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.

2.25.15 When DNA samples and results must be destroyed

Section 490: 'When DNA sample taken from suspected person and results must be destroyed' of the PPRA provides a DNA sample taken from a person suspected of having committed an indictable offence and the results of any DNA analysis of the sample must be destroyed within a reasonably practicable time after the end of one year from the occurrences outlined in the section. Exclusions are also contained in the section.

In relation to a reportable offender, in accordance with s. 74: 'Review about entry on register' of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act* (CP(OROPO)A), where the decision to place a person on the register has been revoked, any DNA sample taken under the Act must be destroyed.

POLICY

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 Officer in Charge, DNA Management Section is appropriately notified, except where an offender was diverted to a drug diversion assessment program under s. 379: 'Additional case when arrest for minor drugs offence may be discontinued' of the PPRA.

When the decision to place a reportable offender on the register has been revoked under s. 74 of the CP(OROPO)A, the Detective Senior Sergeant, Registry Operations, Child Protection Offender Registry, is to ensure the Officer in Charge, DNA Management Section is appropriately notified.

Members requesting destruction of DNA samples or the results of DNA analysis, held at the Queensland Health Forensic and Scientific Services are to notify the Officer in Charge, DNA Management Section via tasking in QPRIME.

The Officer in Charge, 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 DNA from prisoners

POLICY

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 s. 2.25: 'DNA' 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.

POLICY

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
- (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: 'Procedure for items left at scenes of crime' and 2.25.20: 'Procedure for items of clothing worn by a complainant' must be complied with in order to prevent contamination.

POLICY

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 services co-ordinator in consultation with the regional crime coordinator or senior investigating officer.

2.25.19 Procedure for items left at scenes of crime

ORDER

Items within a crime scene which may be suitable for trace DNA sampling are to be preserved in situ (where found and untouched) and a forensic officer is to be contacted to assess their suitability based on the conditions outlined in s. 2.25.17: 'Sampling of items for Trace DNA' of this chapter. If it is impractical for a forensic officer to attend the scene because:

- (i) the scene is in a remote location; or
- (ii) prevailing conditions are such that items may be damaged or destroyed before a forensic officer can attend;

each item is to be collected using a Trace DNA Evidence Collection Kit in accordance with the instructions contained in the kit and delivered to a forensic officer. A Trace DNA Evidence Collection Kit is available from your relevant Forensic Office.

2.25.20 Procedure for 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 forensic 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.

POLICY

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 Inspector, 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 Inspector, 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 analyses 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 for approximately \$150 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:
 - (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.

PROCEDURE

A National Search requires support from the relevant detective superintendent and approval from the Assistant Commissioner, Operations Support 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 Queensland Health Forensic and Scientific Services 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/command.

2.26 Identifying particulars

Chapter 17, Part 4: 'Identifying particulars' of the PPRA allows police officers to take or photograph all or any of a person's identifying particulars for an identifying particulars offence:

- (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.

Section 5.11: 'Taking children's identifying particulars' of this Manual addresses the taking of identifying particulars from youths under the YJA.

2.26.1 Relationship to other procedures

A non-intimate forensic procedure includes taking identifying particulars.

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 Service Manuals Definitions) 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

POLICY

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 being 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 identifying particulars of the person are also taken at the same time as the DNA sample.

Where the person is arrested and is in custody at a watchhouse, the watchhouse 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

POLICY

Wherever practicable, identifying particulars, except voiceprints, are to be taken by:

- (i) watchhouse 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 officer in charge 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'.

Officers in charge of regions and commands are to ensure appropriate facilities and equipment is available at police stations 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

POLICY

This policy applies if a police officer decides to start, or continues, a proceeding against an adult, for an identifying particulars offence (see Service Manuals Definitions) 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).

A police officer may, if the previous paragraph applies, by written notice ('identifying particulars notice') given to the person, require the person to report to a police officer at a stated police station or police establishment within seven days after the issue of the notice to enable a police 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.

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 a police officer will be available to take those particulars;
- (iii) nominate a time, date and place on the notice which is convenient to the police 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 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, 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;
- (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, buttocks or, for a female, breasts 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 (e.g. photographs of 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).

POLICY

Where photographs of specific identifying features (e.g. scars or tattoos) or full length photographs are required to be taken of an offender, the requesting officer is to:

- (i) ensure a scenes of crime officer is available at the stated police station or establishment at the time the person concerned is required to attend; and
- (ii) endorse the
 - (a) blue copy of the booklet 'Identifying particulars notice'; or
 - (b) the person's copy of the QPRIME generated 'Identifying particulars notice'with the specific requirements.

Photographs of specific identifying features are to be taken by scenes of crime officers.

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.

POLICY

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.

PROCEDURE

An officer taking offender identification photographs should:

- (i) create a 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; and
 - (b) take a photograph of the prisoner from their left profile and their right profile;
- (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) once the identification photograph has been successfully placed into QPRIME, ensure the photograph is deleted from the camera, computer desktop or image rotator;
- (vi) ensure any station/establishment register for the recording of identification photographs taken is completed; and
- (vii) destroy the Photo Name Board.

POLICY

Where emergency circumstances dictate photographs being taken with an 'offender photograph' camera before the attendance of a forensic officer, the officer in charge 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 still cameras' 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.

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.

PROCEDURE

Fingerprinting (generally)

Officers required to fingerprint persons should comply with the procedures on QPRIME. Officers taking fingerprints should:

- (i) ensure that details entered on 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 on 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

PROCEDURE

In addition to the steps set out in 'Fingerprinting (generally)' of this section, officers taking fingerprints using the wet print method should:

- (i) use Form QP 0013: 'Fingerprint Form' (available on 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 officer in charge 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/establishment and officer who took the fingerprints.

POLICY

The officer in charge 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 Officer in Charge, 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 QP 0013B: 'Fingerprint Record Form' will be printed locally when LiveScan is used.

Results of the tenprint search (person's identification) should be available on the LiveScan device within 15 minutes of transmission. This identifier will display on the livescan device. 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.

POLICY

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.

Officers in charge 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 24 hour LiveScan Help Desk.

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.

PROCEDURE

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

Officers in charge 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 s. 13.4.7: 'Security Providers' of this Manual.

2.26.6 Voiceprints**POLICY**

In cases where officers may require a voiceprint from a person, they are to contact the Officer in Charge, Electronic Recording Section, Forensic Services Group and obtain that officer's advice prior to taking any action relating to the voiceprint.

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 officer in charge 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 officer in charge 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 Officer in Charge, 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 watchhouse 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 Officer in Charge, 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.

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.

Section 13: 'Fingerprinting and palm printing of applicants' of the *Tattoo Industry Act* (TIA) states an applicant is to consent to having their fingerprints and palm prints taken by police prior to being granted an operators or tattooist licence. Information obtained from the prints may be used to perform additional police functions e.g. finalisation of an outstanding offence (see s. 13(6)(b) of the TIA).

Section 27: 'Fingerprints to be taken' of the *Security Providers Act* (SPA) provides each relevant person submitting an:

- (i) application for a licence; or
- (ii) application for the renewal of an unrestricted licence,

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).

POLICY

When a person attends a police station or establishment to comply with ss. 13 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.

PROCEDURE

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 watchhouse), fingerprints and palm prints of applicants may be taken on the device; or
 - (b) otherwise, sworn 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 watchhouse.

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 a '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 on 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;
- (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

POLICY

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/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 notice has been complied with or not.

Where a person has failed to comply with a reporting notice, the originating officer or any other officer is to;

- (i) arrest the person and obtain the identifying particulars and/or 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: '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.

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.

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 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](#).

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, Operations Support 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 closed circuit television (CCTV) cameras which are located:

- (i) on the Brisbane Busway Network. Images from these CCTV cameras 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 these CCTV cameras are generally recorded on site.

During the course of an investigation officers may seek to view and/or obtain video recordings captured by CCTV cameras. Video recordings from CCTV systems are retained by the DTMR agencies for varying periods depending on the particular agency and recording medium used (i.e. analogue or digital equipment).

POLICY

To view or obtain video recordings from DTMR CCTV systems, officers are to:

- (i) provide a written request to the Manager of the relevant Traffic Management Centre, Customer Service Centre, Maritime Safety office, QGAP office, Port Authority or the Brisbane Bus Operations Centre as appropriate on an F 4916: 'Request for CCTV Footage'; and
- (ii) obtain the authorisation of the officer in charge of their station or establishment, or a regional duty officer, patrol group inspector, or district duty officer, prior to making such a request.

On receiving a video recording from a DTMR CCTV system, 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 CCTV system 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 Management Support Manual.

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

POLICY

Queensland Rail (QR) has a system of CCTV cameras operating across the CityTrain 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:

- (i) on board passenger trains are held for 10 days and are then automatically erased; and
- (ii) of stations and car parks are held for 14 days. A limited number of stations may have 28 days available.

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 City train CCTV Images'. When submitted, a copy of the form is automatically emailed to the nominated investigating officer for reference and the request emailed to the Operations Support Command Intelligence Unit (OSCIU). The OSCIU will make arrangements to have the CCTV video recording processed by the QR CCTV Analysis Unit.

Requests for images take three forms:

- (i) collect and hold – raw data will be isolated and held by QR for a period of at least 90 days. No material will be provided to the requesting officer. If imagery is required within the 90 day period for court or investigation, a QPRIME task should be submitted to the Railway Squad Intelligence Unit (ORG Unit [3239]). After 90 days this data may be erased by QR;
- (ii) CCTV – QR CCTV Analysis Unit will produce one copy of the imagery on DVD; and
- (iii) court pack – QR CCTV Analysis Unit will produce three copies of the imagery on DVD.

The QR CCTV Analysis Section will provide a DVD to the investigating officer, which is to be treated as a documentary exhibit. 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 the instructions printed on the DVD, in particular referring to s. 5.6: 'Release of information' of the Management Support Manual. If a duplicate of the DVD 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 provided DVD is produced, the raw data for the imagery will be retained by QR for a period of 30 days, and the data on the DVD will be retained for 90 days. After these periods, unless otherwise advised, the data may be erased.

The QR CCTV Analysis Unit is located at Roma Street Transit Centre 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 Service Manuals Contact Directory (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 video recordings to the media in order to assist in the identification of suspects. Release of graphic or violent video recordings 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 video recording is to be released to the media, officers are to do so through Media and Public Affairs Group 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
- (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 Request for Release of On-Bus CCTV Footage form.

POLICY

Police 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.

A flow chart of the request process is set out in Appendix 2.13: 'Transport for Brisbane bus CCTV footage retrieval process'.

The following key points relate to this policy:

- (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>

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.

A police 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

The majority of the definitions of terms used throughout this section and the TO(PT)A 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;

Other definitions can be found in the most relevant section of the TO(PT)A. The following is a list of those definitions:

'authorised person' means the chief executive or a police officer (see s. 129ZH: 'Definitions for pt 4C' of the TO(PT)A).

'act of violence' includes an attempted or threatened act of violence (see s. 129ZH 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:

(a) if the prosecutor who appeared before the court when the exclusion order was made was a police officer – the commissioner of police service, or someone authorised to accept the application on the commissioner’s behalf; or

(b) if the prosecutor who appeared before the court when the exclusion order was made was a Crown prosecutor – the director of public prosecutions, 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’;

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).

Other definitions can be found in the most relevant section of the TO(PT)A. See also Service Manuals Definitions.

2.29.1 Exclusion orders

Section 129ZA: ‘Court may make exclusion order’ of the *Transport Operations (Passenger Transport) Act* provides for making an exclusion order when the court is convicting a person of an exclusion order offence. An **‘exclusion order offence’** is defined as either:

- (i) a relevant offence; or
- (ii) a ‘transport indictable offence’.

(see ‘Definitions’ of s. 2.29: ‘Public transport exclusion orders and civil banning orders’ of this chapter)

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) two 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 *Transport Operations (Passenger Transport) Act*).

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 *Transport Operations (Passenger Transport) Act*).

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.

PROCEDURE

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
- (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 *Transport Operations (Passenger Transport) Act* 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 Officer in Charge, Railway Squad to accept these orders on the Commissioner's behalf.

PROCEDURE

Upon receipt of an order, the OIC of the 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 division 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 *Transport Operations (Passenger Transport) Act*; and

(ii) update the relevant 'Banning order' window and 'Banning order' flag to record service of the order on the person.

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* following an application by the Chief Executive of the Department of Transport and Main Roads or a police 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 *Transport Operations (Passenger Transport) Act*) 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

PROCEDURE

Application for a civil banning order is made in compliance with the Uniform Civil Procedure Rules and must include an affidavit of the evidence to be relied upon by the applicant police 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 *Transport Operations (Passenger Transport) Act* 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 five 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 'Recording a civil banning order' of this section and QPRIME User Guide). In accordance with the Uniform Civil Procedure Rules (see s. 13.36: 'Starting a civil proceeding' of this Manual) the applicant officer is to complete:

(i) a Form 5: 'Originating Application' (available on QPS Form Select);

(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' available on QPS Forms Select); and

(iii) a draft court order on a Form 59: 'Order – (Blank)' (available on QPS Form Select) 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 *Transport Operations (Passenger Transport) Act* 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 *Transport Operations (Passenger Transport) Act* 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 *Transport Operations (Passenger Transport) Act*).

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 *Transport Operations (Passenger Transport) Act*, 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 *Transport Operations (Passenger Transport) Act* are to be recorded in QPRIME and a 'For your information' task is to be forwarded to the Officer in Charge of the 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 officer in charge of the division the respondent resides for service.

Recording court outcomes

POLICY

The Officer in Charge, Railway Squad is authorised to accept court orders on behalf of the Service.

PROCEDURE

Where a civil banning order is made, amended or revoked by a court, the Officer in Charge of the 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 officer in charge of the division 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, Department of Transport and Main Roads,

for their information and filing (see Service Manuals Contact Directory).

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 Department of Transport and Main Roads is authorised to apply for a civil banning order. Officers may be requested to serve applications and civil banning orders on behalf of the Department of Transport and Main Roads.

PROCEDURE

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 three months;
 - (e) that the respondent may file a response to an application or interim civil banning order. The respondent must file the response within
 - twenty-eight 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

POLICY

Section 129ZG(2): 'Offence to contravene exclusion order' or s. 129ZZ(2): 'Contravention of civil banning order or interim civil banning order' of the *Transport Operations (Passenger Transport) Act* provides, without limiting what may constitute a reasonable excuse, what circumstances constitute a reasonable excuse for a person to contravene an:

- (i) exclusion order;
- (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 *Transport Operations (Passenger Transport) Act*, or
 - (b) order to vary the civil banning order under s. 129ZQ: 'Varying or revoking civil banning order or changes in circumstances' of *Transport Operations (Passenger Transport) Act*; 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 negating 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.

POLICY

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 officer in charge seeking consideration of the new information. This is to be accompanied with an affidavit supporting the application under the relative section.

The officer in charge is to submit the report with a recommendation to a commissioned officer for consideration. The commissioned officer should consult with the Officer in Charge of the Railway Squad, the officer in charge of the relevant police prosecution corps or the Office of the Director of Public Prosecutions 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 Service Manuals Contact Directory);
- (vi) a copy of the application is provided to the Officer in Charge of the Railway Squad; and
- (vii) the file and copy of the application is forwarded to the officer in charge 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) twenty-one business days in the case of exclusion orders; or
- (ii) fifteen 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) twenty-one business days in the case of exclusion orders; or
- (ii) fourteen business days in the case of civil banning orders

prior to the day on which the application is to be heard.

PROCEDURE

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 officer in charge of the application;
- (iii) send a 'For your information' task to the Officer in Charge of the Railway Squad [ORG Unit 0865]; and
- (iv) notify the Manager, (Revenue Protection), TransLink Division, Department of Transport and Main Roads (see Service Manuals Contact Directory) by way of a letter on QPS letterhead to ensure excluded persons list is updated.

The officer in charge of the relevant police prosecution corps is to consider whether the Service should be heard in the application and if the officer in charge considers that the Service should be heard, the officer in charge 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.

2.30 TransLink Senior Network Officers

The *Transport Operations (Passenger Transport) Act* establishes authorised persons who have various powers under the Act. Section 111(3): 'Appointment of authorised officers generally' of the *Transport Operations (Passenger Transport) Act* 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 *Transport Operations (Passenger Transport) Act* to a class of transit officers, known as TransLink Senior Network Officers (SNOs) (see s. 2.30.2: 'Powers of TransLink Senior Network Officers to detain persons' of this chapter).

TransLink SNOs are authorised persons under the *Transport Operations (Passenger Transport) Act* and, as such, have the powers which are ordinarily available to an authorised person. TransLink SNOs 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* are contained in Schedule 3: 'Dictionary' of the *Transport Operations (Passenger Transport) Act*.

Other definitions can be found within Part 4A: 'Functions and powers of transit officer for protecting safety of persons or property' of the *Transport Operations (Passenger Transport) Act*.

2.30.2 Powers of TransLink Senior Network Officers to detain persons

Division 1: 'Powers to detain a person' of Part 4A: 'Functions and powers of transit officer for protecting safety of persons or property' of the *Transport Operations (Passenger Transport) Act* contain provisions which provide an authorised person (i.e. a TransLink SNO) with the power to detain a person.

These provisions are:

- (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 Criminal Code.

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 Criminal Code, Chapter 32: 'Rape and sexual assaults'; or
- (iv) involving wilful damage of property.

(See Schedule 3: 'Dictionary' of the *Transport Operations (Passenger Transport) Act*)

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 *Transport Operations (Passenger Transport) Act*. TransLink SNOs

also have a limited exemption from s. 67: 'Possessing and acquiring restricted items' of the *Weapons Act* (see s. 129D(2) of the *Transport Operations (Passenger Transport) Act*).

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* 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 *Transport Operations (Passenger Transport) Act* must immediately contact a police officer ('**contacted police officer**') to advise of the detention of a person.

POLICY

TransLink SNOs will contact the Duty Officer, Brisbane Police Communications Centre. The Duty Officer is the contacted police 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 police officer is to, in accordance with this policy, advise the TransLink SNO to either:

- (i) keep the person detained at the place where the detention started until a police 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 *Transport Operations (Passenger Transport) Act*).

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 police 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 *Transport Operations (Passenger Transport) Act*). Additionally, while a person is being detained by a TransLink SNO under Part 4A of the *Transport Operations (Passenger Transport) Act*, 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 *Transport Operations (Passenger Transport) Act*);
- (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 *Transport Operations (Passenger Transport) Act* 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);
- (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 he/she has 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 *Transport Operations (Passenger Transport) Act*).

Where the contacted police officer advises a TransLink SNO to release a detained person, the contacted police 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

POLICY

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* 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 *Transport Operations (Passenger Transport) Act*); 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 s. 16.4: 'Responsibilities of officers', s. 16.6: 'Discontinuing arrest', s. 16.13: 'Health of prisoners', and where appropriate, s. 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.

PROCEDURE

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 SNOs 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 SNOs 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.

POLICY

It should be noted that the majority of TransLink SNOs will have limited experience in undertaking criminal investigation and, as such, the investigating police 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 QPS handcuffs may be used on the detained person where appropriate before the TransLink SNOs 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 police 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 a police 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

POLICY

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;
- (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 Service Manuals Contact Directory); and
- (v) in the case of an incident on the QR Passenger Transport Network, notify the QR Mayne Controller (see Service Manuals Contact Directory).

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 SNO involved in their detention.

POLICY

A person with a complaint against a TransLink Senior Network Officer (SNO) for a breach of discipline matter (i.e. no allegation of a criminal offence) should be referred to Manager (Revenue Protection) (see Service Manuals Contact Directory) for the matter to be investigated in accordance with the internal complaint management/investigation process applicable to the TransLink SNO's.

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 police officer to whom the matter was reported is to notify:

- (i) in areas serviced by a District Duty Officer, the District Duty Officer; or
- (ii) in areas not serviced by a District Duty Officer, the Shift Supervisor.

The relevant district duty officer 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 a police officer is implicated in the detainee's allegations, refer to 'Complaint Management' of the Human Resources Policies.

2.30.7 TransLink Senior Network Officer suspected under the influence of liquor or drug while on duty

POLICY

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 Service Manuals Contact Directory).

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 a police 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 SNO, just like any other person, may exercise a general power of 'citizen's arrest' under the provisions of s. 479: 'Arrest without warrant', s. 450A: 'Arrest without warrant' and Chapter 58: 'Arrest' of the Criminal Code.

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 Criminal Code. However, s. 552(2) of the Criminal Code provides that delivering the arrested person into the custody of a police officer is sufficient to discharge this duty.

POLICY

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

POLICY

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, Operations Support Command may release information to TransLink SNOs as they currently do for QR.

Members who are not members of the Railway Squad may release information to TransLink SNOs 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 Management Support Manual).

For any other type of information, see s. 5.6.14: 'Requests for information from other government departments, agencies or instrumentalities' of the Management Support Manual.

2.30.10 Death of person or serious injury of person which may result in death while being detained by TransLink Senior Network Officer

POLICY

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 Ethical Standards Command. The on-call officer at Ethical Standards Command is responsible for contacting the Crime and Corruption Commissioner and the Inspector, State Coroner Assistant and facilitating any Crime and Corruption Commission requests for QPS assistance.

Where it is determined by the Ethical Standards Command 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 two recognised offenders on at least two 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) if possible, observe 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.

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 Aboriginal person or Torres Strait Islander can include a person regarded 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 two current retrospective warnings against one recognised offender and two against another;

- (b) at least two current retrospective warnings against one recognised offender and one against a recognised offender they are currently with; or

- (c) one current warning each against two recognised offenders they are currently with,

then consider commencing proceeding for habitually consorting with the expressed 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 list of relevant Queensland offences for consorting is contained on CIC, *Serious and Organised Crime Legislation Amendment Act 2016* (SOCA) webpage on the Service Intranet. 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).

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. 52B: 'Official warnings for consorting – Act, s 679(1)' of the Police Responsibilities Code (PRC) (see Schedule 9: 'Responsibilities code' of the PPRR)).

Two types of warnings

There are two 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:

- (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) 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;
- (iii) upload a copy of any Form 305: 'Official Warning for Consorting' issued;
- (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).

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 twenty four 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.

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. 52A: 'Taking identifying particulars for official warning for consorting – Act, s 679(1)' of the PRC 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 chapter.

Commencing proceedings for habitually consorting

ORDER

Before instituting a charge under s. 77B(1): 'Habitually consorting with recognised offenders' 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 on 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 chapter).

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 verdict and judgment record 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 a 'Consorting' workflow has been sent to PIC and completed;
- (iv) ensure the information recorded in relation to official warnings given complies with s. 52B of the PRC;
- (v) ensure consorting warning flags are only related to recognised offenders whose status has been confirmed by PIC;
- (vi) ensure subject persons only have consorting associations with confirmed recognised offenders;
- (vii) ensure information recorded in relation identifying particulars taken complies with s. 52A of the PRC;
- (viii) ensure a task is forwarded to the Forensic Imaging Section or Fingerprint Bureau to have identifying particulars taken to establish the identity of the person destroyed in accordance with s. 41A(3) of the PPRA;
- (ix) ensure a written warning notice is issued within 72 hours of verbal warning being given in accordance with s. 53BAC(5) of the PPRA, after the recognised offender is confirmed as a recognised offender;

- (x) 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);
- (xi) 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
- (xii) 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
- (xiii) 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) if a consorting direction is issued, it is compliant;
 - (f) demographic data is recorded (see s. 52B of the PRC);
 - (g) if identifying particulars were taken, they have been destroyed as required; and
 - (h) 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 Service Manuals Definitions) to make an application to a court for the issuing of a public safety order for a period of up to six months,

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:

- (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 Service Manuals Definitions) 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.

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 have the necessary reasonable suspicion the person has or will contravene a public safety order; and
- (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. 52C: 'Powers for public safety orders – Act, s 679(1)' of the Police Responsibilities Code).

2.31.3 Restricted premises orders

A senior police officer (see Service Manuals Definitions) 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 on 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
- (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

For the purpose of this section, the following definition applies:

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 Service Manuals Definitions) 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
- (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:

- (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 a police 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 Service Manuals Definitions) 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 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.

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;
 - (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 discretionary 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.

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).

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 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 Tattoo parlour 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 tattoo parlour 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 and Attorney General. 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. 13: '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 tattoo parlours

Sections 46: 'Interim closure of unlicensed or illegal tattoo parlours' and 47: 'Long term closure of tattoo parlours' of the TIA allows an officer to make application to the Commissioner to commence proceedings to close an unlicensed tattoo parlour.

Before applying for an interim closure order, officers are to be mindful that an interim order will only be issued if it is preceded 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 and Intelligence 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 tattoo parlour

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 tattoo parlours' 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.

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 tattoo parlours' 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] (Senior Probity Officer) outlining the conditions for the order.

The Senior Probity Officer, Crime and Intelligence 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 a tattoo parlour 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 tattoo parlour 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 three 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 Senior Probity Officer of the conditions of the long-term closure order by sending a QPRIME task to the Organised Crime Investigation Unit [ORG 0868] (Senior Probity Officer). The Senior Probity Officer is to remove the flag upon expiration of the long-term closure order.

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 the Tactical Compliance Unit, OFT (see DJAG in the Service Manuals Contact Directory) 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 the Tactical Compliance Unit, OFT 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 on 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.

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 Service Manuals Definitions), 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 Service Manuals Definitions), 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 Service Manuals Definitions). 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 Service Manuals Definitions) 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 Service Manuals Definitions).

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,

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 Service Manuals Definitions) was committed in a public place while the person was adversely affected by an intoxicating substance (see Service Manuals Definitions).

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 Service Manuals Definitions). 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).

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 Service Manuals Definitions) 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.

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 webpage on the Service Intranet.

2.33 Security and Counter-Terrorism Command

Withdrawn from public release.

Any inquiries to be referred to the Inspector, Operational Policy and Improvement.

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, s. 35: 'Management of witnesses during identification procedure' and Division 2 (ss. 36 to 41): 'Identification parades' of the Responsibilities Code apply in addition to the provisions of this appendix.

The venue chosen for an identification parade should be such that other witnesses are not able to see or hear the proceedings. A police 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 should not be permitted to converse with other witnesses who have not 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. A 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 nature of 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 used by the witness to identify the suspect.

Members 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 identification by the witness 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 police 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 he or she recognises a person in the identification parade, the police 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 his or her position in the parade. Witnesses are to be advised not to enter into any conversation with the identified person or any other witness until such time as those witnesses have also viewed the parade.

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. Officers are to obtain a written statement from witnesses who identify persons to them as soon as is reasonably practicable after the identification is made.

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 recognizance) (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.

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)

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
- 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

- 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 and Intelligence Command

- Organised Crime
- Major Crime
- Any crime which the Assistant Commissioner, Crime and Intelligence Command considers is appropriate for investigation by the Crime and Intelligence Command
- Any matter directed by the Deputy Commissioner, (Crime, Counter-Terrorism and Specialist Operations) or, after hours, the on call Deputy Commissioner.

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.

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.

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:)

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.

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.

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
	<p>Intimate Forensic Procedure</p> <p>(i) a procedure performed on a person's external genital or anal area, buttocks or, for a female, breasts, that involves:</p> <ul style="list-style-type: none"> 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; <p>(ii) a procedure performed on a person that involves:</p> <ul style="list-style-type: none"> 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 if the person is a female – the 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. <p>Non-intimate forensic procedure</p> <p>a procedure performed on a person, other than an intimate forensic procedure, that involves all or any of the following:</p> <ul style="list-style-type: none"> 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; 	<p>a procedure performed on a person, other than an intimate forensic procedure, that involves all or any of the following:</p> <ul style="list-style-type: none"> 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, for a female, breasts. 	<p>(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 if the person is a female, the breasts.</p> <p>(ii) a sample obtained by swabbing a person's mouth.</p>	<ul style="list-style-type: none"> 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, for a female, breasts

	<ul style="list-style-type: none"> 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. <p>Applies if:</p> <p>Forensic procedure consent:</p> <ul style="list-style-type: none"> 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). <p>Forensic procedure order:</p> <ul style="list-style-type: none"> 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. 	<p>Applies if:</p> <ul style="list-style-type: none"> proceeding for indictable offence against an adult has been started or continued (s. 498). 	<p>Applies if:</p> <ul style="list-style-type: none"> proceeding for indictable offence against a relevant person has been started or continued (ss. 481, 482 & 488). 	<p>Applies if:</p> <ul style="list-style-type: none"> 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.
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.

Appendix 2.7 Evaluation – Admiralty Code

(s. 2.8.3)

Source Reliability		
A	Completely reliable	<ul style="list-style-type: none"> No doubt re authenticity, trustworthiness, competency. History of complete reliability.
B	Usually reliable	<ul style="list-style-type: none"> Some doubt re authenticity, trustworthiness, competency. History of reliable information majority of the time.
C	Fairly reliable	<ul style="list-style-type: none"> Usually some doubt re authenticity, trustworthiness, competency. History of reliable information some of the time.
D	Not usually reliable	<ul style="list-style-type: none"> Definite doubt re authenticity, trustworthiness, competency. History of occasional reliability.
E	Unreliable	<ul style="list-style-type: none"> Great doubt re authenticity, trustworthiness, competency. History of unreliable information.
F	Cannot be judged	<ul style="list-style-type: none"> Cannot be judged.
Information Validity		
1	Confirmed	<ul style="list-style-type: none"> Confirmed by other independent sources. Logical in itself. Agrees with other information on the subject.
2	Probably true	<ul style="list-style-type: none"> Not confirmed. Logical in itself. Agrees with other information on the subject.
3	Possibly true	<ul style="list-style-type: none"> Not confirmed. Logical in itself. Agrees somewhat with other information on the subject.
4	Doubtfully true	<ul style="list-style-type: none"> Not confirmed. Not illogical in itself. Not believed at time of receipt although possible.
5	Improbable report	<ul style="list-style-type: none"> The contrary is confirmed. Is illogical in itself. Contradicted by other information on subject.
6	Cannot be judged	<ul style="list-style-type: none"> Cannot be judged.

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:

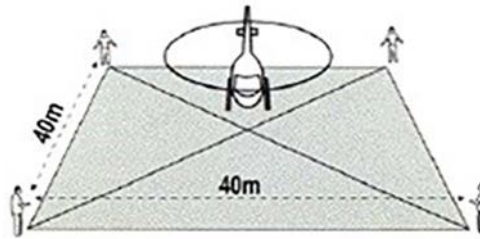
- (i) anticipate circumstances where sharp objects, such as knives and needles may be concealed, such as in the gap of car seats;
- (ii) always use suitable personal protective equipment. For example:
 - (a) as latex gloves may not be adequate for some types of searches, the use of two pairs of latex 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.

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 may be 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.

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.

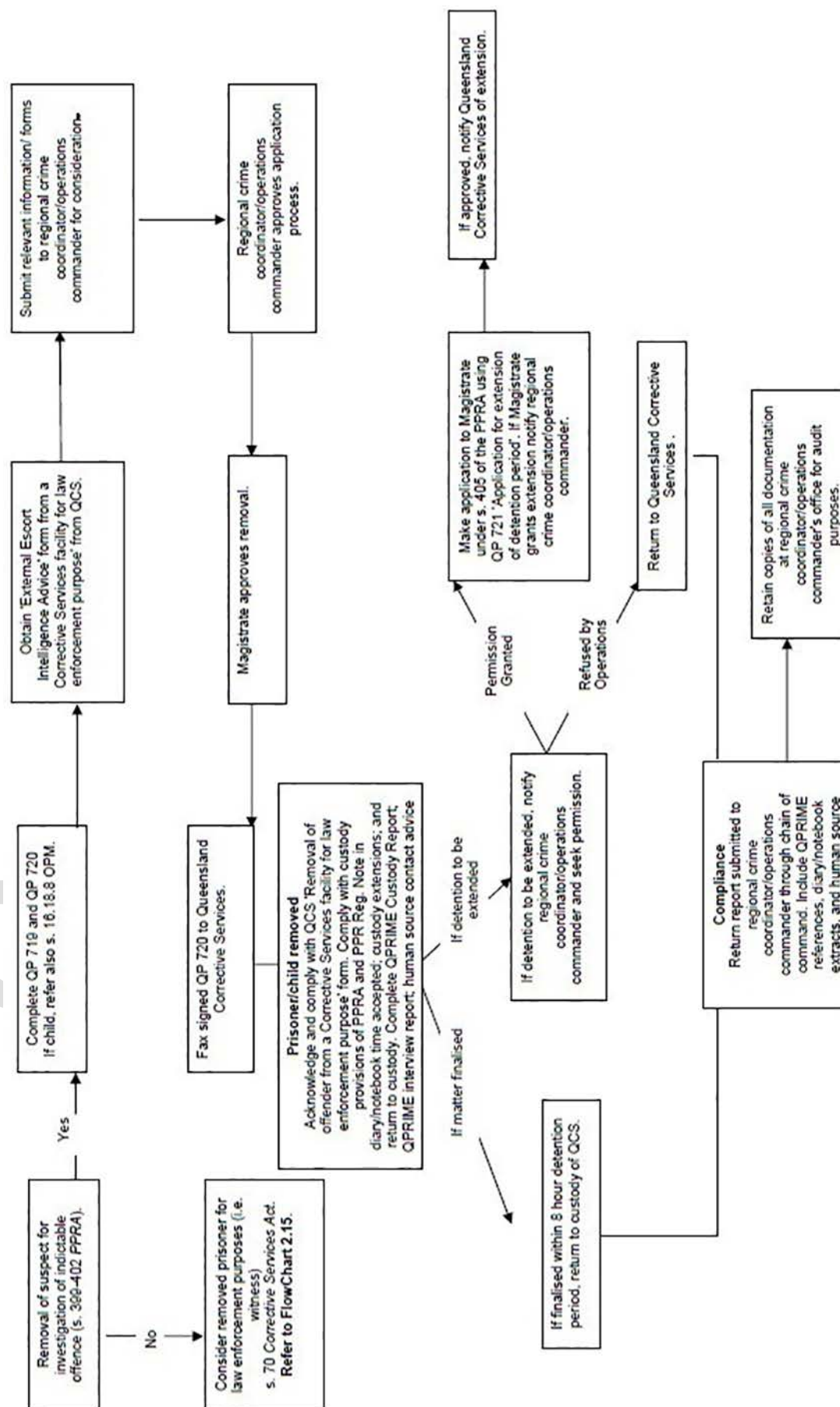


Only approach the helicopter from the front between the 10 o'clock and 2 o'clock positions (represented by the shaded area at the front of the helicopter in the diagram), assuming that the nose of the helicopter is in the 12 o'clock position. Only approach the side of the aircraft (represented by the exclamation marks in the diagram) when so directed by a crew member.



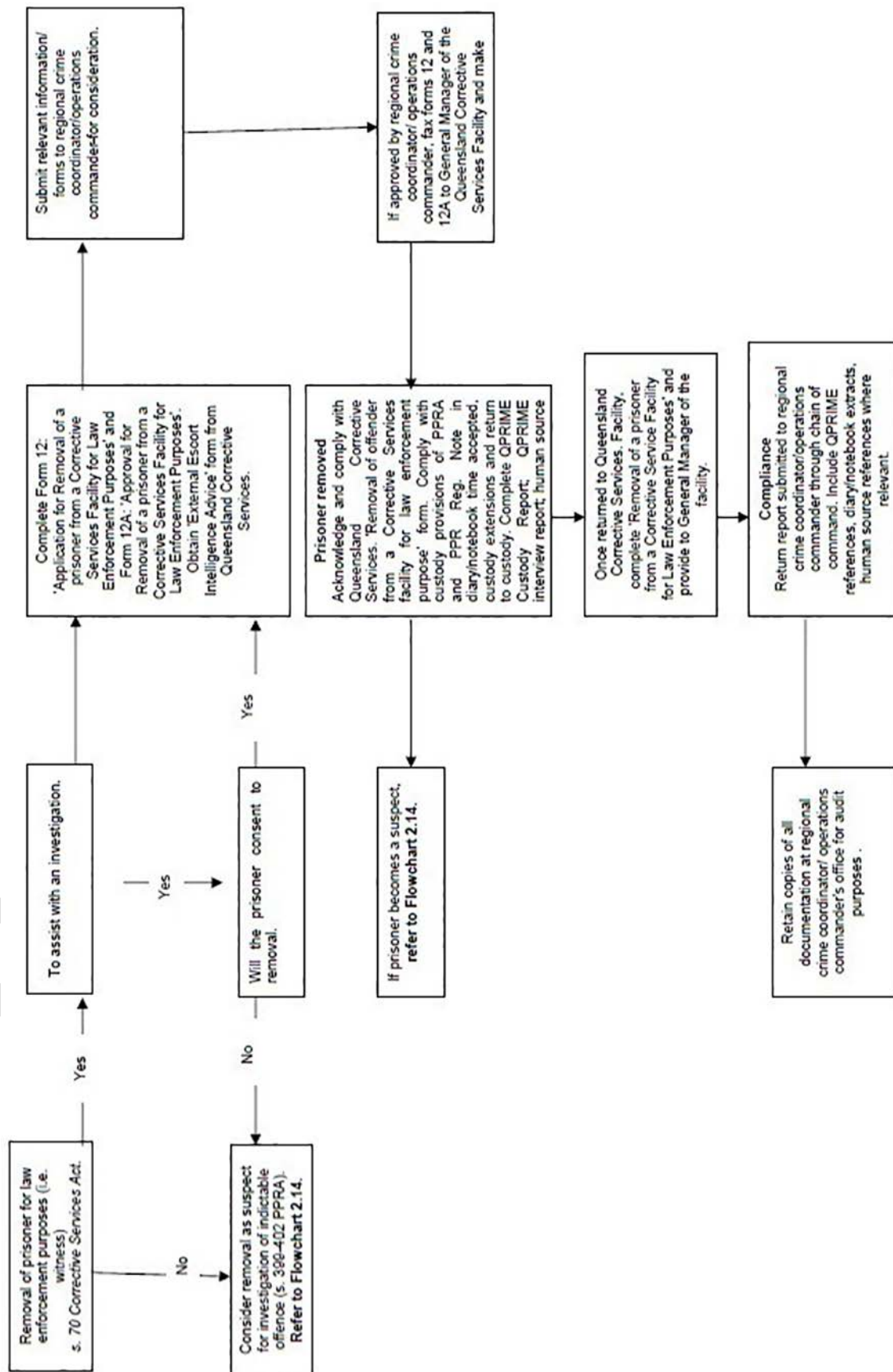
Appendix 2.10 Removal of Prisoners/Children from Corrective Services Facilities/Youth Detention Centres as Suspects

(s. 2.5.6)



Appendix 2.11 Removal of Prisoners from Corrective Services Facilities for Law Enforcement Purposes

(s. 2.5.6)



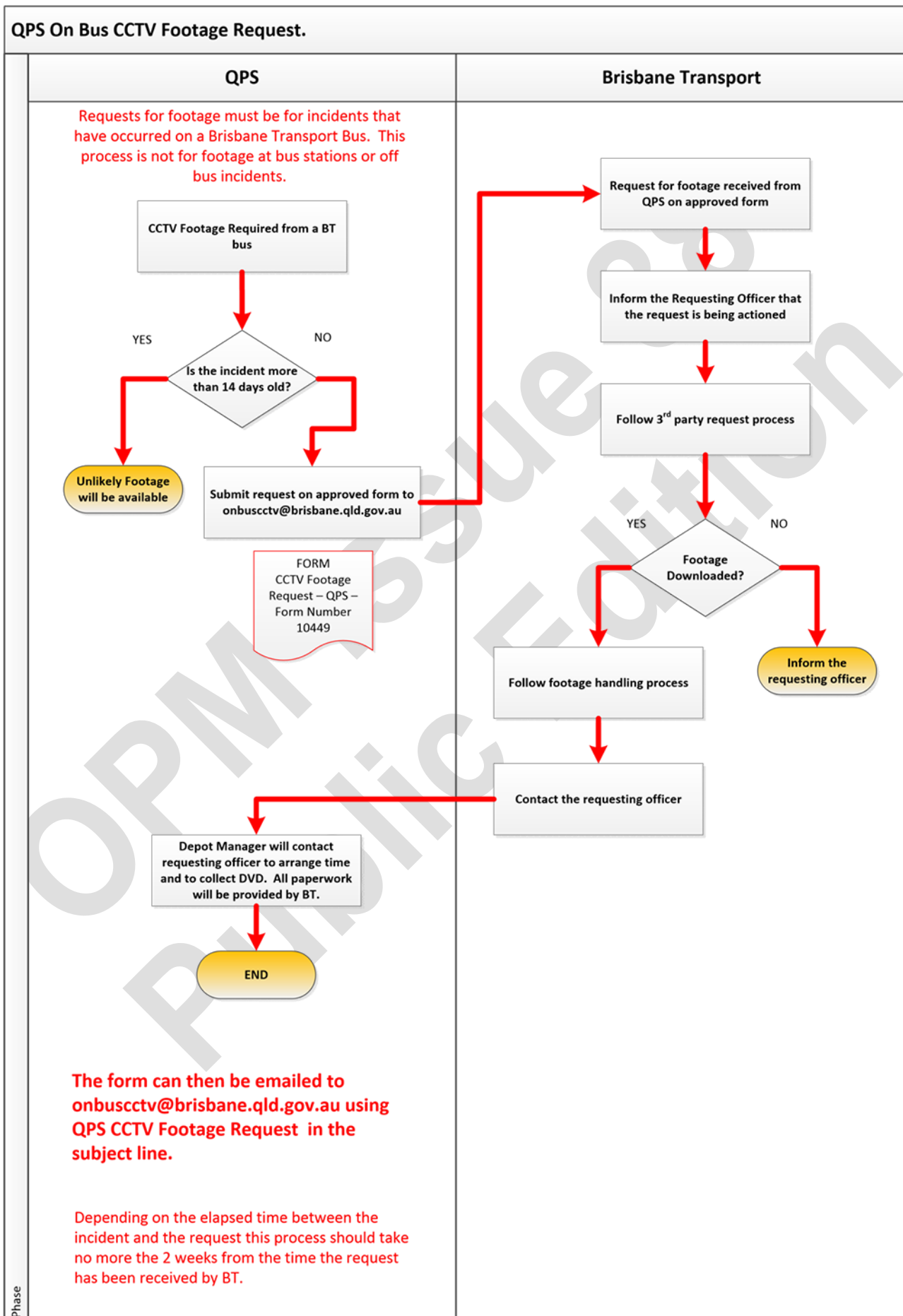
Appendix 2.12 Prisoner removal audit checklist

(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' form s. 2.5.6 OPM; AND
- 'Removal of Offender from a Corrective Services Facility for Law Enforcement Purpose' form s. 2.5.6 OPM; AND
- Return report s. 2.5.6 OPM; AND
- QPRIME custody, search, property and occurrence entries s. 2.5.6 OPM; AND
- Official diary/notebook 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. 8.2: 'Contact' of the Human Source Management Policy where appropriate s. 2.9.2 OPM.

Appendix 2.13 Transport for Brisbane bus CCTV footage retrieval process – flow chart

(s. 2.28.5)



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.

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/>

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); and*

- (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.

- 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]